

VILLAGE OF MANCELONA MARIHUANA ESTABLISHMENT ORDINANCE
VILLAGE OF MANCELONA, MICHIGAN
ORDINANCE NO. 115 of 2021

Summary

An ordinance to amend the village code by adding a new Chapter regarding marihuana establishments to operate in the Village of Mancelona, pursuant to this Ordinance and the Michigan Regulation and Taxation of Marihuana Act 2018 MCL 333.27951 et seq., to establish standards and procedures to license and regulate marihuana establishments to set forth definitions to require a license, establish application qualifications and review, compliance inspections and investigations of applicants, to authorize fees, to establish conditions for operation and locational specifications for schools, public libraries, religious institutions and other marihuana businesses, to require compliance with state law and regulations to impose civil infraction penalties for violations and to minimize adverse effects if any, from the cultivation processing, dispersing and storage of marihuana, all in order to protect the public health, safety and welfare, which new chapter shall be designated as Chapter 35.500 of said code.

IT IS HEREBY ORDAINED BY THE PEOPLE OF THE VILLAGE OF MANCELONA THAT:

Village of Mancelona Ordinance No. 109 of 2018 is amended to read as follows:

35.501. Title

This title of this ordinance shall be the "Village of Mancelona Marihuana Establishment Ordinance."

35.502. Definitions

This ordinance shall adopt all terms and phrases from the Michigan Regulation and Taxation of Marihuana Act, including but not limited to section MCL 333.27953.

- A. Words and phrases used herein shall have the definitions as provided for in I.L. 2018, No. 1, MCL 333.27953 (hereafter, the "Act") as the same may be amended from time to time, which words and phrases are incorporated herein by reference.
- B. "Council" shall mean the Village of Mancelona Council.
- C. "VOP" shall refer to the Village Office Personnel.
- D. "Person" shall mean an individual, corporation, limited liability company, partnership of any type, trust or other legal entity.
- E. "Stakeholder" shall mean any shareholder (30% or more) of a corporation, partner in a partnership, member of a limited liability company or individual of a sole proprietorship.
- F. "Zoning Ordinance" shall mean the Village of Mancelona Zoning Ordinance.
- G. "Producer" responsible for growing cannabis also may be called grower and cultivator.
- H. "Processor" Cannabis processors are responsible for taking the raw cannabis plant and creating entirely new products from it including concentrates, topical, and edibles. In addition to creating these products, processors must package them in compliance with their state's regulations as well. Processors can also be referred to as manufacturers, extract technicians, extract artists, or edibles chefs.
- I. "Retailer" A cannabis shop, cannabis dispensary, or cannabis cooperative is a location at which marihuana is sold for recreational or medical use.
- J. "Safety Compliance Establishment: Analytical testing of medical marihuana for safety
- K. "Secure Transport" The moving of plants to and from a producer to processor to retailer.
- L. MAWSA shall refer to the Mancelona Area Water and Sewer Authority.
- M. "Microbusiness" In Michigan, a microbusiness license allows a person or company to:

- a. grow up to **150 cannabis plants**,
- b. process cannabis into concentrates, edibles, or other infused products,
- c. package the finished products, and
- d. Sell to adults who are over the age of 21.

35.503. Type and Number of Establishments Authorized

The marihuana establishments and the number authorized pursuant to this Ordinance are:

<u>Type of Establishment</u>	<u>Allowed or Not Allowed</u>
Marihuana Grower	Not Allowed
Marihuana Processor	Not Allowed
Marihuana Microbusiness	Allowed
Marihuana Retailer	Allowed
Marihuana Safety Compliance Establishment	Not Allowed
Marijuana Secure Transporter	Not Allowed

35.504. Marihuana Establishment Rules and Regulations

- a. In addition to the rules promulgated by the department and the statutes of the state of Michigan, the operation of marihuana establishments shall be made in accordance with the provisions of this ordinance.
- b. Marihuana retailers shall be closed for business, and no sale or other distribution of marihuana in any form shall occur upon the premises between the hours of **10:00pm and 9am**.

35.505. Marihuana Establishment Applications

- a. No person shall operate a marihuana establishment in the Village without first obtaining a permit for the marihuana establishment from the Village.
- b. In addition to such application as may be required by the department for licensing by the State of Michigan, application shall be made to the Village Office Personnel (VOP) to operate a marihuana establishment in the municipality.
- c. A signed acknowledgement that the applicant understands that any matters related to marijuana cultivation, possession, dispensing, testing, transporting, distribution and use are currently subject to federal laws, and that the approval of a permit hereunder does not exonerate or exculpate the applicant from exposure to any penalties associated therewith. Further, the applicant completely releases and forever discharges the Village and its respective employees, from exposure to any penalties associated therewith. Further, the applicant completely releases and forever discharges the village and its respective employees, agents, facilities, insurers, successors, heirs and/or assigns from any and all past, present or future claims, demands, obligations, actions, causes of action wrongful death claims, rights, damages, costs, losses of services, expenses and compensation of any nature whatsoever, whether based on a tort, contract or other theory or recovery, which the applicant or its stakeholders may now have, or which may hereafter accrue or otherwise be acquired on account of, or may in any way arise out of the applicant or stakeholders; application for a permit and, if issued a permit, the applicant or stakeholders' operation of a marihuana establishment.
- d. Applications shall be made on forms provided by the VOP, shall be signed by the applicant, if an individual, or by a duly authorized agent thereof, if an entity, verified by oath or affidavit, and seal if available and shall contain the following:
 1. The full name, date of birth, physical address, email address, and telephone number of the applicant in the case of an individual, or, in the case of entity, all stakeholders thereof.
 2. If the applicant is an entity, the entity's articles of incorporation or organizational documents.
 3. A detailed description of proposed community outreach and education strategies.
 4. A detailed description of the security plan for the proposed marihuana establishment that is consistent with the requirements of the State of Michigan.
 5. **A stamped architect's floor plan of the proposed marihuana establishment.**
 6. A scale diagram illustration the property upon which the proposed marihuana establishment is to be operated. A depiction of any proposed text or graphic materials to be shown on the exterior of the

proposed marihuana establishment. In accordance with the Village of Mancelona Zoning Ordinance (Article 5.5) available at VillageofMancelona.org – Zoning.

7. An establishment sanitation plan that describes how waste will be stored and disposed and how marihuana will be rendered unusable upon disposal at the proposed marihuana establishment. In accordance with the Village of Mancelona Zoning Ordinance (Article 2.21) available at VillageofMancelona.org – Zoning.
8. All applications must be accompanied by the appropriate fee of \$1,500 in the form of a certified check made payable to: Village of Mancelona.
9. If there is a lease or 3rd party involved, attach a letter of understanding from the business owner that they are aware of the intended use of the business.
10. An applicant may apply for multiple marihuana (one of each, Microbusiness and Retail) Establishment permits of the same or different nature in accordance with the MRA Department Rules

35.506. Marihuana Application Process

- A. Upon receipt of a completed application meeting the requirements of this ordinance and the appropriate permit application fee, the VOP shall refer a copy of the application, for review and comment, to the Mancelona Township Fire Department, the Antrim County Building Department, and the Mancelona Police Department.
- B. After this ordinance becomes effective, the VOP shall begin accepting marijuana establishment applications.
- C. The VOP may award a permit to the applicant for a permit to operate a marihuana establishment who submits a complete application and whom meets the requirements of this ordinance. Such determination shall be in the sole discretion of the Village of Mancelona with a response period of 30 days.

35.507 Standards for Certificate

- A. Locations for facility must comply with The Village of Mancelona Zoning Ordinance.
- B. Microbusiness facilities that are within 50 feet of sewer connection must be hooked to the Mancelona Area Water and Sewer Authority (MAWSA)
- C. Documentation providing the electrical and plumbing inspectors (and/or other inspector(s) as required by various codes, and/or by the Village Compliance Officer have inspected and confirmed that all electrical wiring, lighting, plumbing, and any other related equipment and/or means used to facilitate the growth or the cultivation of marihuana plants, are in full and complete compliance with respective applicable code(s).
- D. For proposed facilities, a site plan indication that all electrical and plumbing requirements are clearly shown. During and at completion of inspections of all electrical, plumbing, and other related equipment are in full and complete compliance with respective applicable code(s). A Certification of Registration may be issued upon an administrative review of a site plan. Should the completed structure not pass all necessary inspections the Certificate shall be null and void.
- E. All use of property or land must be in accordance with an approved application, and, be in full compliance with all other Village ordinances.
- F. The applicant has signed and sworn that the Applicant has not knowingly submitted an Application containing false information.
- G. A satisfactory background investigation will be performed every 6 months, experience in the specific Licensed Marihuana Facility activity, cooperation with law enforcement, community investment, proof of financial stability, and a good faith effort to recognize and address community sensibilities and sensitivities, all equally weighted, as evaluated by the Village of Mancelona Compliance Officer and his designees.

35.508. Marihuana Establishment Permit Limitations

- A. The marihuana establishment(s) authorized by this ordinance shall be located in the dispensary location district designated in the Village of Mancelona Zoning Ordinance with the addition of:

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1. No marihuana dispensary shall be located within one hundred (100) feet of the following buffered uses: an operating school including pre-K that is located within a school; or a commercial child care organization that is registered with the state; or an organized church.

35.509. Standards for Disqualification:

An applicant (**30% stockholder and higher**) cannot obtain a Village of Mancelona license if any of the following is true:

1. The applicant is ineligible if he or she has knowingly submitted an application for a license that contains false information.
2. The applicant is ineligible if he or she fails to demonstrate the ability to maintain adequate premises liability and casualty insurance for its proposed marihuana facility (an insurance policy that covers at a minimum of \$100,000).
3. The applicant cannot hold an elective office of a governmental unit of this state, another state, or the federal government; is a member of or employed by a regulatory body of a governmental unit in this state, another state, or the federal government; or is employed by a governmental unit of this state. This subdivision does not apply to an elected officer of or employee of a federally recognized Indian tribe or to an elected precinct delegate.
4. The applicant fails to meet other Village criteria established by rule.
5. The applicant is ineligible if he or she has been convicted of or released from incarceration for a felony under the laws of this state, any other state, or the United States (federal law) within the past 10 years or has been convicted of a controlled substance related felony within the past 10 years.
6. The applicant is ineligible if he or she has been convicted of a misdemeanor involving a controlled substance, theft, dishonesty, or fraud in any state within the past 5 years.
7. The applicant is ineligible if he or she has been found responsible for violating a local ordinance in any state involving a controlled substance, dishonesty, theft, or fraud that substantially corresponds to a misdemeanor in that state with the past 5 years.

35.510. Term of Marihuana Establishment Permit

- A. Each permit shall be displayed in a conspicuous spot in the building for that current year.
- B. Approval of a permit shall be for a period of one year from issuant date; subject to review by the VOP upon continued compliance with the regulations of this ordinance.

35.511. Inspection of Licensed Marihuana Facility prior to Issuance of Certificate of Registration

1. Additionally, contingent to licensing and registration of a Licensed Marijuana Facility, the Village Compliance Officer may require and is permitted to coordinate electrical and plumbing inspectors, and other inspectors deemed necessary, with regard to a site of such cultivation, or point of sale, for the purpose of determining whether all lights, plumbing, equipment and other means used to facilitate the Licensed Marihuana Facility are in accordance with both this ordinance, and, any other applicable local, State, or Federal code.
2. This section is not meant to imply that the Village of Mancelona Compliance Officer is responsible for determining all such inspections that are necessary, but that he/she may require additional inspections that he/she feels in his judgement are prudent and/or necessary.
3. In carrying out provisions of the subsection, community officials will not require the name or address of patients, but rather, the intent of this subsection is to focus on the premises to ensure public health and safety are accommodated.
4. Two random compliance reviews for each Certificate of Registration shall be conducted by the Village Compliance Officer and/or his/her designees. See Village Schedule of Fees.

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35.512. Annual Marihuana Establishment Permit Renewal

- A. Application for permit renewal shall be made in writing to the VOP within 30-90 days prior to expiration of an existing permit.
- B. An application for a permit renewal required by this ordinance shall be made under oath on forms provided by the VOP and shall contain all of the information required in an initial application.
- C. An application for a permit renewal shall be accompanied by a renewal fee for the marihuana establishment which shall be set by resolution of the council but shall not exceed five thousand dollars (\$5,000.00)
- D. No application for permit renewal shall be approved unless:
 - a. The permittee possesses the necessary state licenses or approvals.
 - b. The applicant has operated the marihuana establishment in accordance with the conditions and requirements of this ordinance.
 - c. The permittee is operating the marihuana establishment in accordance with the State of Michigan laws and rules and this ordinance.
- E. If approval is given, the VOP shall issue a permit renewal to the applicant. The renewal shall be deemed approved if the Village has not issued formal notice of denial within 30 days of the filing date of the application.
- F. Applications for renewal of valid and current Licensed Marihuana Facilities of any class limited in the number of licenses issued by the Village shall be reviewed and considered for renewal before new applications for that class will be considered.

35.513. Revocation or Suspension of Marihuana Establishment Permit

Each marihuana establishment within the municipality for which a permit is granted shall be operated and maintained in accordance with all applicable laws, rules, and regulations. Upon any violation of this section or any section of this ordinance, the council may, after a notice and public hearing, revoke or suspend such permit.

35.514. Penalties

- A. Any person in violation of any provision of this ordinance shall be responsible for a municipal civil infraction as defined in Public Act 12 of 1994, amending Public Act 236 of 1961, being Sections 600.101-600.9939 of Michigan Compiled Laws, and shall be subject to a fine of not more than Five Hundred and 00/100 (\$500.00) Dollars. Each day this ordinance is violated shall be considered as a separate violation.
- B. The Village President, officers of the Village of Mancelona Police Department, and other persons appointed by the Village Council are hereby designated as the authorized Village officials to issue municipal civil infraction citations directing alleged violators of this Chapter to appear in court.

35.515. Cessation of Business

When a marihuana establishment ceases to do business for any reason whatsoever, the establishment must notify the VOP immediately and tender its permit to the Village. An establishment shall be deemed to have ceased business if it

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has simply terminated on its own volition, has not been commercially active within a thirty-day period, or has its license suspended or revoked by the Mancelona Village Council. Upon cessation of business, the establishment must:

- A. Remove all business signs, posters, flyers, advertisements, or other such advertising as well as removing marihuana-related nature.
- B. Return the building to a better or like condition as when the permit was issued.
- C. The timeframe for this Cessation is 30 days from Council closure or 30 days from last day of operation.

35.516. Severability; Conflicts

If any section clause, or provision of this ordinance shall be declared to be unconstitutional, illegal, in conflict with state law or rules, or ineffective by any court of competent jurisdiction; such section, clause, or provision declared to be unconstitutional, void, or illegal shall thereby cease to be a part of this ordinance, but the remainder of this ordinance shall stand and be full force and effect.

Ordinance Effective the day after publication date.