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## **ADULT-USE (RECREATIONAL) MARIHUANA FACILITIES LICENSING AND ZONING ORDINANCE**

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AN ORDINANCE TO REPEAL AND REPLACE THE VILLAGE OF NEW HAVEN RECREATIONAL MARIHUANA ESTABLISHMENT PROHIBITION ORDINANCE 220-16; 220-17 and 220-18 AND ANY AMENDMENTS THERETO, REGARDING ADULT-USE(RECREATIONAL) MARIHUANA ESTABLISHMENTS; TO AUTHORIZE THE OPERATION OF AND PROVIDE REGULATIONS AND ZONING REQUIREMENTS FOR RECREATIONAL MARIHUANA ESTABLISHMENTS IN THE VILLAGE OF NEW HAVEN PURSUANT TO THE MICHIGAN REGULATION AND TAXATION OF MARIHUANA ACT; TO PROVIDE FOR A LICENSE PROCESS; TO PROVIDE FOR AN ANNUAL FEE; TO PROVIDE PENALTIES FOR VIOLATION OF THIS ORDINANCE; TO PROVIDE FOR SEVERABILITY; AND TO REPEAL ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH.

THE VILLAGE OF NEW HAVEN ORDAINS:

### **SECTION 1: Short Title**

This ordinance will be known as and may be cited as the "Village of New Haven Recreational Marihuana Establishment and Zoning Ordinance."

### **SECTION 2: Enabling Authority and Purpose**

The purpose of the ordinance is, pursuant to the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, MCL 333.27951 et seq. ("MRTMA"), to: regulate recreational marihuana establishments in the Village in order to protect the public health, safety, and general welfare of the Village's residents, to provide reasonable regulations regarding Village licensing and zoning of recreational marihuana establishments, to provide a method to defray administrative costs of such establishments and to coordinate Village regulations and license approval with laws and regulations enacted by the State of Michigan.

### **SECTION 3: Definitions.**

Words used herein will have the definitions as provided for in MRTMA, and the administrative Rules promulgated thereunder.

The following recreational marihuana establishments may be authorized to operate within the Village by the holder of a state operating license, and the Village may issue a Village license for the same, subject to compliance with MRTMA, as may be amended, the Administrative Rules promulgated thereunder, and this ordinance:

#### **Type of Facility**

Growers Processors Marihuana Retailers  
Secure Transporters  
Safety Compliance Facilities Microbusinesses

## Marihuana Event Organizers Temporary Marihuana Events Designated Consumption Establishments

No other license types, as may be permitted or established by MRTM and/or the Rules promulgated pursuant to MRTMA, will be authorized in the Village.

### **SECTION 5: Recreational Marihuana Establishment Licenses.**

All applicants for a Village recreational marihuana establishment license must have been granted a provisional recreational or medical marihuana facility approval certificate for the equivalent license type by the State of Michigan and must provide proof of such approval prior to or upon applying to the Village for a Village recreational marihuana establishment license.

On and after the effective date of this ordinance, or as otherwise provided by resolution of the Village Board of Trustees (Board), the Village will accept applications for an authorized Village license to operate a recreational marihuana establishment within the Village. Any such application must be made on the Village of New Haven Village Recreational Marihuana Facility License Application and must be submitted by mail or hand delivered with all required attachments and attestations to the Village Clerk or the Clerk's designee ("Clerk").

The Village shall post the availability of any such licenses at the Village Hall and on the Village's website for any new application period, as determined from time to time, through this Ordinance or by Resolution of the Board. For all recreational marihuana establishments, the application period is thirty days from the effective date of the ordinance or as otherwise established by the Board by resolution. The Board, by resolution, may establish and announce application periods, during which applications may be submitted and processed for one or more types of facility licenses, as designated by the Board in its discretion, based on the number of licenses remaining available after any prior licensing rounds and whether and to what extent applications remain pending for the respective facility types in a prior licensing round.

Once the Clerk receives a complete application including the application fee, the application will be time and date stamped. All complete applications received within any application period, if applicable, will be considered for a provisional recreational facility conditional approval certificate. The Board will consider an application for a provisional recreational facility conditional approval certificate within sixty days of the close of the application period, or, as the case may be via Board Resolution commensurate with Section 5(C), above, within 60 days of submission of the application in the event no application period applies. After issuance of all available Village licenses for a type of facility (pursuant to Section 4), any other applications for that type of license which remain pending at that time are deemed by operation of law under this ordinance to be rejected due to lack of an available license type for that facility. Any applicant waiting for a provisional recreational facility conditional approval certificate may withdraw their application by written notice to the Clerk at any time. No application refund shall be permitted.

A conditionally approved applicant will receive a license from the Village to operate a recreational marihuana establishment within the Village upon the applicant providing the Clerk proof that the applicant has received a state operating license for the recreational marihuana facility and that the applicant met all other requirements of this ordinance, or any other applicable Village ordinances.

In the event that a marihuana facility does not commence operations within one year of issuance of a Village license, the license will be deemed forfeited, the marihuana facility will not commence

operations, and the license will not be eligible for renewal. Provisional certificates are not transferable or saleable. No property interest exists in a provisional certificate.

A licensee must not operate a recreational marijuana establishment at any location in the Village other than the address provided in the application to the Village and according to the Village of New Haven Zoning Ordinance.

## **SECTION 6: Location; Zoning**

Recreational marijuana establishment may only be operated on Rosell St. between 26 Mile Road and Carl St.

## **SECTION 7: License Evaluation Criteria and Administrative Authority.**

The Clerk will circulate each application that has been timely received to the Village Treasurer, Building Official, Planning and Zoning Administrator, Fire Chief (or his designee), Engineer, Chief Ordinance Enforcement Official and law enforcement agency, each of whom shall review the application to verify and evaluate the information provided preliminarily and to determine whether the application and marijuana facility, as proposed, is or will be in compliance with this Ordinance, the Zoning Ordinance, MRTMA, and other applicable State and Village ordinances, laws, rules, codes and regulations, including undertaking any necessary investigations and inspections for such purposes, and issue a report directed to the Village Board regarding their respective preliminary findings and determinations. Said reports will be delivered to the Clerk. In the event the Village Treasurer, Building Official, Planning and Zoning Administrator, Fire Chief (or his designee), Engineer, Chief Ordinance Enforcement Official or law enforcement agency determines that the information in the application is incomplete or additional information is required in order to complete the review, the Clerk will be notified of same and the above-described report to the Village Board will not be issued unless and until the missing and/or additional information has been provided by the applicant.

If at any time during the administrative review under this Section, it is determined that the information in an application is incomplete or additional information is required in order to complete the review, the Clerk will notify the applicant, in writing, of the deficiency or additional information required. All missing and additional information identified in the notice must be delivered to the Clerk within ten business days of the date of the notice. Upon written request of the applicant delivered to the Clerk prior to the expiration of said ten-day period, the Clerk may, in his or her sole discretion, grant an extension of time not exceeding thirty calendar days beyond the original ten-day period for delivery of missing and additional information. If all missing and additional information identified in the notice is not delivered to the Clerk within said time period, or any extension thereof: (1) processing of the application will be discontinued; (2) the Clerk will issue a written notice to the applicant indicating that the application is rejected on the grounds that it is incomplete. No refund of the application fee shall be permitted. The applicant will not be prohibited from submitting a new application for the same facility in the future.

The Clerk is granted the power and duty to implement and administer the license application process and issuance of provisional approval certificates and Village licenses issued under this ordinance fully and effectively. The Clerk, after consultation with other Village departments, may promulgate such rules as necessary to implement and administer this ordinance.

## **SECTION 8: General Regulations Regarding Authorized Recreational Marihuana Establishments.**

A licensed recreational marihuana establishment must only be operated within the Village by the holder of a state operating license issued pursuant to the Medical Marijuana Regulation and Treatment of Addiction Act (MRTMA) and the Administrative Rules promulgated thereunder. The establishment must only be operated as long as the State operating license and Village license both remain in effect.

Prior to operating a licensed recreational marihuana establishment within the Village pursuant to a state operating license, the establishment must comply with all applicable regulations, ordinances, and codes.

Prior to operating an authorized recreational marihuana establishment within the Village pursuant to a state operating license, the establishment must comply with all Village construction and building ordinances, all other Village ordinances specifically regulating recreational marihuana establishments, including the Village zoning ordinance, and the zoning requirements contained within this ordinance and generally applicable Village police power ordinances. The establishment must 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.

If at any time a licensed recreational marihuana establishment violates this Ordinance, the Board may request that the State revoke or refrain from renewing the establishment's State operating license. Once such State operating license is revoked or fails to be renewed, the Clerk will cancel the Village license, and the license will be available to another applicant for the specific type of recreational marihuana establishment license.

A recreational marihuana establishment will be located no closer than 1000 feet to any school and no closer than 500 feet to any place of worship, park, playground, public library, residentially zoned or occupied property, including, specifically, **Residential Light Density, Residential Medium Density, Residential High Density, and Mobile Home Park/Manufactured Home Communities**. The distances set forth above, shall be measured as the shortest straight-line distance between the marihuana facility that is located nearest to the listed use and the nearest building of the parcel on which the listed use is located.

A recreational marihuana establishment must prevent smoke, odors, debris, dust, noise, lights, glare, heat, other emissions, or discharge from interfering with the reasonable and comfortable use and enjoyment of another's property. Whether smoke, odors, debris, dust, noise, lights, glare, heat, other emissions, or discharge interfere with the reasonable and comfortable use and enjoyment of property will be measured against the objective standards of a reasonable person of normal sensitivity. No licensee, person, tenant, occupant, invitee, or property owner shall permit the emission of marihuana odor from any source to result in detectable odors outside of the marihuana facility.

A marihuana retailer must not operate between the hours 9:00 PM and 9:00 AM.

Marihuana cultivation may not be conducted openly or publicly and may not occur in detached outbuildings. Indoor lighting for marihuana cultivation is limited to light-emitting diodes (LEDs), compact fluorescent lamps (CFLs), or other fluorescent lighting. All other lighting used for growing marihuana is prohibited.

No marihuana establishment may use metals, butane, propane, or other flammable product, or produce flammable vapors, to process marihuana unless permitted by applicable law, and the process used, and the premises itself, are verified as safe and in compliance with all applicable codes by a qualified industrial hygienist. The Village may require a marihuana establishment to obtain verification from a qualified industrial hygienist that the manner in which the facility is cultivating, or processing marihuana complies with all applicable laws and does not produce noxious or dangerous gases or odors or otherwise create a danger to any person or entity in or near the businesses.

Light cast by fixtures inside any building used for marihuana cultivation, production or processing must not be visible outside the building after 7:00 PM or sunset (whichever is earlier) or before 7:00 AM, prevailing time.

All signage, marketing, and advertising must comply with MRTMA, Village of New Haven, and Macomb County regulations.

A licensed recreational marihuana establishment must consent to inspection of the facility by either Village officials or the Macomb County Sheriff's Department, upon reasonable notice, to verify compliance with this ordinance.

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 or number of licenses for recreational marihuana establishments authorized to operate within the Village.

## **SECTION 9: License and Annual Fee Required.**

No person will establish or operate a marihuana facility in the Village without first having obtained from the Village and the State a license for each such facility to be operated. License certificates must be kept current and publicly displayed within the facility. Failure to maintain or display a current license certificate will be a violation of this Ordinance.

An annual nonrefundable fee must be paid to the Village for purposes of defraying the actual administrative, enforcement, and other costs associated with recreational marihuana facilities located in the Village. Such annual fee will be in an amount not to exceed \$5,000 per licensed facility as set by Resolution adopted by the Board from time to time, in the discretion of the Board.

The annual nonrefundable fee required under this Section will be due and payable prior to issuance of a Village license and upon the application for renewal of any such license under this Ordinance.

A valid Village license may be renewed on an annual basis by submitting to the Clerk a renewal application provided by the Village and payment of the annual license fee at least thirty days prior to the date of the license's expiration. The licensed establishment must pass a renewal inspection to assure that it and its systems comply with all State, Village, and ordinance requirements.

The license fee requirement set forth in this ordinance will be in addition to, and not in lieu of, any other licensing and permitting fee requirements imposed by any other federal or state law or regulation, or Village ordinance, including, without limitation, the fees associated with any applicable zoning, water, sewer and building permits, and the license application fees under this ordinance.

The issuance of any license pursuant to this ordinance does not create an exception, defense, or immunity to any person in regard to any potential criminal liability the person may have for the use, growing, cultivation, production, processing, distribution, provisioning, sale, transportation, or possession of marihuana under any law, including federal law.

Separate licenses will be required for each marihuana facility type. Except as may be specifically provided in this ordinance, MRTMA, or related regulations, no two or more different recreational marihuana facilities may be treated as one premise. Equivalent licenses may operate at the same location.

## **SECTION 9: Nonrenewal, Suspension, Revocation, Appeals, Penalties.**

It is hereby expressly declared that nothing in this Ordinance be held or construed to give or grant to any authorized recreational marihuana establishment a vested right, privilege, or permit to continued licensure from the Village for operations within the Village. No property right exists in any license or provisional certificate.

Each license is exclusive to the licensee and a licensee, or any other person must apply to and receive Village Board approval before a license is transferred, sold, or purchased. Provisional certificates are not transferrable or saleable. The attempted transfer, sale, or other conveyance of an interest in a license without prior approval of the Board is grounds for suspension or revocation of the license or for other appropriate sanction. Licensees must report to the Clerk, in writing, any material change in information required under MRTMA or this ordinance within ten business days of the change. A failure to report a material change may result in a suspension or revocation of the license.

The Board, after notice and hearing, may suspend, revoke, or refuse to renew a license for any of the following reasons:

- (1) The applicant or licensee, or his/her agent, manager, or employee, has violated, does not meet, or has failed to comply with any of the terms, requirements, conditions, or provisions of this Ordinance or with any applicable state or local law or regulation; or
- (2) the recreational marihuana establishment has operated in a manner that adversely affects the public health, safety, and welfare.

Evidence to support a finding for nonrenewal, suspension, or revocation of a license may include, without limitation, a continuing pattern of conduct of drug related criminal complaints within the premises of the recreational marihuana establishment or in the immediate surrounding area or an ongoing nuisance condition emanating from or caused by a recreational marihuana establishment.

An applicant may appeal any Village decision regarding licensure, nonrenewal, suspension or revocation of a license to the full Board, upon written request within twenty-one days after notice of the Clerk's decision has been mailed to the applicant's last known address on file with the Clerk. An applicant requesting such an appeal must submit the request in writing with the reasons for the appeal to the Clerk. The Board will provide notice to the applicant at least ten days prior to the Board meeting of the time and date of the meeting at which the appeal will be heard. At such Board meeting, the applicant will have the opportunity to present his/her case supporting the appeal request. The Board may reverse or affirm, wholly or partly, or modify the decision of the Clerk. Any decision by the Board on an appeal will be final for purposes of judicial review.

In addition to the possible denial, suspension, revocation, or nonrenewal of a license under the provisions of this ordinance, any person, including, but not limited to, any licensee, manager or employee of a marihuana facility, or any customer of such facility, who violates any of the provisions of this Ordinance, shall be responsible for a municipal civil infraction.

**SECTION 10. Severability.** The various sections and provisions of this Ordinance shall be deemed to be severable and should any section or provision of this Ordinance be declared by any court of competent jurisdiction to be unconstitutional or invalid the same shall not affect the validity of this Ordinance as a whole or any section or provision of this Ordinance, other than the section or provision so declared to be unconstitutional or invalid.

**SECTION 11. Conflict.** All other ordinances or provisions of other ordinances now in effect shall be and are hereby repealed to the extent they conflict with this Ordinance.

**SECTION 12. Effective Date.** This Ordinance shall take effect thirty (30) days after the date of publication pursuant to MCL 41.184(2)(a).

I, Rachel Whitsett, the undersigned Clerk of the Village of New Haven, hereby certify that the foregoing ordinance was duly adopted by the Board of Trustees for the Village of New Haven at a legally scheduled Board meeting held on ,2025, by the following votes of the membership thereof:

Motioned by: \_\_\_\_\_ Seconded by: \_\_\_\_\_

Ayes: \_\_\_\_\_ Nays: \_\_\_\_\_ Absent: \_\_\_\_\_

I, Rachel Whitsett, the undersigned Clerk of the Village of New Haven, do hereby certify that on \_\_\_\_\_, 2025, the foregoing ordinance, or summary thereof, was duly published in The Voice Newspaper or other newspaper having general circulation within the Village of New Haven.

\_\_\_\_\_  
Village of New Haven Clerk Date