



ORDINANCE #236
AN ORDINANCE TO AUTHORIZE AND REGULATE THE ESTABLISHMENT OF
MEDICAL MARIJUANA FACILITIES.

Section 1. Purpose

- A. It is the intent of this ordinance to authorize the establishment of certain types of medical marijuana facilities in the Village of Quincy and provide for the adoption of reasonable restrictions to protect the public health, safety, and general welfare of the community at large; retain the character of neighborhoods; and 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 marijuana facility in the Village through imposition of an annual, nonrefundable fee of not more than \$5,000.00 on each medical marijuana facility licensee. Authority for the enactment of these provisions is set forth in the Medical Marijuana Facilities Licensing Act, MCL 333.27101 et seq.
- B. 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 marijuana, in any form, that is not in compliance with the Michigan Medical Marijuana Act, Initiated Law 1 of 2008, MCL 333.26421 et seq.; the Medical Marijuana Facilities Licensing Act, MCL 333.27101 et seq.; the Marijuana Tracking Act, MCL 333.27901 et seq.; and all other applicable rules promulgated by the State of Michigan.
- C. As of the effective date of this ordinance, marijuana remains classified as a Schedule 1 controlled substance under the Federal Controlled Substances Act, 21 U.S.C. Sec. 801 et seq., which makes it unlawful to manufacture, distribute, or dispense marijuana, or possess marijuana with intent to manufacture, distribute, or dispense marijuana. Nothing in this ordinance is intended to grant immunity from any criminal prosecution under federal laws.

Section 2. Definitions

For the purposes of this ordinance:

- A. Any term defined by the Michigan Medical Marijuana Act, MCL 333.26421 et seq., shall have the definition given in the Michigan Medical Marijuana Act.
- B. Any term defined by the Medical Marijuana Facilities Licensing Act, MCL 333.27101 et seq., shall have the definition given in the Medical Marijuana Facilities Licensing Act.
- C. Any term defined by the Marijuana Tracking Act, MCL 333.27901 et seq., shall have the definition given in the Marijuana Tracking Act.
- D. "Grower" means a licensee that is a commercial entity located in this state that cultivates, dries, trims, or cures and packages marijuana for sale to a processor or provisioning center.

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- E. "Licensee" means a person holding a state operating license issued under the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.
- F. "Marijuana" or "marihuana" means that term as defined in the Public Health Code, MCL 333.1101 et seq.; the Michigan Medical Marihuana Act, MCL 333.26421 et seq.; the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.; and the Marihuana Tracking Act, MCL 333.27901 et seq.
- G. "Marijuana facility" means an enterprise at a specific location at which a licensee is licensed to operate under the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq., including a marijuana grower, marijuana processor, marijuana provisioning center, marijuana secure transporter, or marijuana safety compliance facility. The term does not include or apply to a "primary caregiver" or "caregiver" as that term is defined in the Michigan Medical Marihuana Act, MCL 333.26421 et seq.
- H. "Person" means an individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, trust, or other legal entity.
- I. "Processor" means a licensee that is a commercial entity located in Michigan 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.
- J. "Provisioning center" means a licensee that is a commercial entity located in Michigan 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 in accordance with the Michigan Medical Marihuana Act, MCL 333.26421 et seq., is not a provisioning center for purposes of this article.
- K. "Safety compliance facility" means a licensee that is a commercial entity that receives marihuana from a marihuana facility or registered primary caregiver, tests it for contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the marihuana to the marihuana facility.
- L. "Secure transporter" means a licensee that is a commercial entity located in this state that stores marihuana and transports marihuana between marihuana facilities for a fee.

Section 3. Authorization of Facilities and Fee.

- A. The maximum number of each type of marijuana facility allowed in the Village shall be as follows.

Facility	Number
Grower	15
Processor	5
Secure Transporter	2
Provisioning Center	1
Safety Compliance Facility	5

B. At least every three years after adoption of this ordinance, Council shall review the maximum number of each type of marijuana 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. Council may approve increases in the number of licenses by resolution if they determine an increase is necessary.

C. A nonrefundable fee shall be paid by each marijuana facility licensed under this ordinance in an annual amount of not more than \$5,000.00 as set by resolution of the Village Council. 25% of the fee shall be submitted at the time of application, with the remaining 75% paid prior to issuance of the initial license. 100 % of renewal fees shall be paid upon application.

D. Once the limit is reached no further applications will be accepted and existing applications will be held in the order received when a license becomes available. Applications older than 12 months must be resubmitted with updated information in order to be considered for any license which becomes available.

E. Any license issued must be established and a certificate of occupancy issued within 6 months, or the licensee shall surrender the license if the use is not established within the required time.

F. Zoning approval shall be required prior to issuance of any license. Zoning approval does not guarantee a license for any proposed facility or growing operation.

Section 4. Operation at same location- grower, processor, and provisioning center

A. Any combination of the following types of operating licenses may operate as separate marihuana facilities at the same location: grower, processor, provisioning center.

B. To operate at a same location all of the following apply:

1. The state has authorized the proposed operation at the same location;
2. The operation at a same location shall not be in violation of any city ordinances or regulations;
3. Each marihuana facility shall do all of the following:
 - a. Apply for and be granted separate state and village operating licenses;
 - b. Have distinct and identifiable area with designated structures that are contiguous and specific to the operating license;

- c. Have separate entrances and exits, inventory, record keeping and point of sale operations, if applicable;
 - d. Post the state and village licenses on the wall in a distinct area and as provided in this ordinance
 - e. Have the required inspections and permits for each building.
- C. Operation at the same location that includes a licensed provisioning center shall have the entrance and exit to the licensed provision center marihuana facility and entire inventory physically separated from any of the other licensed marihuana facility or facilities so that persons can clearly identify the retail entrance and exit.

Section 5. Requirements and Procedure for Issuing License

- A. No person shall operate a marijuana facility in the Village without a valid marijuana facility license issued by the Village pursuant to the provisions of this ordinance.
- B. Every applicant for a license to operate a marijuana facility shall file an application in the Village Manager's office upon a form provided by the Village. The Village shall adopt an application and review process that includes all of the required information and details the licensing approval process.
- C. Every applicant for a license to operate a marijuana facility shall submit with the application a photocopy of the applicant's valid and current license issued by the State of Michigan in accordance with the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq. Applicants must have completed and received pre-approval from the State of Michigan prior to applying for a license from the Village.
- D. Applicants that have submitted a complete application for a license type that is available to award shall receive a provisional license.
- E. A provisional license means only that the applicant has submitted a valid application for a marijuana facility license, and the applicant shall not locate or operate a marijuana facility without obtaining all other permits and approvals required by all other applicable ordinances and regulations of the Village. A provisional license will lapse and be void if such permits and approvals are not diligently pursued to completion.
- F. Upon submission of an approved license from the State of Michigan, the Village shall issue a license and operations may begin at a site for which site plan approval has been received.
- G. Maintaining a valid marijuana facility license issued by the state is a Condition for the issuance and maintenance of a marijuana facility license under this ordinance and continued operation of any marijuana facility.
- H. A marijuana facility license issued under this ordinance is not transferable.

Section 6. Inspections

Through submission of an application, applicants certify that the Quincy Police Department is authorized to inspect the premises for purposes of determining compliance with state and local laws, without need of a search warrant. Applicants will also provide access to surveillance and security cameras, along with any and all recordings from the required systems, without need of a search warrant.

Section 7. License Renewal

- A. A marijuana facility license shall be valid for one year from the date of issuance, unless revoked as provided by law.
- B. A valid marijuana 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 license fee. Application to renew a marijuana facility license shall be filed at least thirty (30) days prior to the date of its expiration.

Section 8. Applicability

The provisions of this ordinance shall be applicable to all persons and facilities described herein, whether the operations or activities associated with a marijuana facility were established without authorization before the effective date of this ordinance.

Section 9. 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 \$1,000, plus costs. 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 person to restrain, prevent, or abate any violation of this Ordinance.
- C. This Ordinance shall be enforced and administered by the Village Manager, Police Chief, or such other village official as may be designated from time to time by resolution of the council.
- D. If an applicant or licensee fails to comply with this ordinance, if a licensee no longer meets the eligibility requirements for a license under this ordinance, or if an applicant or licensee fails to provide information the village requests to assist in any investigation or inquiry, the village may deny, suspend, or revoke a license.
- E. The Village Manager may suspend a license without notice or hearing upon a determination that the safety or health of patrons or employees is jeopardized by continuing a marijuana facility's operation. If the license is suspended without notice or hearing, a prompt post suspension hearing must be held to determine if the suspension should remain in effect. The suspension may remain in effect until the Village Manager determines that the cause for

suspension has been abated. The Village Manager may revoke the license upon a determination that the licensee has not made satisfactory progress toward abating the hazard. A license will automatically be revoked upon revocation or denial of a license under the Medical Marihuana Facilities License Act by the State.

- F. Any party aggrieved by an action of the Village Manager suspending or revoking a license shall be given a hearing before the Village Council upon request. A request for a hearing must be made to the Village Clerk's Office, in writing within 21 days after service of notice of the action of the Village Manager.

The Village may conduct investigative and contested case hearings; issue subpoenas for the attendance of witnesses; issue subpoenas duces tecum for the production of books, ledgers, records, memoranda, electronically retrievable data, and other pertinent documents; and administer oaths and affirmations to witnesses as appropriate to exercise and discharge the powers and duties of the board under this act.

Section 10. Village Responsibility

The Village Clerk shall provide the following information to the State Licensing Board within 90 days after the municipality receives notification from the applicant that he or she has applied for a license under this act:

1. A copy of the local ordinance that authorizes the marihuana facility.
2. A copy of any zoning regulations that apply to the proposed marihuana facility within the municipality.
3. A description of any violation of the local ordinance or zoning regulations included under subdivision 1 or 2 committed by the applicant, but only if those violations relate to activities licensed under this act or the Michigan medical marihuana act.

The municipality's failure to provide information to the board shall not be used against the applicant.

Information a municipality obtains from an applicant related to licensure under this section is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

Section 11. 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 12. Effective Date

This Ordinance shall take effect twenty-one (21) days after publication in accordance with law.