

ARTICLE XIX

MARIHUANA AND MEDICAL MARIHUANA OVERLY DISTRICT

Section 19.01. STATEMENT OF PURPOSE: In the Marihuana and Medical Marihuana district, the intent is to permit certain Marihuana and Medical Marihuana facilities which are of a Marihuana and Medical Marihuana character to commonly locate in planned areas of the Village, so that such uses may be integrated with nearby land uses, such as commercial, Industrial, agriculture and residential uses. Limitations are placed upon the decree of noise, smell, glare, waste and other features of the Marihuana and Medical Marihuana operations so the avoid adverse effects. This is an Overlay District and does not change the underling zoning.

Section 19.02. PRINCIPLE USES:

1. Marihuana and Medical Marihuana Provisioning Centers
2. Marihuana and Medical Marihuana Growers
3. Marihuana and Medical Marihuana Processors
4. Marihuana and Medical Marihuana Safety Compliance Facility
5. Marihuana and Medical Marihuana Secure Transporters

Any of the following uses where Marihuana and Medical Marihuana is being Sold, Processed, Grown Tested, and or Transported shall be conducted entirely within a completely enclosed building. That portion of land used for open storage facilities or for equipment used in the manufacturing, compounding, and final product storage or processing shall be totally obscured on those sides abutting any properties not in the Overlay District. See Section 19.04

Section 19.03. Definitions for the purpose of enforcing the provisions of this ordinance, certain terms, and words used herein are as follows:

Section 19.03.1. MEDICAL MARIHUANA FACILITIES: The State of Michigan's Medical Marihuana Facilities Act defines the following medical marihuana facilities (PA281 of 2016, MCL 333.27102):

- a. MEDICAL MARIHUANA GROWER: A licensee that is a commercial entity located in this State that cultivates, dries, trims, or cures and package marihuana for sale to a processor, provisioning center, or another grower (MCL 333.27102(g)).
- b. MEDICAL MARIHUANA PROCESSOR: A licensee that is a commercial entity located in this State that purchases marihuana from a grower and that extracts resin from the marihuana or creates a marihuana infused product for sale and transfer in packaged form to a provisioning center or another processor (MCL 33.27102(s)).

- c. **MEDICAL MARIHUANA PROVISIONING CENTER:** A licensee that is a commercial entity located in this State that purchases marihuana from a grower or processor and sells, supplies, or provides marihuana to registered qualifying patients, directly or through the patients' registered primary caregivers. Provisioning center includes any commercial property where marihuana is sold at retail to registered qualifying patients or registered primary caregivers. A noncommercial location used by a primary caregiver to assist a qualifying patient connected to the caregiver through the department's marihuana registration process in accordance with the Michigan medical marihuana act is not a provisioning center for purpose of this act (MCL 333.27102(T)).
- d. **MEDICAL MARIHUANA SAFETY COMPLIANCE FACILITY:** A licensee that is a commercial entity that takes marihuana from a marihuana facility or receives marihuana from a registered primary caregiver, test the marihuana for contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the marihuana to the marihuana facility (MCL 333.27102(Y)).
- e. **MEDICAL MARIHUANA SECURE TRANSPORTER:** A licensee that is a commercial entity located in the State that stores marihuana and transports marihuana between marihuana facilities for a fee (MCL 333.27102(Z)).

The definitions in the Medical Marihuana Facilities Licensing Act (PA 281 of 2016, MCL 333.27102) should be consulted in case they have been amended since this section was adopted.

Section 19.03.2 Lists all Marihuana Definitions.

Authority for the enactment of the provisions of this ordinance is set forth in the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951, *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 Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, MCL 333.257591, *et seq.*; 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 Regulation and Taxation of Marihuana Act, the Michigan Medical Marihuana Act, or the Medical Marihuana Facilities Licensing Act. The provisions of the Michigan Regulation and Taxation of Marihuana Act, the 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 Regulation and Taxation of Marihuana Act, MCL 333.27951, *et seq.*, shall have the definition given in the Regulation and Taxation of Marihuana Act, and any amendments thereto.
 - b) 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.
 - c) 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.
 - d) 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.

In the event of a conflict between the definition of any term under the Michigan Regulation and Taxation of Marihuana Act and any other act referenced in this section, for purposes of this ordinance the definition of the term under the Michigan Regulation and Taxation of Marihuana Act, and any amendments thereto, shall be applied.

Section 19.04. GENRAL PROVISIONS: All marihuana and medical marihuana facilities shall be subject to the following regulations:

All Marihuana and Medical Marihuana Facilities

- A. Marihuana and Medical Marihuana facilities shall be located a minimum 500 feet away from schools in existence at the time of application for a zoning compliance permit.
- B. Marihuana and Medical Marihuana facilities shall be located a minimum of 100 feet away from the lot line of parks, churches, and government buildings in existence at the time of application for a zoning compliance permit to the building housing the medical marihuana facilities.
- C. A permanent six (6) foot high fences, wall, or another protective barrier shall be installed around the medical and/or marihuana facility must be erected prior to opening.
- D. If the fence, wall, or other protective barrier is not at least 50% opaque, a vegetative screen shall be planted between it and the property line must be erected prior to opening.

- E. At least fifty percent (50%) of vegetative screening shall be evergreen. Vegetation used to screen the medical marihuana facility shall be planted every ten (10) feet on center at the planting height of four (4) feet with a height at maturity of not less than six (6) feet and width not less than ten (10) feet must be erected prior to opening.
- F. Any lighting associated with a medical marihuana grower cannot extend onto adjacent properties. A photometric study may be required to determine if this condition will be met.
- G. An authorized marihuana establishment that is a marihuana grower, a marihuana processor, or a marihuana retailer may be located in the same facility with one or more other authorized marihuana establishments that are also a marihuana grower, marihuana processor, or marihuana retailer, and an authorized marihuana establishment that is a marihuana grower, marihuana processor, or a marihuana authorized under the Village's Medical Marihuana Facilities Ordinance and under the Michigan Medical Marihuana Facilities Licensing Act.
- H. Subject to all conditions outlined above and in other applicable portions of the Zoning Ordinance, Michigan Medical Facilities and Facilities authorized by the Michigan Regulation and Taxation of Marihuana Act shall be only permitted in the following Zoning Districts with the Village.

LIST THE ALLOWABLE DISTRICTS

Commercial 1

Commercial 2

Industrial 1