

## **MEDICAL MARIHUANA FACILITIES ORDINANCE**

An ordinance to provide a title for the ordinance; to define words; to authorize the operation of and provide regulations for medical marihuana facilities in Village of Addison pursuant to Public Act 281 of 2016, as may be amended; to provide for an annual fee; to provide penalties for violation of this ordinance; to provide for severability; to repeal all ordinances or parts of ordinances in conflict therewith and to provide an effective date.

### **SECTION I** **TITLE**

This ordinance shall be known as and may be cited as the Village of Addison Medical Marihuana Facilities Ordinance.

### **SECTION II** **PURPOSE AND DEFINITIONS**

1. It is the intent of this ordinance to authorize the establishment of certain types of medical marihuana facilities in the Village of Addison and to provide for the adoption of reasonable restrictions to protect the public health, safety, and general welfare of the community at large; to retain the character of the neighborhoods; and to mitigate potential impacts on surrounding properties and persons. It is also the intent of this ordinance to help defray administrative and enforcement costs associated with the operation of a marihuana facility in the Village of Addison through imposition of an annual fee of not more than \$5,000.00 on each medical marihuana facility licensee. Authority for the enactment of the provisions of this ordinance is set forth in the Medical Marihuana Facilities Licensing Act, MCL 333.27101, *et seq.*

a) Nothing in this ordinance is intended to grant immunity from criminal or civil prosecution, penalty, or sanction for the cultivation, manufacture, possession, use, sale, or distribution of marihuana, in any form, that is not in compliance with the Michigan Medical Marihuana Act, Initiated Law 1 of 2008, MCL 333.26421, *et seq.*; the Medical Marihuana Facilities Licensing Act, MCL 333.27101, *et seq.*; the Marihuana Tracking Act, MCL 333.27901, *et seq.*; and all other applicable rules or regulations promulgated by the State of Michigan.

b) As of the effective date of this ordinance, marihuana remains classified as a Schedule 1 controlled substance under the Federal Controlled Substances Act, 21 USC § 801, *et seq.*, which makes it unlawful to manufacture, distribute or dispense marihuana. Nothing in this ordinance is intended to grant immunity from any criminal prosecution under federal law.

c) This ordinance shall not limit an individual or entity's rights under the Michigan Medical Marihuana Act or the Medical Marihuana Facilities Licensing Act. The provisions of Michigan Medical Marihuana Act, the Medical Marihuana Facilities Licensing Act, and the Marihuana Tracking Act shall supersede the provisions of this ordinance to the extent there is a conflict between the provisions of this ordinance and the provisions of the Acts.

d) Any activity that a licensee is authorized to perform pursuant to this ordinance that was conducted either prior to the enactment of this ordinance, or that is conducted after the enactment of this ordinance but without obtaining the required licensing provided for in this ordinance, shall be deemed to be an unauthorized and illegal use and therefore not entitled to legal nonconforming use status under any applicable provisions of the Village's zoning ordinance or other Village ordinance.

2. For purposes of this ordinance;

a) Any term defined by the Michigan Medical Marihuana Act, MCL 333.26421, *et seq.*, shall have the definition given in the Medical Marihuana Act, and any amendments thereto.

b) Any term defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101, *et seq*, shall have the definition given in the Medical Marihuana Facilities Licensing Act, and any amendments thereto.

c) Any term defined by the Marihuana Tracking Act, MCL 333.27901, *et seq*, shall have the definition given in the Marihuana Tracking Act, and any amendments thereto.

### **SECTION III** **AUTHORIZED MEDICAL MARIHUANA FACILITIES**

1. The following medical marihuana facilities may be authorized to operate within the Village by the holder of a state operating license, subject to compliance with PA 281 of 2016, as may be amended, the Rules promulgated thereunder and this ordinance:

a) Not more than 30 (thirty) grower(s) shall be authorized in the Village, which number shall include all of the following:

1. Not more than 30 (thirty) Class C growers (1,500 marihuana plants) may be authorized in the Village.

b) Not more than 4 (four) processor(s) shall be authorized in the Village.

c) Not more than 2 (two) provisioning center(s) shall be authorized in the Village.

d) Not more than 2 (two) safety compliance facilities shall be authorized in the Village.

e) Not more than 2 (two) secure transporter(s) shall be authorized in the Village.

**PROVIDED, HOWEVER, THAT A LICENSE HOLDER SHALL BE ALLOWED TO CONDUCT NO MORE THAN ONE (1) AUTHORIZED ACTIVITY AT A PARTICULAR LOCATION AND SHALL NOT BE ALLOWED TO COMBINE OR UNDERTAKE MULTIPLE AUTHORIZED ACTIVITIES AT ONE (1) LOCATION.**

2. At least once each year after adoption of this ordinance, the Village Council shall review the maximum number of each type of marihuana facility allowed and determine whether this maximum number should be changed. The review and its findings shall be recorded in the minutes of the relevant meeting of the Council.

3. On and after March 31, 2019, the Village shall accept applications for authorization to operate a medical marihuana facility within the Village. Application shall be made on a Village form and must be submitted to the Village Clerk and/or other designee of the Village Council (hereinafter referred to as "Clerk"). Once the Clerk receives a complete application including the initial annual medical marihuana facility fee, the application shall be time and date stamped. If at the time of application, a license is available for the type of marihuana facility referenced in the application, then the completed application shall be considered for authorization as provided in this ordinance. Upon the consideration and approval of the application by the Village Council as provided in this ordinance, the applicant shall receive conditional authorization to operate such medical marihuana facility within the Village. If at the time an application is submitted for a type of marihuana facility as to which no licenses are currently available pursuant to this ordinance, the completed application shall be held for future consideration, in the event a license for the type of facility that is the subject of the application becomes available. Any such application for waiting for future consideration and authorization may be withdrawn by the submission of a written notice to the Clerk at any time, and upon the submission of such written notice the applicant shall receive refund of the initial annual medical marihuana fee submitted with the application.

4. A conditional authorization means only that the applicant has submitted a valid application for a marihuana facility license that has been considered and approved by the Village Council, and the applicant shall not locate or operate a marihuana facility without obtaining all other permits and approvals required by all other applicable ordinances and

regulations of the Village of Addison. A conditional authorization will lapse and be void if such permits and approvals are not diligently pursued to completion.

5. Within thirty days from conditional authorization from the Village or from April 15, 2019, whichever is later, the conditionally authorized applicant must submit proof to the Clerk that the applicant has applied for prequalification from the state for a state operating license or has submitted full application for such license. If the applicant fails to submit such proof, then such conditional authorization shall be canceled by the Clerk and the conditional authorization shall be available to the next applicant in consecutive time and date stamped order as provided for in Section III (2) herein.

6. If a conditionally authorized applicant is denied prequalification for a state operating license or is denied on full application for a state operating license, then such conditional authorization will be canceled by the Clerk and the conditional authorization shall be available to the next applicant in consecutive time and date stamped order as provided for in Section III (3) herein.

7. A conditionally authorized applicant shall receive full authorization from the Village to operate the medical marihuana facility within the Village upon the applicant providing to the Clerk proof that the applicant has received a state operating license for the medical marihuana facility in the Village and the applicant has met all other requirements of this ordinance for operation including but not limited to any zoning approval for the location of the facility within the Village.

8. If a conditionally authorized applicant fails to obtain full authorization from the Village within one year from the date of conditional authorization, then such conditional authorization shall be canceled by the Clerk and the conditional authorization shall be available to the next applicant in consecutive time and date stamped order as provided for in Section III (3) herein. The Village Council shall have authority to extend the deadline to obtain full authorization for up to an additional six months on written request of the applicant, within thirty days prior to cancellation, upon the reasonable discretion of the Village Council finding good cause for the extension.

#### **SECTION IV** **GENERAL REGULATIONS REGARDING** **AUTHORIZED MEDICAL MARIHUANA FACILITIES**

1. No person shall operate a marihuana facility in the Village of Addison without a valid marihuana facility license issued by the Village pursuant to the provisions of this ordinance.

2. An authorized medical marihuana facility shall only be operated within the Village by the holder of a state operating license issued pursuant to PA 281 of 2016, as may be amended, and the Rules promulgated thereunder. The facility shall only be operated as long as the state operating license remains in effect.

3. Prior to operating an authorized medical marihuana facility within the Village pursuant to a state operating license, the facility must comply with all Village zoning ordinance regulations. The facility shall only be operated as long as it remains in compliance with all Village zoning ordinance regulations.

4. Prior to operating an authorized medical marihuana facility within the Village pursuant to a state operating license, the facility must comply with all Village and County construction and building ordinances, all other Village ordinances specifically regulating medical marihuana facilities, and generally applicable Village police power ordinances. The facility shall only be operated as long as it remains in compliance with all such ordinances now in force or which hereinafter may be established or amended.

5. An authorized medical marihuana facility shall consent to inspection of the facility by Village officials and/or by the Village Police Department, upon reasonable notice, to verify compliance with this ordinance.

6. If at any time an authorized medical marihuana facility violates this ordinance the Village Council may request that the state revoke or refrain from renewing the facility's state operating license. Once such state operating license is revoked or fails to be renewed, the Clerk shall cancel the Village authorization and the authorization shall be available to the next applicant in consecutive time and date stamped order as provided for in Section III (2) herein.

7. It is hereby expressly declared that nothing in this ordinance be held or construed to give or grant to any authorized medical marihuana facility a vested right, license, privilege or permit to continued authorization from the Village for operations within the Village.

8. A marihuana facility license issued under this ordinance is not transferrable or assignable.

9. The Village expressly reserves the right to amend or repeal this ordinance in any way including but not limited to complete elimination of or reduction in the type and/or number of authorized medical marihuana facilities authorized to operate within the Village.

## **SECTION V**

### **MEDICAL MARIHUANA FACILITY FEE AND LICENSE RENEWAL**

1. There is hereby established an initial nonrefundable Village medical marihuana facility fee in the amount of \$5,000 for each application submitted for a medical marihuana licensing facility within the Village, to help defray administrative and enforcement costs associated therewith. In the event that a license is granted, the licensee shall thereafter pay an annual medical marihuana facility fee of \$5,000, payable each year upon the renewal of the license as provided in this ordinance, said fee to help defray administrative and enforcement costs associated therewith.

2. A marihuana facility license issued under this ordinance shall be valid for one year from the date of issuance of full authorization by the Village, unless earlier revoked as provided by law.

3. A valid marihuana facility license may be renewed on an annual basis by submitting a renewal application upon a form provided by the Village and payment of the annual medical marihuana facility fee provided for in Section V of this ordinance. The application to renew the license shall be filed at least thirty (30) days prior to the date of its expiration.

4. Applications for a marihuana facility license under this Ordinance shall be subject to the following:

a) After submission to the Clerk of a fully-completed initial application for the issuance of a new license, and departmental verification as provided for in subsection c) below, the application shall be reviewed and evaluated by the Planning Commission, which shall make a recommendation for or against approval of the application to the Village Council, and the Village Council shall thereafter consider and either approve or reject the application. Approval of the application by the Village Council shall result in a conditional authorization in favor of the applicant, pursuant to Section III of this ordinance. Upon the submission to the Clerk of a fully-completed application for the renewal of an existing marihuana facility license, the license will be submitted to and automatically renewed by Village Council for one (1) year upon verification that:

1. there are no uncured administrative violations in the prior year;
2. the applicant has paid the annual licensing fee for the renewal period;
3. any Stakeholder changes have been fully disclosed to Village;
4. the applicant has paid and received the renewal of its state license; and
5. at the time of renewal the licensed facility is in material compliance with all applicable state and local statutes, ordinances, codes, and regulations.

b) An application for a marihuana facility license pursuant to this ordinance shall contain the following:

1. The required application fee;
2. If the applicant is an individual, the applicant's name, date of birth, physical address, copy of government issued photo identification, email address, and one or more phone numbers, including emergency contact information;

3. If the applicant is not an individual, the names, dates of birth, physical addresses, copy of government issued photo identification, email addresses, and one or more phone numbers for each partner/shareholder/member or other individual with an ownership or equity interest in the applicant organization (each being a "Stakeholder"), including designation of the highest ranking Stakeholder as an emergency contact person along with emergency contact information for the emergency contact person. The organization shall also provide copies of its formation documents (including, but not limited to, its articles of association/organization, partnership agreement, corporate by-laws, operating agreement, etc.), any assumed name registration documents, Internal Revenue Service SS-4 EIN confirmation letter, or such other documents relating to the ownership, management, structure, and operation of the organization as may be deemed relevant to the application in the Village's reasonable discretion.
4. The name and address of the proposed marihuana facility and any additional contact information deemed necessary by the Village Clerk;
5. For an individual applicant, or for each Stakeholder of an organizational applicant, an affirmation under oath as to whether they are at least eighteen (18) years of age and have never been indicted for, charged with, arrested for, convicted of, pled guilty or nolo contendere to, forfeited bail concerning, or had expunged, any criminal offense under the laws of any jurisdiction for either a felony involving a controlled substance or a related misdemeanor, not including traffic violations, regardless of whether the offense has been expunged, pardoned, reversed on appeal or otherwise (a "Disclosable Event"). For any such Disclosable Event, the applicant shall include: the date of the event; the name and location of the court, arresting agency, and prosecuting agency; the case caption, docket number, citation number, or file number, if any; the nature of the offense; and the disposition, including the location and length of any incarceration.
6. A signed release authorizing the Village of Addison to perform a criminal background check on the applicant, each Stakeholder of the applicant, and each employee of the applicant;
7. The name, date of birth, physical address, copy of photo identification, and email address for any current or prospective employee of the proposed marihuana facility, if other than the applicant or a Stakeholder;
8. An affirmation under oath as to whether the applicant has ever applied for or has been granted any commercial license or certificate issued by a licensing authority in Michigan or any other jurisdiction that has been denied, restricted, suspended, revoked, or not renewed and a statement describing the facts and circumstances concerning the application, denial, restriction, suspension, revocation, or nonrenewal, including the licensing authority, the date each action was taken, and the reason for each action;
9. One of the following: (a) proof of ownership of the entire premises wherein the proposed marihuana facility is to be operated; or (b) written consent from the property owner for use of the premises in a manner requiring licensure under this Ordinance along with a copy of the lease for the premises;
10. Proof of an adequate premises liability and casualty insurance policy in the amount not exceeding the requirements addressed in the Michigan Medical Marihuana Facilities Licensing Act or other applicable state laws, covering the marihuana facility and naming the Village as an additional insured party, available for the payment of any damages arising out of an act or omission of the applicant or any Stakeholders, agents, employees, or contractors;
11. A description of the security plan for the marihuana facility, including, but not limited to, any lighting alarms, barriers, recording/monitoring devices and/or security guard arrangements proposed for the facility and premises. The security plan must contain the specification details of each piece of security equipment;

12. A floor plan of the proposed marihuana facility, as well as a scale diagram illustrating the property upon which the marihuana facility is to be operated, including all available parking spaces, and specifying which parking spaces, if any, are handicapped accessible;

13. An affidavit that neither the applicant nor any Stakeholder of the applicant is in default to the Village. The affidavit shall specifically state that the individual applicant or each Stakeholder of an organizational applicant has not failed to pay any property taxes, special assessments, fines, fees, or other financial obligations owed to the Village;

14. An affidavit that the transfer of marihuana to and from the proposed marihuana facilities shall be in compliance with the Michigan Medical Marihuana Act, the Medical Marihuana Facilities Licensing Act, and all other applicable state and local statutes, ordinances, codes, rules, and regulations.

15. A staffing plan for the proposed marihuana facility;

16. Any proposed text or graphical materials to be shown on the exterior of the proposed marihuana facility;

17. A patient education plan if the application is for a provisioning center license;

18. A business plan for the proposed marihuana facility;

19. A location area map of the proposed marihuana facility and surrounding area that identifies the relative locations and the distances (closest property line to the subject marihuana facility's building) of the proposed marihuana facility to the closest real property comprising a public or private elementary, vocational or secondary school; or library;

20. A facility sanitation plan to protect against any Marihuana being ingested by any person or animal, indicating how the waste will be stored and disposed of, and how any Marihuana will be rendered unusable upon disposal. Disposal by on-site burning or introduction in the sewerage system is prohibited;

21. Verification, with copies of actual bank statements, showing that the applicant has liquid funds in the applicant's name in the amount needed to complete the marihuana facility, but in no event less than the amount required by the State of Michigan for the issuance of a state marihuana facility license;

22. If the application is for a Grower Facility, the following additional items shall be provided:

i. A Grower Plan that includes at a minimum a description of the grower methods to be used, including plans for the growing mediums, treatments and/or additives;

ii. A production testing plan that includes at a minimum a description of how and when samples for laboratory testing by a state approved Safety Compliance Facility will be selected, what type of testing will be required, and how the test results will be used;

iii. An affidavit that all operations will be conducted in conformance with the Michigan Medical Marihuana Act, the Medical Marihuana Facilities Licensing Act, and all other applicable state and local statutes, ordinances, codes, rules, and regulations, and that the applicant shall not cultivate on the premises of the proposed grower facility at any one time more than the permitted number of marihuana plants for the type of facility licensed; and

iv. A chemical and pesticide storage plan that states the names of pesticides and chemicals to be used in the growing operations and where and how any such pesticides and chemicals will be stored in the facility, along with a plan for the disposal of any unused pesticides and chemicals.

c) Upon receipt by the Clerk of a completed application meeting the requirements of this Ordinance and confirmation by the Clerk that the number of existing licenses does not exceed the maximum number permitted

by this ordinance, the Clerk shall provide a copy of the application to each of the following for their review and approval: the Addison Fire Department; the Village Code Enforcement Officer or their designee; the Village Zoning Administrator or similar Village official; and the Village Treasurer or their designee, which shall each determine whether the application appears sufficiently complete and comprehensive, and for review and approval as provided in subsection d) below. Upon verification by each such official that the application appears to be sufficiently complete and comprehensive and upon the written approval of compliance required by subsection d) below, and no sooner, the Village Clerk shall forward the applications to the Planning Commission for review and recommendation to the Village Council.

d) No application for an initial marihuana facility license shall be approved unless:

1. The Addison Fire Department and the Code Enforcement Officer or their designee, have each inspected the plans of the proposed marihuana facility location for compliance with all laws for which they are charged with enforcement;
2. An individual applicant, or each Stakeholder of an organizational applicant, and all employees of the applicant, have passed a criminal background check conducted by the Village of Addison;
3. The Zoning Administrator, or similar Village official, has confirmed that the proposed location complies with the Village's Zoning Ordinance; and
4. The Village Treasurer or their designee has confirmed that the applicant and each Stakeholder of the applicant are not in default to the Village.

e) If an applicant for a new or renewal license becomes aware of a material change in any information provided in an application, the applicant shall report the change in the information to the Village Clerk within ten (10) days of becoming aware of the change.

## **SECTION VI** **VIOLATIONS AND PENALTIES**

1. Any person who disobeys, neglects, or refuses to comply with any provision of this ordinance or who causes, allows, or consents to any of the same shall be deemed to be responsible for the violation of this ordinance. A violation of this ordinance is deemed to be a nuisance per se.
2. A violation of this ordinance shall be a misdemeanor, for which the punishment for a first violation shall be a fine of not less than \$100.00 and not more than \$500.00, or imprisonment not to exceed 90 days, or both, in the discretion of the court. The punishment for a second or subsequent violation shall be a fine of not less than \$250.00 and not more than \$500.00, or imprisonment not to exceed 90 days, or both, in the discretion of the court. For purposes of this section, "second or subsequent violation" means a violation of the provisions of this ordinance committed by the same person within 12 months of a previous violation of the same provision of this ordinance for which said person pled or was adjudicated guilty. The foregoing penalties shall be in addition to the rights of the Village to proceed at law or equity with other appropriate and proper remedies.
3. Each day during which any violation continues shall be deemed a separate offense.
4. In addition, the Village may seek injunctive relief against persons alleged to be in violation of this ordinance, and such other relief as may be provided by law.
5. This ordinance shall be administered and enforced by the Ordinance Enforcement Officer of the Village or by such other person(s) as designated by the Village Council from time to time.

## **SECTION VII** **SEVERABILITY**

The provisions of this ordinance are hereby declared to be severable. If any clause, sentence, word, section or provision is hereafter declared void or unenforceable for any reason by a court of competent jurisdiction, it shall not affect the remainder of such ordinance which shall continue in full force and effect. The provisions herein shall be construed as not interfering or conflicting with the statutory regulations for licensing medical marihuana facilities pursuant to PA 281 of 2016, as may be amended.

**SECTION VIII**  
**EFFECTIVE DATE**

This ordinance shall take effect 10 days after publication as provided by the Village Charter.