

FIRST READING
MAY, 2021

SECTION 4.1.29 • ADULT USE MARIJUANA FACILITIES

An ordinance to license, site plan and regulate certain adult use marijuana facilities in the Village of Oxford.

Adult use marijuana facilities shall conform to and be subject to the provisions of this ordinance.

A. Definitions. As used in this ordinance, the following definitions shall apply to adult use marijuana facilities. To the extent applicable, the definitions are intended to comply with the definitions at MCL 333.27953 and all of its amendments.

1. **Applicant:** Any individual, organization, entity, or association, including any corporation, partnership, limited liability company, or any other lawfully established business, that applies for a License under this ordinance.
2. **Department:** The State of Michigan Department of Licensing and Regulatory Affairs.
3. **License:** A license to operate a marijuana facility in the Village of Oxford under this ordinance.
4. **Marijuana:** All parts of the plant of the genus cannabis, growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin, including marijuana concentrate and marijuana-infused products. For purposes of this ordinance, marijuana does not include:
 - a. the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted from those stalks, fiber, oil, or cake, or any sterilized seed of the plant that is incapable of germination;
 - b. Industrial hemp; or
 - c. any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other products.

For the purposes of this ordinance, the spelling of the above defined term shall be 'marijuana' and should be deemed to be the equivalent to and referencing the term that is spelled 'marihuana' by the Department and within the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, as amended, at Section 3(e).

5. **Marijuana Accessories:** Any equipment, product, material, or combination of equipment, products, or materials, which is specifically designed for use in planting, propagating,

cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, ingesting, inhaling, or otherwise introducing marijuana into the human body.

6. **Marijuana Designated Consumption Establishment:** A commercial space that is licensed by the Department and authorized to permit adults 21 years of age and older to consume marijuana products at the location indicated on the state license.
7. **Marijuana Facility:** Any type of marijuana-related business licensed by the Department as authorized by the Michigan Regulation and Taxation of Marijuana Act, Initiated Law 1 of 2018, as amended.
8. **Marijuana Grower:** A facility operated by a State Licensee holding less than 5 class C marijuana grower licenses where the cultivation of marijuana takes place. A facility receiving a grower license authorizes the facility to grow not more than the following number of marijuana plants under the indicated license class for each license the grower holds in that class:
 - a) Class A – 500 marijuana plants
 - b) Class B – 1,000 marijuana plants
 - c) Class C – 1,500 marijuana plants
9. **Excess Marijuana Grower:** A facility operated by a State Licensee holding 5 class C marijuana grower licenses and licensed to cultivate marijuana and sell or otherwise transfer marijuana to marijuana establishments where the cultivation of marijuana takes place.
10. **Marijuana Microbusiness:** A facility operated by a State Licensee where the cultivation of not more than 150 marijuana plants, the processing and packaging of marijuana, and the sale or otherwise transference of marijuana to individuals who are 21 years of age or older or to a marijuana safety compliance facility but not to other marijuana facilities.
11. **Marijuana Processor:** A facility operated by a State Licensee where the processing and packaging of marijuana takes place.
12. **Marijuana Retailer:** A facility operated by a State Licensee where the sale or otherwise transference of marijuana, marijuana-infused products or marijuana accessories to individuals who are 21 years of age or older takes place.
13. **Marijuana Safety Compliance Facility:** A facility operated by a State Licensee where the testing of marijuana for the certification of potency and the presence of contaminants takes place.
14. **Marijuana Secure Transporter:** A person licensed to obtain marijuana from marijuana establishments in order to transport marijuana to marijuana establishments.

15. **State Licensee:** Any individual, corporation, limited liability company, partnership of any type, trust or other legal entity that has been issued a license by the Department that allows for the operation of a marijuana facility at any location otherwise permitted under this ordinance.
16. **Temporary Marijuana Event:** Any event held by a marijuana event organizer licensee where the onsite sale or consumption of marijuana products, or both, are authorized by the Department and under this ordinance.

B. Permitted and Prohibited Facilities.

1. **Conflicts of Law.** As of the effective date of this ordinance, marijuana remains classified as a Schedule 1 controlled substance under the Federal Controlled Substances Act, 21 USC S801, et. seq. which makes it unlawful to manufacture, distribute or dispense marijuana. Nothing in this ordinance creates or grants immunity to any person or entity from criminal prosecution under any applicable federal law and any entity receiving a license under this ordinance shall defend, indemnify and hold the Village of Oxford harmless accordingly.
2. **Permitted Facilities.** Only the following listed marijuana facilities shall be allowed to be located within the Village of Oxford under this ordinance:
 - a. Marijuana Microbusiness
 - b. Marijuana Processor
 - c. Marijuana Retailer
 - d. Marijuana Safety Compliance Facility
 - e. Marijuana Secure Transporter

No person or entity shall establish or operate any adult use marijuana facility in the Village of Oxford without first complying with this ordinance and without first complying with any and all applicable state laws and regulations, including all amendments to the applicable state laws and state regulations. This shall specifically include all approvals required to be obtained from the Department and any other authorized State Agency having the authority and the purpose to regulate any adult use marijuana facility in Michigan.

3. **Permitted Shared Facilities.** Any licensed marijuana facility under this ordinance may be allowed to operate in the same building housing another licensed marijuana facility provided it is constructed and operated in compliance with all State and Village of Oxford requirements for the shared use of marijuana facilities. Marijuana facilities may be allowed to occupy more than one building on the same parcel provided the facility and buildings are operated in compliance with all State and Village of Oxford requirements, including all zoning ordinances and site plan requirements.

4. **Prohibited Facilities.**

- a. **Home Occupations and Accessory Use Prohibited.** A marijuana facility, or activities associated with the marijuana facility, shall not be permitted as a home occupation or an accessory use.
- b. **Other Marijuana Facilities Prohibited.** Any marijuana facility or event not specifically listed as a permitted facility or permitted event herein shall be prohibited within the Village of Oxford.

C. Location. Marijuana facilities are permitted to be located, as a permitted use, subject to the terms of this ordinance and subject to all applicable State laws and regulations, within the Village of Oxford as set forth below and shall adhere to the following permitted location requirements:

- 1. **Child Care Facilities, Schools, and Similar Facilities Buffer.** Except for marijuana facilities qualifying as secure transporters or safety compliance facilities, all lots containing a marijuana facility shall be located at least 500 feet from the nearest lot line of any child care center or licensed day care facility licensed by the State of Michigan Department of Licensing and Regulatory Affairs and 500 feet from the nearest preschool program center, primary, intermediate or secondary school, or like facility, established pursuant to and in accordance with the Revised School Code, P.A. 451 of 1976, being M.C.L.A. §§ 380.1 through 380.1853, as amended, and/or the State School Aid Act of 1979, P.A. 94 of 1979, being M.C.L.A. §§ 388.1601 through 388.1772, as amended.

2. **Permitted Districts.**

- a. **I-1 Industrial District:** All marijuana facilities otherwise permitted at Section B in this ordinance shall be allowed as a permitted use only on parcels in the Village of Oxford that are otherwise fully located in the I-1 Industrial zoning district.

D. General Use Requirements For All Marijuana Facilities. All general use requirements shall be and are part of the required site plan approval process.

- 1. **Hours of Operation.** All marijuana facilities shall provide the Village of Oxford administration and Chief of Police with the hours of operation of the facility. Any changes to the hours of operation must be communicated forty-eight (48) hours in advance of the change. Marijuana retailers and the retail operations of a Marijuana Microbusiness shall only be open from 9:00 a.m. to 9:00 p.m. with no modifications allowed.
- 2. **Odor Control.** All marijuana facilities shall be equipped with an operable filtration, ventilation, and exhaust system that, at all times, effectively confines any and all odors to the interior of the building from which the odor is generated.

No marijuana shall be cultivated, grown, manufactured or processed in any manner that emits odors beyond the interior of the premises or which is otherwise discernable to another person. The odor shall be prevented by the installation of an operable odor control system. Odors shall be effectively confined to the interior of the location in which the odor is generated.

Venting of marijuana odors into the areas surrounding the location is deemed and declared to be a public nuisance for all legal purposes.

3. **Waste Water.** All marijuana facilities shall be designed and operated so as to minimize the amount of pesticides, fertilizers, nutrients, marijuana, and any other potential contaminants discharged into the public wastewater and/or stormwater systems as shall be determined by the Village Engineer during the site plan process.
4. **Security Requirements.** All marijuana facilities shall have an adequate security plan to prevent access to marijuana by non-authorized personnel, including unauthorized removal of any marijuana. All rooms that contain marijuana, in any form, shall be individually locked and accessible only to authorized personnel. The building(s) housing the marijuana facility shall all be equipped with security cameras approved by the Chief of Police, maintained in operational order, and installed in such a way as to monitor the entire perimeter of the building(s) including all parking lots and areas accessible by individuals and capable of recording and storing both on and off site a minimum of 120 continuous hours of the perimeter monitoring. The security cameras shall be in operation 24 hours a day, seven days a week, and shall be set to maintain the record of the prior 120 hours of continuous operation. The Chief of Police may require review and recommendation of a proposed security plan by an independent consultant with credentialed expertise in the field of site/facility security measures. The cost of an independent review by an independent security consultant shall be paid directly and in full by the applicant. The security plan shall describe how cash will be handled and deposited, including a plan to minimize the cash on hand at the marijuana facilities and to provide for a method of secure pick up and transportation of cash.
5. **Indoor Activity Only.** All marijuana facility activities including, but not limited to, operations, cultivation, processing, storage, and transactions, shall be conducted within an enclosed structure. All outdoor storage is prohibited. A greenhouse shall not be considered an enclosed structure or an indoor structure for purposes of this ordinance.
6. **Inspections.** A marijuana facility shall be subject to inspections to ensure compliance with all applicable Village of Oxford codes and ordinances and all applicable State laws and regulations, including all future amendments. Any marijuana facility under this ordinance shall comply with all local permitting and inspection processes.
7. **Prohibited Activities.** No smoking, inhalation, or consumption of marijuana shall take place on the premises of any marijuana facility.

8. **Unlawful Activities.** Any uses or activities found by the State of Michigan or a court of competent jurisdiction to be unconstitutional or otherwise unlawful by State law shall not be permitted by the Village of Oxford.
9. **Lighting.** Any artificial lighting shall be shielded to prevent glare and light trespass and shall not be visible from neighboring properties, adjacent streets or public right of ways.
10. **General Restrictions.** All activities shall be conducted so as to not create or permit trespass or spillage of dust, glare, sounds, noise, vibrating, fumes, odors or light to any neighboring property, street or public right of way.
11. **No Temporary Certificate of Occupancy.** No marijuana facility under this ordinance may operate under a temporary certificate of occupancy. Each licensed facility must be in full and complete compliance in order to operate.
12. **Transfers of License.** A Marijuana facility license issued under this ordinance is not transferable or assignable under any circumstances.

E. Application Submittal Requirements for a License.

The following items shall be required at the time an applicant makes an application for a license under this ordinance. If any item is not included at the time of the application, the entire application shall not be accepted for review by the Village of Oxford.

1. **Application Form.** A signed and dated application form to be provided by the Village of Oxford. If the applicant does not own the property, a signed and notarized statement granting permission from the lawful owner to submit an application shall be included with the application.
2. **Preliminary State License Approval.** A letter from the Marijuana Regulatory Agency of the State of Michigan (or any designated successor) granting preliminary state license approval for the applicant to operate a marijuana facility that the applicant is requesting for approval within the Village of Oxford. The burden to obtain any and all State approvals shall be on the applicant.
3. **Site Plan.** A fully completed site plan including all information required in the Village of Oxford zoning ordinance and all general use requirements set forth in the ordinance. The site plan shall be reviewed and approved consistent with the procedures set forth in Village of Oxford Zoning Ordinance.
4. **Use Statement.** A written statement by the applicant identifying all activities, operations, products and services to be provided by the marijuana facility.
5. **Hours of Operation.** A written statement identifying the marijuana facilities' proposed hours of operation.

6. **Odor Control Plan.** An odor control plan consistent with the requirements of this ordinance and any applicable State laws and regulations.
7. **Waste Water Control Plan.** A waste water control plan consistent with the requirements of this ordinance and any applicable State laws and regulations.
8. **Security Plan.** A security plan consistent with the requirements of this ordinance and any applicable State laws and regulations.
9. **Lighting Plan.** A Lighting plan consistent with the requirements of this ordinance and any applicable State laws and regulations.
10. **Liability Release and Insurance Documentation.** An executed release of liability, indemnification and hold harmless in the form provided by the Village of Oxford's application and proof of insurance providing general liability coverage for loss, liability and damage claims arising out of injury to persons or property in the amounts and the format set forth in the application process.
11. **Notarized Acknowledgement of Operational Requirements.** As part of the application form, the applicant shall submit a signed and notarized statement by all individuals receiving pre-approval to operate the marijuana facility that applicant(s) are aware of the terms of this ordinance, including the site plan requirements.

F. Application Consideration.

A completed application for a license shall be reviewed for completeness. There shall be no other review policy or guideline under this ordinance.

1. **Application Fee.** The applicant, with the application, shall pay a fee of \$5,000.00 per license type to defray the administrative and enforcement costs associated with the operation of the marijuana facility.
2. **Renewals.** Each license issued under this ordinance must be renewed annually with a renewal fee of \$5,000.00 per license on a renewal form to be provided by the Village of Oxford. This fee is to defray administrative and enforcement costs.
3. **No Property Right.** A Village license for a marijuana facility is a revocable privilege granted by the Village of Oxford and is not a property right. Granting a license under this ordinance does not create or vest any right, title, franchise, privilege or other property interest. No licensee or any other person shall lease, pledge, or borrow or loan money against a license.
4. **Inspection Fee.** Each marijuana facility established under this ordinance may, at the sole discretion of the Village of Oxford, be inspected by the Village of Oxford at any time to ensure compliance. The Village reserves the right to establish any

appropriate inspection fee in accordance with the Village of Oxford schedule of fees process.

G. Adverse License Actions.

The Village of Oxford Village Manager may suspend, revoke, or place in non-renewal status any License granted under this ordinance based on the following:

1. Any fraud or misrepresentation contained in the license application or any renewal process.
2. Any violation of this ordinance or any State Marijuana Law, regulation or rule.
3. The marijuana business operates in an unlawful manner or in such a way as to constitute a public nuisance or to adversely affect the health, safety, or general welfare of the public.
4. The revocation, suspension, nonrenewal, and placement of restrictions by the department or any other authorized state agency on a State license applies equally to the corresponding license issued by the Village of Oxford.

If a license is not renewed or is suspended or revoked, the licensee must immediately cease all operations at the marijuana facility regardless of its location on a permitted parcel.

Nothing in this section prohibits the Village from imposing other penalties authorized in the Village of Oxford Codes and Ordinances, including filing a public nuisance action or any other legal action in a court of competent jurisdiction.

H. Due Process. For a violation that impacts health or safety of customers, employees, or the public, the Village of Oxford Village Manager may temporarily suspend a license without a hearing but only until such time as a hearing can be reasonably scheduled and held.

The Village of Oxford shall send notice to the licensee listing the reason for the adverse license proceeding. The notice shall list a proposed action and proposed conditions for reinstatement, if applicable.

The licensee shall have 10 business days from the date the notice was sent to respond in writing and request a hearing. If the licensee does not reply within the 10-day period, then the proposed adverse action and any proposed conditions will be considered the final and binding recommendation of the Village of Oxford Village Manager. The licensee may appeal a recommended adverse action issued under this subsection to the Village of Oxford Planning Commission. The Planning Commission's review shall be limited to the information possessed by the Village of Oxford Village Manager at the time the recommendation was issued.

The Village of Oxford Planning Commission shall, as soon as practicable, conduct a public hearing where the licensee and the Village of Oxford Village Manager will each have the

opportunity to give testimony, present evidence, and show cause as to why the license should or should not be placed in non-renewal status or suspended or revoked and as to any conditions for reinstatement or renewal.

- I. Appeal to Village of Oxford.** A recommendation of the Planning Commission may be appealed through a written request to the Village Clerk within 10 business days from the date the Planning Commission issued its recommendation. The Village Clerk shall place the appeal on the agenda for the next regular meeting of the Village Council. A written appeal shall be limited to 20 pages and up to 10 pages of exhibits.

The Village Council shall be limited to reviewing the record of the hearing at the Planning Commission.

If the Planning Commission's recommendation is supported by the record, then the Planning Commission's recommendation shall be adopted by the Village Council.

It shall be the burden of the licensee to show by clear and convincing evidence that the Planning Commission's recommendation was not supported by the record.

The Village Council may adopt the Planning Commission's recommendation, in whole or in part, or may issue an entirely new decision. The decision of the Village Council shall be final.

J. Severability.

The provisions of this ordinance are hereby declared, for all legal purposes, to be severable. If any clause, sentence, word, section, or provision is hereafter declared to be void or unenforceable for any reason by a court of competent jurisdiction, it shall not affect the remainder of this ordinance which continue in full force and effect.

K. Violations and Penalties.

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 for all legal purposes.

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 ninety (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 ninety (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 twelve (12) calendar 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.

Each day during which any violation continues shall be deemed a separate offense.

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.