

ORDINANCE 16-120319
VILLAGE OF BREEDSVILLE
VAN BUREN COUNTY, MICHIGAN

AN ORDINANCE TO PROVIDE FOR THE LICENSING AND REGULATING OF RECREATIONAL MARIHUANA ESTABLISHMENTS WITHIN THE VILLAGE OF BREEDSVILLE, MICHIGAN AND TO PROVIDE PENALTIES FOR VIOLATIONS OF THE CHAPTER.

THE VILLAGE OF BREEDSVILLE HEREBY ORDAINS:

SECTION 1: TITLE

The purpose of this Ordinance is to regulate recreational marihuana establishments, which include marihuana growers, marihuana safety compliance facilities, marihuana processors, marihuana microbusinesses, marihuana retailers, marihuana secure transporters, or any other type of recreational marihuana-related business licensed by the State of Michigan. 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 Regulation and Taxation of Marihuana Act.

SECTION 2: LEGISLATIVE INTENT

This Ordinance shall be known and may be cited as the Village of Breedsville Regulation of Recreational Marihuana Ordinance.

A. Authorized Establishments Recreational Marihuana Limits

The number of grower's permits will be only issued to existing growers/facilities as follows:

Existing Medical permits can be replaced with a Recreational Permit. Equivalent to the existing medical permit. The recreation classes are as follows

- (1) Class A – 100 marihuana plants.
- (2) Class B – 500 marihuana plants.
- (3) Class C – 2000 marihuana plants.

No new growers/facilities permit's will be issued. If an existing grower/facility fails to renew their permit within the agreement time they will be given to the end of the month to renew the permit. Total failure to renew permit that permit will become available upon the discretion of the Village Council.

SECTION 3: DEFINITIONS

The following words and phrases used in this Ordinance shall have the following meanings unless the context clearly indicates otherwise:

- (a) "Cultivate" means to propagate, breed, grow, harvest, dry, cure, or separate parts of the marihuana plant by manual or mechanical means.
- (b) "Department" means the Michigan Department of Licensing and Regulatory Affairs.
- (c) "Industrial hemp" means a plant of the genus cannabis and any part of that plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration that does not exceed 0.3% on a dry-weight basis, or per volume or weight of marihuana-infused product, or the combined percent of delta-9-tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant of the genus cannabis regardless of moisture content.
- (d) "Licensee" means a person holding a state license.
- (e) "Marihuana" means 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 marihuana concentrate and marihuana-infused products. For purposes of this act, marihuana does not include:
 - (1) 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;
 - (2) industrial hemp; or
 - (3) any other ingredient combined with marihuana to prepare topical or oral administrations, food, drink, or other products.
- (f) "Marihuana accessories" means 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 marihuana into the human body.
- (g) "Marihuana concentrate" means the resin extracted from any part of the plant of the genus cannabis.
- (h) "Marihuana establishment" means a marihuana grower, marihuana safety compliance facility, marihuana processor, marihuana microbusiness, marihuana retailer, marihuana secure transporter, or any other type of marihuana-related business licensed by the department.

- (i) "Marihuana grower" means a person licensed to cultivate marihuana and sell or otherwise transfer marihuana to marihuana establishments:
 - (1) Class A – 100 marihuana plants;
 - (2) Class B – 500 marihuana plants;
 - (3) Class C – 2000 marihuana plants.
- (j) "Marihuana-infused product" means a topical formulation, tincture, beverage, edible substance, or similar product containing marihuana and other ingredients and that is intended for human consumption.
- (k) "Marihuana microbusiness" means a person licensed to cultivate not more than 150 marihuana plants; process and package marihuana; and sell or otherwise transfer marihuana to individuals who are 21 years of age or older or to a marihuana safety compliance facility, but not to other marihuana establishments.
- (l) "Marihuana processor" means a person licensed to obtain marihuana from marihuana establishments; process and package marihuana; and sell or otherwise transfer marihuana to marihuana establishments.
- (m) "Marihuana retailer" means a person licensed to obtain marihuana from marihuana establishments and to sell or otherwise transfer marihuana to marihuana establishments and to individuals who are 21 years of age or older.
- (n) "Marihuana secure transporter" means a person licensed to obtain marihuana from marihuana establishments in order to transport marihuana to marihuana establishments.
- (o) "Marihuana safety compliance facility" means a person licensed to test marihuana, including certification for potency and the presence of contaminants.
- (p) "Municipal license" means a license issued by a municipality pursuant to section 16 of this act that allows a person to operate a marihuana establishment in that municipality.
- (q) "Municipality" means the Village of Breedsville.
- (r) "Outdoor grow" means a fully enclosed outdoor area that is shielded from public view, is equipped with secure locks and other functioning security devices to prevent entry into the area by unauthorized persons.

- (s) "Person" means an individual, corporation, limited liability company, partnership of any type, trust, or other legal entity.
- (t) "Process" or "Processing" means to separate or otherwise prepare parts of the marihuana plant and to compound, blend, extract, infuse, or otherwise make or prepare marihuana concentrate or marihuana-infused products.
- (u) "School" means a public or private licensed pre-school, or a public, private, or charter elementary, middle, junior high, or high school, vocational school, secondary school, community college, or other institution of higher education.
- (v) "State license" means a license issued by the department that allows a person to operate a marihuana establishment.
- (w) "Unreasonably impracticable" means that the measures necessary to comply with the rules or Ordinances adopted pursuant to this act subject licensees to unreasonable risk or require such a high investment of money, time, or any other resource or asset that a reasonably prudent businessperson would not operate the marihuana establishment.

SECTION 4: LICENSE REQUIRED FOR RECREATIONAL MARIHUANA ESTABLISHMENT

A. It shall be unlawful to operate a marihuana establishment, which includes a marihuana grower, marihuana safety compliance facility marihuana processor, marihuana microbusiness, marihuana retailer, marihuana secure transporter, or any type of marihuana-related business licensed by the State of Michigan without first obtaining a Village license to operate pursuant to this Ordinance and having a validly issued license in good standing from the State of Michigan, and having paid all applicable fees. Any person violating this Section shall be punished by fine of up to Three Hundred Dollars (\$300.00) or by imprisonment for a period of up to ninety (90) days, or by both such fine and imprisonment. Each day that a violation continues shall be considered a separate and distinct offense.

B. Processing Facilities, Provisioning Centers, and Safety Compliance Facilities

The number of permits will be limited as follows:

- a) **Processing Facilities** – Limit of Three (3) permits will be allowed in the Village on one permit to the exciting growers of one each.
- b) **Provisioning Centers** – Limit of two (2) permits will be allowed in the Village (two Facilities) Each facility will be allowed (1) Medical and (1) Recreational Permits Current - (2) Medical Permits & (1) Recreational permits (1)
- c) **Safety Compliance Facilities**: - Limit of Zero (0) permit will be allowed in the Village

SECTION 5: COMPOSITION OF LOCAL LICENSING AUTHORITY

- A. The Village of Breedsville council is designated as the local licensing authority. The Village council may by resolution delegate its authority or a portion of such authority to a new committee or other designee to act as the local licensing authority. The local licensing authority shall have the duty and authority pursuant to the Michigan Regulation and Taxation of Marihuana Act (“MRTMA”) in this Ordinance to grant or deny an application described in this Ordinance and to levy penalties against the licensee in the manner provided by law.
- B. The local license authority shall consider applications for new business premises, transfer of ownership, change of location, license premises modification, changes in trade name, and any other appropriate application.
- C. The local license authority shall have the power to promulgate rules and regulations concerning the procedure for hearings before the local licensing authority.
- D. The local license authority shall have the power to require any application or licensee to furnish such information to the authority as may be reasonably necessary in order for the authority to perform its duties and functions authorized by this Ordinance.
- E. The local license authority shall have the power to administer oaths and issue subpoenas to require the presence of persons and the productions of papers, books and records at any hearing in which the authority is authorized to conduct. Any subpoena shall be served in the same manner as a subpoena issued by a District Court of the State. The District Court Judge shall have the power and authority to enforce such subpoena.

SECTION 6: APPLICATION FOR LICENSE TO OPERATE A MARIHUANA ESTABLISHMENT

- A. The Village shall review each application submitted to the State of Michigan in order to determine whether the applicant and the premises qualify for the state license and comply with the Village Ordinance and MRTMA. The Village shall notify the State whether the proposed marihuana establishment is in compliance with the Village Ordinance and the State of Michigan.
- B. The property where the proposed marihuana establishment is to be located shall not be within an area not zoned for such purpose and shall not be within Five Hundred (500) feet “door to door” from a public or private elementary, secondary or vocational school (See Section 8 for additional buffer regulations).
- C. No person shall hold an ownership interest in both a marihuana safety compliance facility or in a marihuana secure transporter and in a marihuana grower, a marihuana processor, a marihuana retailer, or a marihuana microbusiness. No person shall hold an ownership interest in both a marihuana microbusiness and in a marihuana grower, a marihuana processor, a marihuana retailer, a marihuana safety compliance facility, or a marihuana secure transporter, and no person shall hold

an ownership interest in more than five marihuana growers or in more than one marihuana microbusiness.

- D. All Village licenses are effective for one (1) year. The Village license may be renewed upon receipt of a complete renewal application and renewal fee for any marihuana establishment in good standing.
- E. Applications shall be governed by the provisions of MCL 333.27959(6) of the Michigan Regulation and Taxation of Marihuana Act for the first twenty-four (24) months after the State of Michigan begins accepting applications for marihuana establishments.

SECTION 7: PERMITTED LOCATIONS

All marihuana establishments shall be issued for a specific location which shall be designated as a licensed premises. Marihuana establishments shall not be permitted in any residential zoned district.

SECTION 8: BUFFERING REQUIREMENTS

Marihuana establishments must satisfy the following minimum distance requirements from the described uses below. Prior to issuing a marihuana establishment license, the Village shall confirm that the proposed licensed premises boundaries meet with the following Buffering Requirements:

- A. Distance from schools. Marihuana establishments shall be located a minimum of Five Hundred (500) feet from public or private elementary, secondary or vocational schools, as measured “door to door” to the entrance of the school from the entrance of the licensed facility’s structure.
- B. Distance from churches/religious institutions. Retail marihuana establishments shall be located a minimum of Five Hundred (500) feet from any church or religious institution defined as exempt by the Village Assessor as measured “door to door” from the church/religious institution to the entrance of the licensed facility’s structure.

SECTION 9: LAWFUL ACTIVITIES BY PERSONS TWENTY-ONE (21) YEARS OF AGE OR OLDER

- A. Except as otherwise provided in the MRTMA and this Ordinance, the following acts by a person twenty-one (21) years of age or older are not unlawful, are not an offense, are not grounds for seizing or forfeiting property, are not grounds for arrest, prosecution, or penalty in any manner, are not grounds for a search or inspection, and are not grounds to deny any other right or privilege:

1. except as permitted by subdivision (b), possessing, using or consuming, internally possessing, purchasing, transporting, or processing 2.5 ounces or less of marihuana, except that not more than 15 grams of marihuana may be in the form of marihuana concentrate;
 2. within the person's residence, possessing, storing, and processing not more than 10 ounces of marihuana and any marihuana produced by marihuana plants cultivated on the premises and cultivating not more than 12 marihuana plants for personal use, provided that no more than 12 marihuana plants are possessed, cultivated, or processed on the premises at once;
 3. assisting another person who is 21 years of age or older in any of the acts described in this section; and
 4. giving away or otherwise transferring without remuneration up to 2.5 ounces of marihuana, except that not more than 15 grams of marihuana may be in the form of marihuana concentrate, to a person 21 years of age or older, as long as the transfer is not advertised or promoted to the public.
- B. Notwithstanding any other law or provision of this act, except as otherwise provided in section 4 of this act, the use, manufacture, possession, and purchase of marihuana accessories by a person 21 years of age or older and the distribution or sale of marihuana accessories to a person 21 years of age or older is authorized, is not unlawful, is not an offense, is not grounds for seizing or forfeiting property, is not grounds for arrest, prosecution, or penalty in any manner, and is not grounds to deny any other right or privilege.

SECTION 10: LAWFUL ACTIVITIES BY MARIHUANA GROWER, PROCESSOR, TRANSPORTER, OR RETAILER

- A. Notwithstanding any other law or provision of MRTRA and this Ordinance, the following acts are not unlawful, are not in offense, are not grounds for seizing or forfeiting property, are not grounds for arrest, prosecution, or penalty in any manner, are not grounds for search or inspection except as authorized by this act, and are not grounds to deny any other right or privilege:
1. a marihuana grower or an agent acting on behalf of a marihuana grower who is 21 years of age or older, cultivating not more than the number of marihuana plants authorized by the state license class; possessing, packaging, storing, or testing marihuana; acquiring marihuana seeds or seedlings from a person who is 21 years of age or older; selling or otherwise transferring, purchasing or otherwise obtaining, or transporting marihuana to or from a marihuana establishment; or receiving compensation for goods or services;

2. a marihuana processor or agent acting on behalf of a marihuana processor who is 21 years of age or older, possessing, processing, packaging, storing, or testing marihuana; selling or otherwise transferring, purchasing or otherwise obtaining, or transporting marihuana to or from a marihuana establishment; or receiving compensation for goods or services;
 3. a marihuana secure transporter or an agent acting on behalf of a marihuana secure transporter who is 21 years of age or older, possessing or storing marihuana; transporting marihuana to or from a marihuana establishment; or receiving compensation for services;
 4. a marihuana safety compliance facility or an agent acting on behalf of a marihuana safety compliance facility who is 21 years of age or older, testing, possessing, repackaging, or storing marihuana; transferring, obtaining, or transporting marihuana to or from a marihuana establishment; or receiving compensation for services;
 5. a marihuana retailer or an agent acting on behalf of a marihuana retailer who is 21 years of age or older, possessing, storing, or testing marihuana; selling or otherwise transferring, purchasing or otherwise obtaining, or transporting marihuana to or from a marihuana establishment; selling or otherwise transferring marihuana to a person 21 years of age or older; or receiving compensation for goods or services; or
 6. a marihuana microbusiness or an agent acting on behalf of a marihuana microbusiness who is 21 years of age or older, cultivating not more than 150 marihuana plants; possessing, processing, packaging, storing, or testing marihuana from marihuana plants cultivated on the premises; selling or otherwise transferring marihuana cultivated or processed on the premises to a person 21 years of age or older; or receiving compensation for goods or services.
 7. leasing or otherwise allowing the use of property owned, occupied, or managed for activities allowed under this act;
 8. enrolling or employing a person who engages in marihuana-related activities allowed under this act;
 9. possessing, cultivating, processing, obtaining, transferring, or transporting industrial hemp; or
 10. providing professional services to prospective or licensed marihuana establishments related to activity under this act.
- B. A person acting as an agent of a marihuana retailer who sells or otherwise transfers marihuana or marihuana accessories to a person under 21 years of age is not subject to arrest, prosecution, forfeiture of property, disciplinary action by a professional licensing board, denial of any right or privilege, or penalty in any manner, if the person reasonably verified that the recipient appeared to be 21 years of age or older by means of government-issued photographic identification containing a date of birth, and the person complied with any rules promulgated pursuant to this act.
- C. It is the public policy of this state that contracts related to the operation of marihuana establishments be enforceable.

SECTION 11: LICENSE ALLOCATION AND ANNUAL FEES

- A. No person shall operate a marihuana grower facility, safety compliance facility, processor facility, microbusiness, retail business, or secure transporter service in the Village of Breedsville without first obtaining a license from the Village and the State of Michigan.
- B. The term of each license shall be one (1) year.
- C. The non-refundable application fee for a marihuana establishment license for the transfer of an existing license or renewal of a license shall be set by Resolution of the Village Council from time to time. All fees are non-refundable.

SECTION 12: LICENSE APPLICATION SUBMISSION

- A. Application for each marihuana establishment license required by this Ordinance shall be made in writing to the Village, and must be approved by the Village Council after receiving a recommendation submitted by the Planning Commission, and approved by the State of Michigan, prior to commencing operation. Upon the expiration of an existing license, a license will be automatically renewed by the Village of Breedsville for one (1) year if (1) there are no uncured administrative violations in the prior year; (2) the applicant has paid the annual licensing fee for the renewal period; (3) any Stakeholder changes have been fully disclosed to the Village of Breedsville; and (4) the applicant has paid and received the renewal of its State license.
- B. An application for a marihuana establishment license required by this Ordinance shall contain the following:
 - 1. The appropriate non-refundable application fee and the non-refundable licensing fee in the amount determined by the Village. If the applicant is an individual, the applicant's name, date of birth, physical address, copy of government issued photo identification, email address, and one or more phone numbers, including emergency contact information.
 - 2. If the applicant is not an individual, the names, dates of birth, physical addresses, copy of government issued photo identification, email addresses, and one or more phone numbers of each stakeholder of the applicant, including designation of the highest-ranking stakeholder as an emergency contact person and contact information for the emergency contact person, articles of incorporation, assumed name registration documents, Internal Revenue Service SS-4 EN confirmation letter, and a copy of the operating agreement of the applicant, if a limited liability company, a copy of the partnership agreement, if a partnership, or a copy of the by-laws or shareholder agreement, if a corporation;
 - 3. The name and address of the proposed marihuana establishment and any additional contact information deemed necessary and requested by the Village.
 - 4. For the applicant, for each stakeholder of the applicant, an affirmation under oath as to whether they are at least 21 years of age and are not currently under indictment or have never

been convicted of, pled guilty or nolo contendere to, forfeited bail concerning any criminal offense under the laws of any jurisdiction, either felony or controlled-substance-related misdemeanor not including traffic violations.

5. A signed release authorizing the Village of Breedsville Police Department, its agent, or contractor to perform a criminal background check, for a fee established by the Village Council, to ascertain whether the applicant, each stakeholder of the applicant, each managerial employee and employee of the applicant meet the criteria set forth in this Ordinance. If the background check indicates a pending charge or conviction within the past ten (10) years for a controlled substance-related felony, the applicant shall not hire the prospective employee or agent without written permission from the Village Council.
6. The name, date of birth, physical address, copy of photo identification, and email address for any managerial employee or employee of the marihuana establishment, if other than the applicant.
7. An affirmation under oath as to whether the applicant or stakeholder has ever applied for or has been granted any commercial license or certificate issued by a licensing authority in Michigan or any other jurisdiction that has been denied, restricted, suspended, revoked, or not renewed and a statement describing the facts and circumstances concerning the application, denial, restriction, suspension, revocation, or nonrenewal, including the licensing authority, the date each action was taken, and the reason for each action;
9. One of the following: (a) proof of ownership of the entire premises wherein the marihuana establishment is to be operated; or (b) written consent from the property owner for use of the premises in a manner requiring licensure under this Ordinance along with a copy of the lease for the premises;
10. Proof of an adequate premise liability and casualty insurance policy in the amount not exceeding the requirements addressed in the MRTMA or applicable State laws, covering the marihuana establishment and naming the Village as an additional insured party, available for the payment of any damages arising out of an act or omission of the applicant or its stakeholders, agents, employees, or subcontractors;
11. A description of the security plan for the marihuana establishment, including, but not limited to, any lighting, alarms, barriers, recording/monitoring devices, and/or security guard arrangements proposed for the facility and premises. The security plan must contain the specification details of each piece of security equipment.
12. A floor plan of the marihuana establishment, as well as a scale diagram illustrating the property upon which the marihuana establishment is to be operated, including all available parking spaces, and specifying which parking spaces, if any, are handicapped-accessible;
13. An affidavit that neither the applicant nor any stakeholder of the applicant is in default to the Village. Specifically, that the applicant or stakeholder of the applicant has not failed to pay any property taxes, special assessments, fines, fee or other financial obligations to the Village.

14. An affidavit that the transfer of marihuana to and from marihuana establishment shall be in compliance with the MRTMA or other applicable state laws.
 15. A staffing plans.
 16. Any proposed text or graphical materials to be shown on the exterior of the proposed marihuana establishment.
 17. A location area map of the marihuana establishment and surrounding area that identifies the buffer zones identified in Section 8, if applicable, to a public or private elementary, vocational or secondary school; and for retail establishments to church or religious institution if recognized as a tax-exempt entity as determined by the Assessor's Office;
 18. A facility sanitation plan to protect against any marihuana being ingested by any person or animal, indicating how the waste will be stored and disposed of, and how any marihuana will be rendered unusable upon disposal. Disposal by on-site burning or introduction in the sewerage system is prohibited.
 19. As it relates to a grower facility, the following additional items shall be required:
 - i. A grower plan that includes at a minimum a description of the grower methods to be used, including plans for the growing mediums, treatments and/or additives.
 - ii. A production testing plan that includes at a minimum a description of how and when samples for laboratory testing by a state approved Safety Compliance Facility will be selected, what type of testing will be requested, and how the test results will be used;
 - iii. An affidavit that all operations will be conducted in conformance with the MRTMA or other applicable State laws and such operations shall not be cultivated on the premises at any one time more than the permitted number of marihuana plants per the MRTMA;
 - iv. A chemical and pesticide storage plan that states the names of pesticides 'to be used in grower and where and how pesticides and chemicals will be stored in the facility, along with a plan for the disposal of unused pesticides.
 - v. All growing must be performed within an enclosed locked facility which may include indoors or in an enclosed greenhouse or outdoor grow.
- C. Upon receipt of a completed marihuana establishment application meeting the requirements of this Ordinance and confirmation that the number of existing licenses does not exceed the maximum number established by resolution pursuant to Section 11 above, the Village shall refer a copy of the application to each of the following for their review and approval: the Village Attorney or their designee, the Police Department or their designee, the Fire Department or their designee, the Building Department, the Zoning Administrator or their designee. Once applications are verified by each department

to be sufficiently complete and comprehensive, and no sooner, the Village shall forward the applications to the Planning Commission for recommendation to the Village Council.

- D. No application shall be approved unless:
1. The Fire Department or designee and the Building Department have inspected the plans of the proposed location for compliance with all laws for which they are charged with enforcement.
 2. The applicant, each stakeholder of the applicant, and the managerial employees and employees of the applicant, have passed a criminal background check conducted by the Van Buren County Sheriffs Department
 3. The Zoning Administrator has confirmed that the proposed location complies with the Zoning Code.
 4. A Special Use Permit Application and corresponding fees have been filed with the Village for consideration by the Zoning Administrator and Planning Commission.
- E. If written approval is given by each individual or department identified in this section, the Village Administrator shall submit the application to the Village Council for the issuing of a license to the applicant. All licenses issued are contingent upon the State of Michigan issuing a license for the operation under State law.
- F. Licensees shall report any other change in the information required by 4 (B) above, to the Village within ten days of the change. Fees shall be set by Council Resolution for any stakeholder added after the original application is filed.

SECTION 13: LICENSE APPLICATIONS EVALUATION

- A. The Village Council shall assess all applications referred to it by the Village Administrator.
- B. In its application deliberations, the Village Council shall assess each application in each of the following categories:
1. The applicant's experience in operating other similarly licensed businesses.
 2. The applicant's general business management experience.
 3. The applicant's general business reputation.

4. The integrity, moral character, and reputation; personal and business probity; financial ability and experience; and responsibility or means to operate or maintain a marihuana establishment of the applicant.
 5. The financial ability of the applicant to purchase and maintain adequate liability and casualty insurance.
 6. Whether the applicant or stakeholder is currently under indictment for or has been arrested for, or convicted of, pled guilty or nolo contendere to, forfeited bail concerning any relevant criminal offense under the laws of any jurisdiction, either felony or misdemeanor, not including traffic violations.
 7. A felony or misdemeanor of such nature that it may impair the ability of the applicant or stakeholder to operate a licensed business in a safe and competent manner.
 8. Whether the applicant or stakeholder has filed, or had filed against it, a proceeding for bankruptcy within the past seven (7) years.
 9. Whether the applicant or stakeholder has been served with a complaint or other notice filed with any public body regarding payment of any tax required under federal, state, or local law that has been delinquent for one (1) or more years.
 10. Whether the applicant or stakeholder has a history of non-compliance with any regulatory requirements in this state or any other jurisdiction.
 11. As it relates to operation of a marihuana retailer, the applicant's type of service and product that will be offered and the overall theme and atmosphere of the proposed retail center.
- C. The Village Council shall assess each application with aforementioned categories under the aforementioned categories and may issue a license to the applicant if an applicant has satisfactorily met all requirements.

SECTION 14: LICENSES GENERALLY

- A. To the extent permissible, all information submitted in conjunction with an application for a license or license renewal required by this Ordinance is confidential and exempt from disclosure under the Michigan Freedom of Information Act, 1976 PA 442, MCL 15.231 et.seq.
- B. Licensees may transfer a license issued under this Ordinance to a different location upon receiving written approval from the Village. In order to receive approval to transfer a license location, the licensee must make a written request to the Village, indicating the current license location and the proposed license location, upon receiving the written request, the Village shall refer a copy of the written request to each of the following for their approval: the Fire Department or their designee, the Building Department, the Police Department or their designee, the Zoning Administrator or other Village official or their designee, and the Village Council. No License transfer shall be approved unless each such individual or department gives written approval that the Licensee and the proposed License location meet the standards identified in this Ordinance. A license transfer fee shall be established by Village Council through resolution.

- C. Licensees may transfer a license issued under this Ordinance to a different individual or entity upon receiving written approval by the Village. In order to request approval to transfer a license to a different individual or entity, the licensee must make a written request to the Village, indicating the current licensee and the proposed licensee. Upon receiving the written request, the Village shall consider the request as a new application for a license. A license transfer fee shall be established by Village Council through resolution.
- D. Licensees shall report any other change in the information required by this Ordinance to the Village within ten (10) business days of the change. Failure to do so may result in suspension or revocation of the license.

SECTION 15: MINIMAL OPERATIONAL STANDARDS OF RETAIL CENTERS

The following minimum standards for retail centers shall apply:

- A. No retail center shall be open to the public between the hours of 9:00 PM and 6:00 AM.
- B. Consumption of marihuana shall be prohibited in the retail center, and a sign shall be posted on the premises of each retail center indicating that consumption is prohibited on the premises.
- C. Retail centers shall continuously monitor the entire premises on which they are operated with surveillance systems that include security cameras. The video recordings shall be maintained in a secure, off-site location for a period of 14 days.
- D. The public or common areas of the retail center must be separated from restricted or non-public areas of the marihuana establishment.
- E. All marihuana storage areas within the retail center must be separated from any customer areas by a permanent barrier. Marihuana may be displayed in a sales area.
- F. Any usable marihuana remaining on the premises of a retail center while the retail center is not in operation shall be secured from the public.
- G. Drive-through window on the premises of a retail center shall not be permitted.
- H. Retail center shall not allow the sale, consumption, or use of alcohol or tobacco products on the premises.
- I. No retail center shall be operated in a manner creating noise, dust, vibration, glare, fumes, or odors detectable to normal senses beyond the boundaries of the property on which the retail center is operated.
- J. The license required by this Ordinance shall be prominently displayed on the premises of a marihuana establishment.
- K. Disposal of marihuana shall be accomplished in a manner that prevents its acquisition by any person who may not lawfully possess it and otherwise in non-conformance with state laws.
- L. All marihuana shall be packaged and labeled as provided by state laws.

- M. The premises shall be open, at all times, to any Michigan Licensing Board investigators, agents, auditors, or police, without a warrant and without notice to the holder of the license, enter the premises, offices, facilities, or other places of business of a licensee, if evidence of compliance or non-compliance with the MRTMA or applicable state laws is likely to be found and consistent with constitutional limitations, for the following purposes:
1. To inspect and examine all premises of the marihuana establishment.
 2. To inspect, examine, and audit relevant records of the licensee and, if the holder of the license or any of the managerial employees or employees fails to cooperate with an investigation, the investigator may impound, seize, assume physical control of, or summarily remove from the premises all books, ledgers, documents, writings, photocopies, correspondence, records, and videotapes, including electronically stored records, money receptacles, or equipment in which the records are stored as well as any other property.
 3. To inspect the person and inspect or examine personal effects present in a marihuana establishment, of any holder of state operating license while that person is present in a marihuana establishment.
 4. To investigate alleged violations of the MRTMA or applicable state laws.
- N. It shall be prohibited to display any signs that are inconsistent with local laws or regulations or state law.
- O. It shall be prohibited to use advertising material that is misleading, deceptive, or false, or that is designed to appeal to minors.
- P. It shall be prohibited to use the symbol or image of a Marihuana leaf in any exterior building signage.
- Q. No licensed marihuana establishment shall place or maintain, or cause to be placed or maintained, an advertisement of marihuana in any form or through any medium within one thousand feet of the real property comprising a public or private elementary, vocational or secondary school.

SECTION 16: MINIMUM OPERATIONAL STANDARDS OF GROWER FACILITY

The following minimum standards for grower facility shall apply:

- A. The grower facility shall comply at all times and in all circumstances with the MRTMA and the general rules of the Department of Licensing and Regulatory Affairs, as they may be amended from time to time.
- B. The premises shall be open, at all times, to any MRTMA Licensing Board investigators, agents, auditors, or police, without a warrant and without notice to the holder of the license, enter the premises, offices, facilities, or other places of business of a licensee, if evidence of compliance

or non-compliance with the MRTMA or applicable state laws is likely to be found and consistent with constitutional limitations, for the following purposes:

1. To inspect and examine all premises of the marihuana establishment.
 2. To inspect, examine, and audit relevant records of the licensee and, if the holder of the license or any of the managerial employees or employees fails to cooperate with an investigation, the investigator may impound, seize, assume physical control of, or summarily remove from the premises all books, ledgers, documents, writings, photocopies, correspondence, records, and videotapes, including electronically stored records, money receptacles, or equipment in which the records are stored as well as any other property.
 3. To inspect the person and inspect or examine personal effects present in a marihuana establishment, of any holder of state operating license while that person is present in a marihuana establishment.
 4. To investigate alleged violations of the MRTMA or applicable state laws.
- C. Any grower facility shall maintain a log book and/or database indicating the number of marihuana plants therein. Each marihuana plant will be tagged as required by the MRTMA.
- D. All marihuana shall be contained within an enclosed locked facility.
- E. All necessary building, electrical plumbing and mechanical permits shall be obtained for any portion of the structure in which electrical wiring, lighting and/or watering devices that support the grower, growing or harvesting of marihuana are located.
- F. That portion of the structure storing any chemicals such as herbicides, pesticides, and fertilizers shall be subject to inspection and approval by the Village of Breedsville Fire Department to insure compliance with all applicable statutes, codes and Ordinances;
- G. The dispensing of marihuana at the grower facility shall be prohibited.
- H. All persons working in direct contact with marihuana shall conform to hygienic practices while on duty, including but not limited to:
1. Maintaining adequate personal cleanliness.
 2. Washing hands thoroughly in adequate hand-washing areas before starting work and at any other time when the hands may have become soiled or contaminated.
 3. Refraining from having direct contact with marihuana if the person has or may have an illness, open lesion, including boils, sores or infected wounds, or any other abnormal source of microbial contamination, until the condition is corrected.

- I. Litter and waste shall be properly removed and the operating systems for waste disposal shall be maintained in an adequate manner so that they do not constitute a source of contamination in the areas where marihuana is exposed.
- J. Floors, walls and ceiling shall be constructed in such a manner that they may be adequately cleaned and kept clean and in good repair.
- K. There shall be adequate screening or other protection against the entry of pests. Rubbish shall be disposed of so as to minimize the development of odor and minimize the potential for the waste development of odor and minimize the potential for waste becoming and attractant, harborage or breeding places for pests.
- L. Any buildings, fixtures and other facilities shall be maintained in a sanitary condition.
- M. Each grower facility shall provide its occupants with adequate and readily accessible toilet facilities that are maintained in a sanitary condition and good repair.
- N. Marihuana that can support the rapid growth of undesirable microorganisms shall be held in a manner that prevents the growth of these microorganisms.
- O. Grower facility shall be free from infestation by insects, rodents, birds, or vermin of any kind.
- P. Exterior signage or advertising identifying the facility as a grower facility shall be prohibited.

SECTION 17: MINIMUM OPERATIONAL STANDARDS OF SAFETY COMPLIANCE FACILITY

The following minimum standards for Safety Compliance Facility shall apply:

- A. The Safety Compliance Facility shall comply at all times and in all circumstances with the MRTMA and or applicable State laws, and the general rules of the Department of Licensing and Regulatory Affairs, as they may be amended from time to time.
- B. Consumption and/or use of marihuana shall be prohibited at the facility.
- C. The premises shall be open, at all times, to any MRTMA Licensing Board investigators, agents, auditors, or police, without a warrant and without notice to the licensee, enter the premises, offices, facilities, or other places of business of a licensee, if evidence of compliance or non-compliance with the MRTMA or applicable state laws is likely to be found and consistent with constitutional limitations, for the following purposes.
 - 1. To inspect and examine all premises of marihuana establishment.

2. To inspect, examine, and audit relevant records of the licensee and, if the licensee or any managerial employees or employees fails to cooperate with an investigation, the investigator may impound, seize, assume physical control of, or summarily remove from the premises all books, ledgers, documents, writings, photocopies, correspondence, records, and videotapes, including electronically stored records, money receptacles, or equipment in which the records are stored as well as any other property.
 3. To inspect the person and inspect or examine personal effects present in a marihuana establishment, of any holder of state operating license while that person is present in a marihuana establishment.
 4. To investigate alleged violations of the MRTMA or applicable state laws.
- D. Any Safety Compliance Facility shall maintain a logbook and/or database which complies with the MRTMA or applicable state laws.
- E. All marihuana shall be contained within the building in an enclosed locked facility in accordance with the MRTMA, as amended, or applicable state laws.
- F. There shall be no other accessory uses permitted within the same facility other than those associated with testing marihuana
- G. All persons working in direct contact with marihuana shall conform to hygienic practices while on duty.
- H. Litter and waste shall be properly removed and the operating systems for waste disposal shall be maintained in an adequate manner so that they do not constitute a source of contamination in areas where marihuana is exposed.
- I. Floors, walls and ceilings shall be constructed in such a manner that they may be adequately cleaned and kept clean and in good repair.
- J. Any buildings, fixtures and other facilities shall be maintained in a sanitary condition.
- K. Marihuana that can support the rapid growth of undesirable microorganisms shall be held in a manner that prevents the growth of these microorganisms.
- L. Exterior signage or advertising identifying the facility as a Safety Compliance Facility shall be prohibited.

SECTION 18: MINIMUM OPERATIONAL STANDARDS OF PROCESSOR FACILITY

The following minimum standards for processor facility shall apply:

- A. The processor shall comply at all times and in all circumstances with the MRTMA, and the general rules of the Department of Licensing and Regulatory Affairs, as they may be amended from time to time.
- B. Consumption and/or use of marihuana shall be prohibited at the processor facility.
- C. All activity related to the processor facility shall be done indoors.
- D. The premises shall be open, at all times, to any MRTMA Licensing Board investigators, agents, auditors, or police, without a warrant and without notice to the licensee, enter the premises, offices, facilities, or other places of business of a licensee, if evidence of compliance or non-compliance with the MRTMA or applicable state laws is likely to be found and consistent with constitutional limitations, for the following purposes:
 - 1. To inspect and examine all premises of the marihuana establishment.
 - 2. To inspect, examine, and audit relevant records of the licensee and, of the licensee or any managerial employees or employees fails to cooperate with an investigation, the investigator may impound, seize, assume physical control of, or summarily remove from the premises all books, ledgers, documents, writings, photocopies, correspondence, records, and videotapes, including electronically stored records, money receptacles, or equipment in which the records are stored as well as any other property;
 - 3. To inspect the person and inspect or examine personal effects present in a marihuana establishment, of any holder of state operating license while that person is present in a marihuana establishment.
 - 4. To investigate alleged violations of the MRTMA or applicable state laws.
- E. Any processor facility shall maintain a logbook and/or database which complies with the MRTMA, as amended, or applicable state laws.
- F. All marihuana shall be tagged as required by the MRTMA or applicable state laws.
- G. All marihuana shall be contained within enclosed locked facility in accordance with the MRTMA, as amended.

- H. All necessary building, electrical plumbing and mechanical permits shall be obtained for any portion of the structure in which electrical wiring for devices that support the processing of marihuana are located.
- I. That portion of the structure where the storage of any chemicals is located shall be subject to inspection and approval by the Village of Breedsville Fire Department to insure compliance with all applicable statutes, codes and Ordinances.
- J. The dispensing of medical marihuana at the processor facility shall be prohibited.
- K. All persons working in direct contact with marihuana shall conform to hygienic practice while on duty, including but not limited to:
 - 1. Maintaining adequate personal cleanliness.
 - 2. Washing hands thoroughly in adequate hand-washing areas before starting work and at any other time when the hands may have become soiled or contaminated.
 - 3. Refraining from having direct contact with marihuana if the person has or may have an illness, open lesion, including boils, sores or infected wounds, or any other abnormal source of microbial contamination, until the condition is corrected.
- L. Litter and waste shall be properly removed and the operating systems for waste disposal are maintained in an adequate manner so that they do not constitute a source of contamination in areas where marihuana is exposed.
- M. Floors, walls, and ceilings shall be constructed in such a manner that they may be adequately cleaned and kept clean and in good repair.
- N. There shall be adequate screening or other protection against the entry of pests. Rubbish shall be disposed of so as to minimize the development of odor and minimize the potential for the waste development of odor and minimize the potential for waste becoming and attractant, harborage or breeding places for pests.
- O. Any buildings, fixtures and other facilities shall be maintained in a sanitary condition.
- P. Each processor facility shall provide its occupants with adequate and readily accessible toilet facilities that are maintained in a sanitary condition and good repair.
- Q. Marihuana that can support the rapid growth of undesirable microorganisms shall be held in a manner that prevents the growth of these microorganisms.

- R. Processor facility shall be free from infestation by insects, rodents, birds, or vermin of any kind.
- S. Processor facility shall produce no products other than useable Marihuana intended for human consumption.
- T. Exterior signage or advertising identifying the facility as a processor facility shall be prohibited.

SECTION 19: MINIMUM OPERATIONAL STANDARDS OF SECURE
TRANSPORTER

The following minimum standards for secure transporters shall apply:

- A. The secure transporter shall comply at all times with the MRTMA and the general rules of the Department of Licensing and Regulatory Affairs, as they may be amended from time to time.
- B. Consumption and/or use of marihuana shall be prohibited at a storage facility of a Secure Transporter.
- C. Storage of marihuana by a secure transporter shall comply with the following:
 - 1. The storage facility shall be continuously monitored with a surveillance system that includes security cameras. The video recording shall be maintained in a secure, off- site location for a period of fourteen (14) days.
 - 2. The storage facility shall not be used for any other commercial purpose.
 - 3. The storage facility shall not be open or accessible to the general public.
 - 4. The storage facility shall be maintained and operated so as to comply with all state and local rules, regulations and Ordinance.
 - 5. The storage facility shall be open at all times to any MRTMA Licensing Board investigator or police officers, without a warrant and without notice to the holder of the license, enter the premises, offices, facilities or other places of business of a licensee, if evidence of compliance or non-compliance with the MRTMA or applicable state laws is likely to be found and consistent with constitutional limitations for the following purposes:
 - i. to inspect and examine all premises of the marihuana establishment.

- ii. to inspect, examine and audit relevant records of the licensee and, if the holder of the license or any of the managerial employees or employees fails to cooperate with an investigation, the investigator may impound, seize, assume physical control of, or summarily remove from the premises all books, ledgers, documents, writings, photocopies, correspondence, records, and videotapes, including electronically stored records, money receptacles, or equipment in which the records are stored as well as any other property;
 - iii. to inspect the person and inspect or examine personal effects present in a marihuana establishment, of any holder or state operating license while that person is present in a marihuana establishment.
 - iv. to investigate alleged violations of the MRTMA or applicable state laws.
- 6. All marihuana stored within the facility shall be stored within enclosed locked facilities in accordance with the MRTMA as amended.
- 7. All persons working in direct contact with marihuana being stored by a secure transporter shall conform to hygienic practices while on duty, including but not limited to:
 - i. maintaining adequate personal cleanliness.
 - ii. washing hands thoroughly in adequate hand washing areas before starting work and at any other time when the hands may have become soiled or contaminated.
 - iii. refrain from having direct contact with marihuana if the person has or may have an illness, open lesion, including boils, sores or infected wounds, or any other abnormal source of microbial contamination, until the condition is corrected.
- D. A secure transporter licensee and each stakeholder shall not have an interest in another marihuana establishments.
- E. A secure transporter shall enter all transactions, current inventory, and other information as required by the state into the statewide monitoring system as required by law.
- F. A secure transporter shall comply with all of the following:

1. Each driver transporting marihuana must have a chauffeur's license issued by the state.
2. Each employee who has custody of marihuana or money that is related to a marihuana transaction shall not have been convicted of or released from incarceration for a felony under the laws of this state, any other state, or the United States within the past five (5) years or have been convicted of a misdemeanor involving a controlled substance with the past five (5) years.
3. Each vehicle shall be operated with a two-person crew with at least one individual remaining with the vehicle at all times during the transportation of marihuana.
4. A route plan and manifest shall be entered into the statewide monitoring system, and a copy shall be carried in the transporting vehicle and presented to a law enforcement officer upon request.
5. The marihuana shall be transported by one or more sealed containers and not be accessible while in transit.
6. A secure transporting vehicle shall not bear markings or other indication that it is carrying marihuana or a marihuana infused product.
- G. A vehicle used by a secure transporter is subject to administrative inspection by a law enforcement officer at any point during the transportation of marihuana to determine compliance with all state and local laws, rules, regulations and Ordinances.

SECTION 20: DENIAL AND REVOCATION

- A. A license issued under this Ordinance may be revoked after an administrative hearing at which the Village Council by majority vote of the members present determines that any 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 license at least five 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 subject of such Hearing may present evidence and/or call witnesses at the Hearing.
- B. A license applied for or issued under this Ordinance may be denied or revoked on any of the following basis:
 1. Violation of this Ordinance.

2. Any conviction of or release from incarceration for a felony under the laws of this State, any other state, or the United States within the past five (5) years by the Applicant or any stakeholder of the Applicant as measured from the date of the Application or the date of becoming a stakeholder, whichever occurs later, or while licensed under this Ordinance; or any conviction of a substance-related felony by the Applicant or any stakeholder of the Applicant ever or while licensed under this Ordinance;
3. Commission of fraud or 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 license.
4. Sufficient evidence that the Applicant(s) lack, or have 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 and the State of Michigan;
5. The marihuana establishment is determined by the Village of Breedsville to have become a public nuisance.
6. The State of Michigan Licensing Board has denied, revoked or suspended the applicant's state license.

SECTION 21: PENALTIES AND DISCIPLINE

- A. The Village of Breedsville may require an applicant or holder of license of a marihuana establishment to produce documents, records, or any other material pertinent to the investigation of an application or alleged violation of this Ordinance. Failure to provide the required material may be grounds for application denial, license revocation, or discipline.
- B. Any person in violation of any provision of this Ordinance or any provision of a license issued under this Ordinance is responsible for a misdemeanor, punishable by a fine of up to \$500.00 plus cost of prosecution, 90 days imprisonment, or both, or each violation. This section is not intended to prevent enforcement of any provision of the State law by the Village of Breedsville Police Department.
- C. All fines imposed under this Ordinance shall be paid within forty-five (45) days after the effective date of the order imposing the fine or as otherwise specified in the order.

- D. The Village Council may temporarily suspend a marihuana establishment license without a hearing if the Village Council finds that public safety or welfare requires emergency action. The Village Council shall cause the temporary suspension by issuing a Suspension Notice by majority vote of members present and voting thereon in connection with institution of proceedings for a Hearing.
- E. If the Village Council temporarily suspends a license without a hearing, the holder of the license is entitled to a hearing within thirty (30) days after the Suspension Notice has been issued. The hearing shall be limited to the issues cited in the Suspension Notice.
- F. If the Village Council does not hold a hearing within thirty (30) days after the date of suspension was issued, then the suspended license shall be automatically reinstated, and the suspension vacated.

SECTION 22: EFFECTIVE DATE

This Ordinance shall take effect thirty (30) days from the date of its publication, and all Ordinances or a part of Ordinances in conflict with this Ordinance shall be repealed.

Adopted and passed by the Breedsville Village Council the 3rd day of December 2019

Signed this 3rd day of December 2019.

Publication 5th day of January 2020

Steven Rogusta

Steven Rogusta, President

Linda Norton

Linda Norton, Clerk

CERTIFICATION

I hereby certify the foregoing constitutes a true and complete copy of Ordinance Number, 16-120319 duly adopted by the Village Council of the Village of Breedsville, County of Van Buren, State of Michigan, at a regular meeting held on the 3rd day of December, 2019, at which the following members were present:

S. Rogusta, T. Pensinger, L. Weniger, M. Kindig, D. Kindig, D. Starbuck, S. Cericola

and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, of the Public Acts of Michigan of 1976, as amended, and that the minutes of said meeting were kept and will be or have been made available as required by said Act.

I further certify that member M. Kindig moved for adoption of said Ordinance and that member D. Starbuck seconded said motion.

I further certify that the following members voted for adoption of said Ordinance:

S. Rogusta, T. Pensinger, L. Weniger, M. Kindig, D. Kindig, D. Starbuck, S. Cericola

and that the following members voted against such Ordinance:

None

I further certify that said Ordinance has been recorded in the Ordinance Book of the Village of Breedsville and that such recording has been authenticated by the signatures of the Village President and Village Clerk.

Steven Rogusta
Steven Rogusta, Village President

Linda Norton
Linda Norton, Village Clerk

Amendment of Ordinance 16-120319 Adoption and Effective Date: December 12, 2020

This Amended Ordinance is hereby, declared to have been adopted by the Village of Breedsville Council at a meeting thereof duly called and held on the 1st day of December, 2020 and ordered to be given effect as mandated by law, and shall become effective twenty (20) days after said date of adoption.

I hereby certify that Trustee W. Yeager moved for adoption of said Amendment of Ordinance number 050917.1 and 16-120319 duly and that Trustee T. Weniger seconded said motion

I further certify that the following members voted for adoption of said amendments of said Ordinance:
L, Weniger, W. Yeager, T. Weniger, S. Rogusta

And that the following members voted against such Amendment of such Ordinance:
J, Green

I further certify that said amended Ordinance has been recorded in the Ordinance Book of the Village of Breedsville and that such recording has been authenticated by the signatures of the Village President and Village Clerk.

Steven Rogusta
Steven Rogusta, Village President

Linda Norton
Linda Norton, Village Clerk

Signed December 1, 2020
Amendment Synopsis published
December 12, 2020
