

VILLAGE OF THREE OAKS THREE OAKS, MICHIGAN

ORDINANCE #219

SECTION 1 TITLE

This Ordinance shall be known and may be cited as the Village of Three Oaks Regulation of Medical and Adult Use Marihuana Ordinance.

SECTION 2 PURPOSE

The purpose of this Ordinance is to regulate adult use marihuana establishments, which include marihuana growers, marihuana safety compliance facilities, marihuana processors, marihuana microbusinesses, marihuana retailers, marihuana secure transporters and medical marihuana facilities, which include marihuana growers, marihuana safety compliance facilities, marihuana processors, marihuana provisioning centers, and marihuana secure transporters. The Village finds that these activities are significantly connected to the public health, safety, security, and welfare of its citizens and it is therefore necessary to regulate and enforce safety, security, fire, policing, health, and sanitation practices related to such activities and also to provide a method to defray administrative costs incurred by such regulation and enforcement. It is not the intent of this Ordinance to diminish, abrogate, or restrict the protections for recreational marihuana use found in the Michigan Medical Marihuana Facility Licensing Act ("MMFLA") or the Michigan Regulation and Taxation of Marihuana Act ("MRTMA").

SECTION 3 DEFINITIONS

Applicant means entity or individual seeking a Municipal License.

Conditional Authorization means that the Clerk for the Village of Three Oaks has determined that the submitted application is complete.

Department means the Michigan Department of Licensing and Regulatory Affairs.

Conditional License means that the Council for the Village of Three Oaks has approved the Applicant for a Municipal License contingent upon the State of Michigan issuing a license for operation under state law.

Marihuana means that term as defined in the MRTMA.

Marihuana Business includes a marihuana grower, retailer, microbusiness, processor, safety compliance facility, and/or secure transporter under the MRTMA and a grower, provisioning center, processor, safety compliance facility, and/or secure transporter under the MMFLA.

Marihuana grower means a person licensed under the MRTMA to cultivate marihuana and sell or otherwise transfer marihuana to marihuana establishments.

Marihuana microbusiness means a person licensed under the MRTMA to cultivate not more than one hundred and fifty (150) marihuana plants; process and package marihuana; and sell or otherwise transfer marihuana to individuals who are twenty-one (21) years of age or older or to a marihuana safety compliance facility, but not to other marihuana establishments.

Marihuana processor means a person licensed under the MRTMA to obtain marihuana from marihuana establishments; process and package marihuana; and sell or otherwise transfer marihuana to marihuana establishments.

Marihuana retailer means a person licensed under the MRTMA to obtain marihuana from marihuana establishments and to sell or otherwise transfer marihuana to marihuana establishments and to individuals who are twenty-one (21) years of age or older.

Marihuana safety compliance facility means a person licensed to test marihuana, including certification for potency and the presence of contaminants.

Marihuana secure transporter means a person licensed under the MRTMA to obtain marihuana from marihuana establishments in order to transport marihuana to marihuana establishments.

Medical marihuana grower means a licensee under the MMLFA that is a commercial entity located in this state that cultivates, dries, trims, or cures and packages marihuana for sale to a processor, provisioning center, or another grower.

Medical marihuana processor means a licensee under the MMFLA 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.

Medical marihuana provisioning center means a licensee under the MMFLA 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.

Medical marihuana safety compliance facility means a licensee under the MMFLA that is a commercial entity that takes marihuana from a marihuana facility or receives marihuana from a registered primary caregiver, tests the marihuana for contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the marihuana to the marihuana facility.

Medical marihuana secure transporter means a licensee under the MMFLA that is a commercial entity located in this state that stores marihuana and transports marihuana between marihuana facilities for a fee.

Municipal License means a license issued by the Council for the Village of Three Oaks under Section 6 of the MRTMA or Section 205 of the MMFLA.

MMFLA means the Medical Marihuana Facilities Licensing Act.

MRTMA means the Michigan Regulation and Taxation of Marihuana Act.

Stakeholder means “Applicant” as defined under the administrative rules promulgated by the agency under the authority of the MMFLA, the Marihuana Tracking Act, the MRTMA, and Executive Reorganization Order No. 2019-2, MCL 333.27001.

SECTION 4 AUTHORIZATION AND FEE

- A. The Village hereby authorizes, subject to the issuance of a Municipal License by the Village Clerk, the following Marihuana Businesses within the boundaries of the Village, as are authorized pursuant to Section 6.1 of the MRTMA.
- B. The Marihuana Businesses and the number authorized pursuant to this Ordinance are:

Type of Business	Number Authorized
Marihuana Retailer	1
Marihuana Microbusiness	1
Marihuana Grower (any class)	2
Marihuana Processor	2
Marihuana Safety Compliance Facility	1
Marihuana Secure Transporter	1

Nothing in this Ordinance shall be construed to prohibit a MRTMA marihuana grower, processor, or retailer from operating at a location shared with a MMFLA marihuana grower, processor, or retailer.

- C. A nonrefundable Municipal License application fee shall be paid by each Marihuana Business applying to be licensed under this Ordinance in the amount of \$5,000.00. The municipal license fee is in addition to any other fees required, including, but not limited to, zoning fees.

SECTION 5 MUNICIPAL LICENSE APPLICATION REQUIREMENTS AND PROCEDURE

- A. No person shall operate a Marihuana Business in the Village without a valid Municipal License issued by the Village pursuant to the provisions of this Ordinance.

- B. No person shall be issued a Municipal License by the Village without first having obtained a Special Land Use Permit authorizing the operation of the Marihuana Business pursuant to the Village of Three Oaks Zoning Ordinance.
- C. No person who is, or within the preceding 24 months was, employed by the Village, acts as a consultant for the Village, or acts as an advisor to the Village, and is involved in the implementation, administration or enforcement of this Ordinance shall have an interest, directly or indirectly, in a Marihuana Business.
- D. Every Applicant for a Municipal License to operate a Marihuana Business shall file an application in the Village Clerk's office upon a form provided by the Village. The application shall include:
1. The appropriate nonrefundable Municipal License application fee in the amount determined by the Village;
 2. If the Applicant is an individual: the Applicant's name; date of birth; Social Security number; physical address, including residential and any business address; copy of government-issued photo identification; email address; one or more phone numbers, including emergency contact information;
 3. If the Applicant is not an individual: the names; dates of birth; physical addresses, including residential and any business address; copy of government-issued photo identifications; email address; and one or more phone numbers of each Stakeholder of the Applicant, including designation of the highest ranking representative as an emergency contact person; contact information for the emergency contact person; articles of incorporation or organization; assumed name registration; Internal Revenue Service EIN confirmation letter; copy of the operating agreement of the Applicant, if a limited liability company; copy of the partnership agreement, if a partnership; names and addresses of the beneficiaries, if a trust; or a copy of the bylaws or shareholder agreement, if a corporation;
 4. The percentage ownership of each Stakeholder;
 5. The name and address of the proposed Marihuana Business;
 6. A copy of the Special Land Use Permit issued by the Village of Three Oaks Planning Commission;
 7. A location area map of the Marihuana Business and surrounding area that identifies the relative locations and the distances (closest property line to the subject Marihuana Business's building) reflecting the Applicant's compliance with the separation distance requirements provided under Section 2.412-1 subsection D;
 8. A signed acknowledgment that the Applicant is aware and understands that all matters related to marihuana growing, cultivation, possession, testing, safety compliance and transporting are currently subject to state and federal laws, rules and regulations, and that the approval or granting of a license hereunder does not exonerate or exculpate the Applicant from abiding by the provisions and requirements and penalties associated with those laws, rules, and

regulations, or exposure to any penalties associated therewith; and further, the Applicant waives and forever releases any claim, demand, action, legal redress, or recourse against the Village, its elected and appointed officials, and its employees and agents for any claims, damages, liabilities, causes of action or attorney fees that the Applicant may incur as a result of the violation by the Applicant, its Stakeholders and its agents of those laws, rules, and regulations; and

9. Signed acknowledgments in a form approved by the Village verifying that the Applicant and any associated Stakeholder(s) are not in default to the Village; verifying that the Applicant and any associated Stakeholders are authorized to submit the application; and verifying whether the Applicant or operator has had a business license revoked or suspended, and if revoked or suspended, then the reason for such revocation or suspension.

10. Any other information which may be required by the Village Clerk.

E. An initial bidding period following the effective date of this Ordinance shall be set by the Village Council by Resolution. The Village shall begin accepting applications on the first day of the initial bidding period and shall cease accepting applications at close of business of the last day of the initial bidding period. Following the close of the initial bidding period, the Village Council shall review each Applicant as they receive Conditional Authorization.

F. Upon receipt of an application, including application fee and other documents referenced herein, the Village Clerk or other authorized Village official shall review the application within fourteen (14) days to determine whether the application is complete. Complete applications shall receive Conditional Authorization. Incomplete applications will be denied. The Village Clerk shall notify the Applicant of the grant or denial of the Conditional Authorization by first-class mail. In the event of a denial, the Applicant shall have fourteen (14) days from the mailing date of the denial to correct deficiencies. Should the Applicant timely correct all deficiencies, the Village Clerk shall issue a Conditional Authorization. Following the issuance of the Conditional Authorization, the application fee shall be nonrefundable.

G. The Village Council shall review conditionally authorized applications as provided herein to determine whether such Applicants will receive a Conditional License.

H. The MRTMA requires that the Village establish a competitive process to select Applicants who are best suited to operate in compliance with the MRTMA and this Ordinance when the limitations of Section 4 above prevent the department from issuing state licenses to Applicants that meet the requirements of Section 9, subsection 3 of the MRTMA.

I. Accordingly, when the limitations of Section 4 above prevent the department from issuing state licenses to Applicants that meet the requirements of Section 9, Subsection 3 of the MRTMA, then the Village Council shall issue a Conditional License to Applicants that demonstrate best suitability to operate in compliance with the MRTMA in the Village of Three Oaks. Compliance with the MRTMA in the Village is assessed by consideration of the following factors:

1. Whether the Applicant or any Stakeholder is a resident of the Village of Three Oaks or otherwise demonstrates commitment to or investment in the Village that is not purely financial;

2. The Applicant's experience operating or owning a business in the Village of Three Oaks;
3. The Applicant's experience in operating other similarly licensed Marihuana Business(es) in Michigan;
4. The Applicant's general business management experience;
5. Whether the Applicant or any Stakeholder has a history of non-compliance with any regulatory requirements in any other jurisdiction;
6. How the proposed business will mitigate impacts of the operation on Village services and resources, including without limitation: impacts on the Village economy; impacts on local services, public infrastructure and public utilities; and impacts on parking and traffic;
7. Whether the Applicant has demonstrated the ability to execute and finance the proposed Marihuana Business; and
8. The quality of the employee training and education.

J. When the limitations of Section 4 above do not prevent the Department from issuing state licenses to Applicants that meet the requirements of Section 9, subsection 3 of the MRTMA, then the Village Council shall issue a Conditional License to an Applicant if the Applicant has satisfactorily met all requirements of Section 5.D.

K. The Village Council shall review all conditionally authorized applications at a public meeting and the Village Council may require the Applicant and one or more Stakeholder to be present at the public meeting.

L. All conditional licenses issued are contingent upon the State of Michigan issuing a license for operation under state law.

M. Within thirty (30) days from the Applicant submitting proof of obtaining a state operating license and completing all other required permits and approvals required by the Village, the Village shall issue a Municipal License.

N. If a conditionally licensed Applicant fails to obtain a Municipal License from the Village within one (1) year from the date of the Conditional License, then such Conditional License shall be canceled by the Village Manager unless the Village Manager extends such Conditional License for good cause shown, where good cause means a reasonable excuse not solely based on the delay of the Applicant.

O. Should the Village grant a Municipal License, the application fee shall be considered as the fee imposed for the first year the Municipal License issued.

SECTION 6 MINIMUM OPERATIONAL STANDARDS FOR ALL MARIHUANA BUSINESSES WITHIN THE VILLAGE OF THREE OAKS

The following minimum standards shall apply to all Marihuana Business within the Village:

- A. Marihuana Business shall comply at all times and in all circumstances with the MRTMA, applicable Michigan law, and the general rules of the Department, as they may be amended from time to time. It is the responsibility of the owner to be aware of changes in the MRTMA. The Village bears no responsibility for failure of the owner to be aware of changes in the MRTMA;
- B. Consumption and/or use of marihuana shall be prohibited at the Marihuana Business.

SECTION 7 DENIAL AND REVOCATION

- A. A Municipal License issued under this Ordinance may be revoked by the Village Council at a public meeting at which it is determined that grounds for revocation under this Ordinance exist. Notice of the time and place of the hearing and the grounds for revocation must be given to the holder of a Municipal License at least five (5) days prior to the date of the hearing by first class mail to the address given on the license application. A licensee whose license is the subject of such hearing may present evidence and/or call witnesses at the hearing.
- B. A Municipal License applied for or issued under this ordinance may be denied or revoked on any of the following grounds:
 - 1. Any violation of this Ordinance;
 - 2. Any conviction of delivery of a controlled substance to a minor;
 - 3. Village finding of fraud, misrepresentation or the making of a false statement by the Applicant or any Stakeholder of the Applicant while engaging in any activity for which this Ordinance requires a Municipal License or in connection with the application for a Municipal License or request to renew a Municipal License;
 - 4. Sufficient evidence that the licensee lacks, or has failed to demonstrate, the requisite professionalism and/or business experience required to assure strict adherence to this Ordinance, and the rules and regulations governing the MRTMA;
 - 5. The license holder or any of its Stakeholders is in default to the Village personally or in connection with any business in which they hold an ownership interest for failure to pay property taxes, special assessments, fines, fees or any other financial obligation;
 - 6. The Marihuana Business is determined by the Village to have become a public nuisance; or
 - 7. The Department has denied, revoked or suspended the Applicant's state operating license.

SECTION 8 LICENSE RENEWAL

- A. A Municipal License shall be valid for one (1) year from the date of issuance, unless revoked as provided by law, including this Ordinance.
- B. A valid Municipal 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 license fee. Applications to renew a Municipal License shall be filed with the Village Clerk at least thirty (30) days prior to the date of its expiration. As long as no changes to the Municipal Licensee have occurred, there is no pending request to revoke or suspend a Municipal License, and the Municipal Licensee has paid the license renewal fee, the Village Clerk shall renew the License.

SECTION 9 UNLAWFUL PRACTICES

Any act which is a violation of MCL 333.27954, or any amendment thereto, shall also be considered a violation of this Ordinance. It shall be unlawful to consume marihuana in a public place in the Village of Three Oaks, except in a location as may be designated by the MRTMA of the Village Council for consumption and only when not accessible to persons under twenty-one (21) years of age.

SECTION 10 APPLICABILITY

The provisions of this Ordinance shall be applicable to all persons and businesses described herein, including if the operations or activities associated with a Marihuana Business were established without authorization before the effective date of this Ordinance.

SECTION 11 PENALTIES AND ENFORCEMENT

- A. Any person who violates any of the provisions of this Ordinance shall be responsible for a municipal civil infraction and subject to the payment of a civil fine of \$500, plus costs, except that a violation of Section 9 by consuming marihuana in a public place is a civil infraction and subject to the payment of a civil fine of up to \$100. Each day a violation of this Ordinance continues to exist constitutes a separate violation. A violator of this Ordinance shall also be subject to such additional sanctions, remedies and judicial orders as are authorized under Michigan law.
- B. A violation of this Ordinance is deemed to be a nuisance per se. In addition to any other remedy available at law, the Village may bring an action for an injunction or other process against a Licensee to restrain, prevent, or abate any violation of this Ordinance.
- C. This Ordinance may be enforced and administered by the Village Clerk, any Village of Three Oaks Police Officer, Village Manager or such other Village official as may be designated from time to time by resolution of the Village Council.

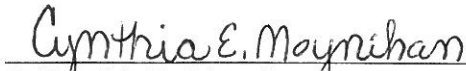
SECTION 12 SEVERABILITY

In the event that any one or more sections, provisions, phrases or words of this Ordinance shall be found to be invalid by a court of competent jurisdiction, such holding shall not affect the validity or the enforceability of the remaining sections, provisions, phrases or words of this Ordinance

SECTION 13 EFFECTIVE DATE

This Ordinance shall take effect 40 days after its adoption and publication as prescribed by law.

The foregoing Ordinance was duly adopted at a Regular Council meeting of the Three Oaks Village Council at which a quorum was present on 10-21-20.



S:/Cynthia E. Moynihan

Village Clerk

Village of Three Oaks

Three Oaks, Michigan