



PUBLIC HEARING

Monday, September 12, 2022, 6:30 P.M.

1. Call to Order, Roll Call of Council, Pledge of Allegiance
2. Approval of Special Agenda
3. Public Acknowledgement on Agenda Items (Two Minutes Per Speaker)
4. Unfinished Business
 - Proposed Retail Recreational Marihuana Zoning Amendment
 - Proposed Retail Recreational Marihuana Ordinance
5. Adjournment

VILLAGE OF ROSCOMMON
Ordinance No. ____ of 2022

AN ORDINANCE TO AMEND THE VILLAGE OF ROSCOMMON ZONING
ORDINANCE

THE VILLAGE OF ROSCOMMON ORDAINS:

Section 1. Amendment of Section 2.2.

Section 2.2 of the Village of Roscommon Zoning Ordinance is hereby amended to add the following definitions in their appropriate alphabetical locations:

Marihuana. That term as defined from time to time in Section 3 of the Michigan Regulation and Taxation of Marihuana Act, being MCL 333.27953.

Marihuana Retailer. That term as defined from time to time in Section 3 of the Michigan Regulation and Taxation of Marihuana Act, being MCL 333.27953.

Section 2. Amendment to Section 4.12.B and Section 4.14.

The Commercial, Service & Retail portion of the Table of Permitted Uses & Special Uses within Section 4.12.B and Section 4.14 of the Village of Roscommon Zoning Ordinance are hereby amended to add in their appropriate alphabetical locations a new permitted use by right in the Highway Commercial District (C-2), which new use shall read in its entirety as follows:

Marihuana Retailers, but only after obtaining a permit under the Village of Roscommon Recreational Marihuana Establishment Ordinance.

Section 3. Validity.

If any section, provision or clause of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not effect any remaining portions or application of this Ordinance which can be given effect without the invalid portion or application.

Section 4. Effective Date.

This Ordinance shall become effective eight (8) days after being published in a newspaper of general circulation within the Village.

**VILLAGE OF ROSCOMMON
RECREATIONAL MARIHUANA ESTABLISHMENT ORDINANCE
Ordinance No. ____ of 2022**

AN ORDINANCE PURSUANT TO SECTION 6 OF THE MICHIGAN
REGULATION AND TAXATION OF MARIHUANA ACT, INITIATED LAW
1 OF 2018, BEING MCL 333.27951, *ET SEQ*, TO LIMIT THE NUMBER
OF MARIHUANA ESTABLISHMENTS WITHIN THE VILLAGE OF
ROSCOMMON, TO REQUIRE A PERMIT FOR THOSE MARIHUANA
ESTABLISHMENTS AUTHORIZED IN THE VILLAGE OF ROSCOMMON,
AND TO PROVIDE PENALTIES FOR VIOLATIONS OF THE
ORDINANCE

THE VILLAGE OF ROSCOMMON HEREBY ORDAINS:

Section 1. Purposes.

- (a) It is the intent of this Ordinance to limit the number of marihuana establishments within the Village of Roscommon, to provide for the adoption of reasonable licensing regulations for those marihuana establishments permitted within the Village to protect the public health, safety, and general welfare of the Village by mitigating potential impacts on surrounding properties and persons.
- (b) Nothing in this Ordinance is intended to grant immunity from criminal or civil prosecution, penalty, or sanction for the cultivation, manufacture, possession, use, sale, or distribution of marihuana, in any form, that is not in compliance with the Michigan Regulation and Taxation of Marihuana Act and all applicable rules promulgated by the state of Michigan.
- (c) Nothing in this Ordinance is intended to grant immunity from criminal or civil prosecution under any applicable federal laws.

Section 2. Definitions. As used in this Ordinance,

“Act” means the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, being MCL 333.27951, *et seq*.

“Applicant” means a person who applies for a permit under this Ordinance and who intends to apply or has applied for a state license under the Act and includes an officer, director, and managerial employee of the applicant and a person who holds any direct or indirect ownership interest in the applicant.

“Licensee” means that term as defined from time to time in Section 3 of the Act, being MCL 333.27953.

"Marihuana" means that term as defined from time to time in Section 3 of the Act, being MCL 333.27953.

"Marihuana accessories" means that term as defined from time to time in Section 3 of the Act, being MCL 333.27953.

"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 Michigan Cannabis Regulatory Agency.

"Marihuana grower" means that term as defined from time to time in Section 3 of the Act, being MCL 333.27953 and includes Class A, Class B, and Class C growers.

"Marihuana microbusiness" means that term as defined from time to time in Section 3 of the Act, being MCL 333.27953.

"Marihuana processor" means that term as defined from time to time in Section 3 of the Act, being MCL 333.27953.

"Marihuana retailer" means that term as defined from time to time in Section 3 of the Act, being MCL 333.27953.

"Marihuana secure transporter" means that term as defined from time to time in Section 3 of the Act, being MCL 333.27953.

"Marihuana safety compliance facility" means that term as defined from time to time in Section 3 of the Act, being MCL 333.27953.

"Person" means an individual, firm, corporation, association, partnership, limited liability company, or other legal entity.

"Process" means that term as defined from time to time in Section 3 of the Act, being MCL 333.27953.

"Recreational Marihuana Administrator" or "RM Administrator" means the Village of Roscommon Village Manager and/or other official designated by the Roscommon Village Council.

Section 3. Marihuana Establishments Limited or Prohibited.

Pursuant to the authority granted under Section 6.1 of the Act, MCL 333.27956, Subsection 1, the Roscommon Village Council hereby authorizes no more than one (1) marihuana retailer within the boundaries of the Village of Roscommon. The

Roscommon Village Council hereby completely prohibits all other marihuana establishments within the boundaries of the Village of Roscommon.

Section 4. Time for Filing Application.

Due to the limited number of marihuana retailers authorized under this Ordinance, the RM Administrator shall publish a notice in a newspaper of general circulation within the Village specifying a 45-day period during which the Village will accept applications for a marihuana retailer permit under this Ordinance.

Section 5. Application, Fee, and Application Limitation.

An applicant seeking a permit under this Ordinance shall submit a complete application for the marihuana retailer permit sought under this Ordinance to the RM Administrator and pay the required fee, which shall be determined from time to time by resolution of the Village Council. Each applicant, as defined in this Ordinance, shall be limited to one (1) application for any marihuana retailer permit sought at the same location, and may not file multiple applications under different legal entities for a marihuana retailer permit at the same location. The RM Administrator shall note the date and time each application is filed. The application shall include all of the following information and any other information reasonably necessary for the RM Administrator to determine whether the applicable standards for approval provided in Section 7 have been met.

- (a) The name and business address of the applicant.
- (b) The names, addresses, and dates of birth of all officers, directors, and managerial employees of the applicant and all persons who hold any direct or indirect ownership interest in the applicant.
- (c) The address of the location at which the proposed marihuana retailer will be located.
- (d) Proof of ownership or lease of the building or land in or on which the proposed marihuana retailer will be located.
- (e) A copy of a written business plan for the proposed marihuana retailer and a copy of the marihuana retailer plan, security plan, and marihuana product destruction and waste management plan that were filed with the state as part of the applicant's state application(s) under the Act.
- (f) A written sign plan specifying the locations, size, and lighting of any proposed signs to be placed on the property or buildings of each type proposed marihuana establishment. If no signs are proposed, then the application shall so provide.

Section 6. Administratively Complete Application.

The RM Administrator shall within ten (10) business days after an application is filed review the application and information submitted to determine if all required information was supplied (i.e., whether the application is administratively complete). Each application that is administratively complete shall be valid for one (1) year from the date the RM Administrator determines it is administratively complete. If the RM Administrator determines that all required information was not supplied, he or she shall send written notification to the applicant specifying the deficiencies. If the deficiencies are not corrected within fourteen (14) days of the notice from the RM Administrator, then the application shall be deemed administratively incomplete and shall be deemed withdrawn and/or may be denied by the RM Administrator on that basis.

Section 7. Excess of Administratively Complete Applications and Competitive Process.

- (a) After the application acceptance period provided in Section 4 above has expired, if the RM Administrator has received more administratively complete applications for a marihuana retailer permit than would be allowed under Section 3 above, then the RM Administrator shall decide among competing applicants by a competitive process intended to select the applicant who is best suited to operate in compliance with the Act within the Village of Roscommon, following the procedures of this section.
- (b) The RM Administrator shall send a written notice to all applicants for which there are excess administratively complete applications for a marihuana retailer permit giving them twenty-one (21) calendar days within which to submit supplemental information that address each of the standards specified in subsection (c) below. The applicant shall also provide written authorization for the Village to complete a background check on the applicant; any officer, director, and managerial employee of the applicant; and any person who holds any direct or indirect ownership interest in the applicant.
- (c) When deciding among excess applicants for a marihuana retailer permit the RM Administrators shall apply the following standards and shall document his or her decision in writing:
 - (1) Whether the applicant; any officer, director, and managerial employee of the applicant; and any person who holds any direct or indirect ownership interest in the applicant has ever been cited by local law enforcement officials, the Michigan Liquor Control Commission, or the Michigan Department of Licensing and Regulatory Affairs and found responsible for a violation of any liquor licenses or permits or any marihuana state operating licenses, and if so, the disposition of those matters.

- (2) Whether the applicant; any officer, director, and managerial employee of the applicant; and any person who holds any direct or indirect ownership interest in the applicant has ever been convicted of a felony or any misdemeanor, controlled substance or alcohol offense within the past five (5) years.
 - (3) Whether the applicant; any officer, director, and managerial employee of the applicant; and any person who holds any direct or indirect ownership interest in the applicant has ever been found responsible for violations of any municipal zoning ordinance, blight ordinance, or nuisance ordinance; any building codes; and any health department regulations.
 - (4) Whether the applicant; any officer, director, and managerial employee of the applicant; and any person who holds any direct or indirect ownership interest in the applicant has ever been delinquent in any municipal property taxes, state or federal income taxes, or any state or federal business taxes.
 - (5) If the RM Administrator determines that the excess applicants are equal when the above standards are applied, then the applicant meeting the following criteria shall be given priority:
 - (A) An applicant who owns property within the Village.
 - (B) An applicant with the longest history of property ownership within the Village.
 - (C) An applicant who is currently operating businesses within the Village.
 - (D) An applicant with the longest history of operating businesses within the Village.
 - (6) If the RM Administrator determines that the excess applicants are still equal when the standards contained in subsection (5) above are applied, then the applicant shall be selected based on the chronological order of when the RM Administrator determines that an administratively complete application for a marihuana retailer permit was filed.
- (d) The RM Administrator shall send a copy of his or her written decision to each excess applicant. Any excess applicant aggrieved by a decision of the RM Administrator under this section may appeal that decision to the Roscommon Village Council as provided in Section 10 of this Ordinance.

- (e) Any applicant selected in the competitive process of this section shall then have his, her, or its applicant considered pursuant to the remaining requirements of this Ordinance.

Section 8. Standards for Approval.

The RM Administrator shall approve and issue a conditional permit for a marihuana retailer under this Ordinance when all of the following applicable standards are met:

- (a) The applicant provides documentation from the Michigan Cannabis Regulatory Agency, or any successor state agency, that the applicant has been granted pre-qualification status from that Agency for the state operating license needed to operate the marihuana retailer that is the subject of the conditional permit being sought under this Ordinance.
- (b) The applicant owns or has the legal right to occupy the building in which the marihuana retailer will be located.
- (c) The proposed marihuana retailer is located in an area of the Village zoned for that use under the Village of Roscommon Zoning Ordinance.
- (d) The proposed signs, if any, for the marihuana retailer comply with all requirements of the Village of Roscommon Zoning Ordinance for the zoning district in which located.
- (e) No marihuana shall be consumed, smoked, or ingested by any method in a marihuana retailer.
- (f) The proposed marihuana retailer shall not be located within an area zoned exclusively for residential use nor within 1,000 feet of any pre-existing public or private school providing education in kindergarten or any of grades 1 through 12, churches, preschools, day care/child care centers, and public libraries, museums, and parks.
- (g) The marihuana retailer shall only be open for business for the sale or other distribution of marihuana in any form between the hours of 9 a.m. and 9 p.m., seven days a week.
- (h) The applicant agrees to indemnify the Village of Roscommon, its officers, board members, successors, assigns, agents, servants, employees, and insurance companies from any damages, legal fees or expenses, awards, demands, rights, causes of action that arise out of or grow out of applicant's operation of the marihuana retailer within the Village of Roscommon.

Section 9. Conditional Permit; Duration; Extension; Re-application; No Transfer; New Location.

- (a) A permit issued under this Ordinance shall not authorize the operation of any marihuana retailer authorized under this Ordinance within the Village of Roscommon, but shall be expressly conditioned on the state actually issuing to the applicant a state license under the Act and the Zoning Administrator issuing a zoning permit for the marihuana retailer for which a permit was issued under this Ordinance. If the state denies issuing to the applicant a state license under the Act, then the permit issued under this Ordinance shall be deemed null and void.
- (b) A permit issued under this Ordinance shall be valid for a period of six (6) months from the date it is issued. An applicant may obtain one (1) extension of the permit for an additional six (6) months if such request for the extension is filed with RM Administrator before the expiration of the permit and the applicant demonstrates that the application for a state license remains pending with the state. Provided, however, if the Michigan Cannabis Regulatory Agency extends the pre-qualification status of any application pending with that agency, then the conditional permit issued under this Ordinance shall be valid for a period of six (6) months following the termination of any such extension and may thereafter be extended as provided in this subsection.
- (c) If a permit expires as provided in this section, then the applicant may re-apply for a permit following the same procedures as for a new permit and pay a new application fee. The date the new, complete application is filed will be noted as provided in Section 5 above.
- (d) A permit issued under this Ordinance shall not be transferred any other applicant or person without the prior written approval of the Village Council.
- (e) If the licensee desires to change the location of the marihuana retailer, the licensee shall obtain a new permit from the RM Administrator following the procedures of Section 5 of this Ordinance. Any new location shall comply with the approval standards of Section 8 of this Ordinance.

Section 10. Appeal.

Any person aggrieved by a decision of the RM Administrator may appeal that decision to the Roscommon Village Council following the procedures of the Village of Roscommon Zoning Ordinance, as amended, for appeals to the Zoning Board of Appeals. Any such appeal shall be filed within thirty (30) days from the date of the decision from which the appeal is taken. During the appeal, the Village Council shall conduct a *de novo* hearing of the matter and to that end shall have all the powers of the RM Administrator. In rendering its decision, the Village Council shall receive and

consider evidence and data relevant to the case and shall issue its decision in writing within a reasonable period of time after receiving all evidence and data in the case. The decision of the Village Council shall then be sent promptly to the applicant, to the person who filed the appeal (if different than the applicant), and to the RM Administrator.

Section 11. Nuisance

A violation of this Ordinance is hereby declared to be a public nuisance, a nuisance per se and is hereby further declared to be offensive to the public health, safety and welfare.

Section 12. Violations.

Any person who violates 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 Five Hundred and 00/100 (\$500.00) Dollars. Each day this Ordinance is violated shall be considered a separate violation.

Section 13. Enforcement Officials.

The RM Administrator and other officials designated by the Roscommon Village Council, are hereby designated as the authorized officials to issue municipal civil infractions directing alleged violators of this Ordinance to appear in court.

Section 14. Civil Action

In addition to enforcing this Ordinance through the use of a municipal civil infraction proceeding, the Village may initiate proceedings in the Circuit Court to abate or eliminate the nuisance per se or any other violation of this Ordinance.

Section 15. Validity.

If any section, provision or clause of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not effect any remaining portions or application of this Ordinance which can be given effect without the invalid portion or application.

Section 16. Effective Date.

This Ordinance shall become effective twenty (20) days after its enactment.