

VILLAGE OF MIDDLEVILLE
COUNTY OF BARRY, MICHIGAN

Minutes of a regular meeting of the Village Council of the Village of Middleville, County of Barry, Michigan, held in the Village Hall, 100 East Main Street, Middleville, Michigan, on the ____ day of _____, 2021, at 7:00 p.m., Local Time.

PRESENT: Members: _____

ABSENT: Members: _____

It was moved by Member _____ and supported by Member _____ that the following Ordinance be adopted under the authority of the General Law Village Act, Act 3 of the Public Acts of Michigan of 1895, as amended.

ORDINANCE NO. 21_____

ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE VILLAGE OF MIDDLEVILLE BY THE AMENDMENT OF CHAPTER 18 TO AUTHORIZE AND REGULATE STATE-LICENSED MARIHUANA BUSINESSES AND TO PROVIDE PENALTIES FOR THE VIOLATION THEREOF

THE VILLAGE OF MIDDLEVILLE HEREBY ORDAINS:

Section 1. Amendment to the Code of Ordinances. Chapter 18 of the Code of Ordinances (the “Code”) of the Village of Middleville (the “Village”) is hereby amended by the addition of a new Article IV to read in its entirety as follows:

ARTICLE IV – MARIHUANA BUSINESS LICENSING

Section 18-83. – Purpose and Intent.

- (a) It is the intent of this Article to authorize the establishment of certain types of medical marihuana facilities and adult-use recreational marihuana establishments in the Village of Middleville and provide for the adoption of reasonable restrictions to protect the public health, safety, and general welfare of the community at large; retain the character of neighborhoods; and mitigate potential impacts on surrounding properties and persons. It is also the intent of this Article to help defray administrative and enforcement costs associated with the operation of a Marihuana Business in the Village of Middleville

through imposition of an annual, nonrefundable Permit application fee of not more than \$5,000.00 for each Permit.

- (b) Nothing in this Article 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 Medical Marihuana Act, MCL 333.26421 et seq. (MMA); the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq. (MMFLA); the Marihuana Tracking Act, MCL 333.27901 et seq. (MTA); the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951, et seq.(MRTMA); and all other applicable rules promulgated by the state of Michigan.
- (c) As of the effective date of this Article, marihuana remains classified as a Schedule 1 controlled substance under the Federal Controlled Substances Act, 21 U.S.C. Sec. 801 et seq., which makes it unlawful to manufacture, distribute, or dispense marihuana, or possess marihuana with intent to manufacture, distribute, or dispense marihuana. Nothing in this Article is intended to grant immunity from any criminal prosecution under federal law.

Section 18-84. - Definitions.

- (a) Except to the extent they conflict with the definitions provided in subsection (b) of this section, the definitions in the following state acts are incorporated into this Article:
 - (1) The MMMA
 - (2) The MMFLA
 - (3) The MRTMA
 - (4) The MTA
- (b) The following words, terms and phrases, when used in this Article shall have the meaning ascribed to them in this subsection, except where the context clearly indicates a different meaning:
 - (1) “*Applicant*” means a person who applies or who has applied for a state operating license and a Village Marihuana Business Permit.
 - (2) “*Council*” or “*Village Council*” means the Council of the Village of Middleville, Michigan.
 - (3) “*Co-Location*” means a Marihuana Business with two (2) or more types of state operating licenses operating within a single location.
 - (4) “*Good Neighbor Plan*” means a written plan addressing the potential deleterious impacts associated with operations of a Marihuana Business on a property and establishing the voluntary actions a Marihuana Business licensee will take to mitigate those impacts.

- (5) “*LARA*” or “*Department*” means the Michigan Department of Licensing and Regulatory Affairs or its successor agency.
- (6) “*Licensee*” means a person holding a state operating license under the MMFLA, the MRTMA, or both.
- (7) “*Marihuana*” means that term as defined in Section 7106 of the Michigan Public Health Code.
- (8) “*Marihuana Business*” refers to both a medical Marihuana Facility licensed under the MMFLA and a Marihuana Establishment licensed under the MRTMA.
- (9) “*Marihuana Business Permit*” or “*Permit*” means a Permit issued by the Village to operate a Marihuana Business in the Village.
- (10) “*Marihuana Establishment*” means a location at which a licensee is licensed to operate as an adult-use recreational marihuana grower, marihuana safety compliance facility, marihuana processor, marihuana microbusiness, marihuana retailer, marihuana secure transporter, or any other type of marihuana-related business licensed under MRTMA.
- (11) “*Marihuana Facility*” means a location at which a licensee is licensed to operate as a medical marihuana grower, processor, provisioning center, secure transporter, or safety compliance facility under the MMFLA.
- (12) “*MMFLA*” means the Michigan Medical Marihuana Facilities Licensing Act, Act 281 of the Public Acts of Michigan of 2016, as amended.
- (13) “*MMMA*” means the Michigan Medical Marihuana Act, Initiated Law 1 of 2008, as amended.
- (14) “*MRTMA*” means the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, as amended.
- (15) “*MTA*” means the Marihuana Tracking Act, Public Act 282 of 2016, MCL 333.27901 et seq., as amended.
- (16) “*Permittee*” means a person issued a Marihuana Business Permit to operate a Marihuana Business in the Village pursuant to this Article.
- (17) “*Person*” means an individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership or other legal entity.
- (18) “*Rules*” means the rules promulgated under the Michigan Administrative Procedures Act by the marihuana regulatory agency to to implement the MMFLA and the MRTMA.

- (19) “*Stakeholder*” means members of a limited liability company, shareholders of a corporation, partners of a partnership or investors with an interest in a Marihuana Business.
- (20) “*State Operating License*” means a license that is issued under either the MMFLA or the MRTMA that allows the licensee to operate as a Marihuana Facility or Marihuana Establishment.
- (21) “*Village*” means the Village of Middleville, Michigan.
- (22) “*Zoning Ordinance*” means Chapter 78 of the Village of Middleville Code of Ordinances, as amended.

Section 18-85. – Authorization of Marihuana Businesses and Fee

- (a) The following Marihuana Businesses may be authorized to operate within the Village by the holder of a State Operating License, subject to compliance with the MMFLA, MRTMA, the Rules, as amended, and the provisions of this Article:

Marihuana Business Type

- Recreational Marihuana Grower (Class A-C)
- Recreational Marihuana Processor
- Recreational Marihuana Secure Transporter
- Recreational Marihuana Safety Compliance Facility
- Recreational Marihuana Microbusiness
- Recreational Marihuana Retailer
- Medical Marihuana Provisioning Center

- (b) Not more than at total of five (5) Marihuana Business Permits in any combination shall be issued by the Village at any one time. Recreational Marihuana Retailers and Medical Marihuana Provisioning Centers, or any combination thereof, shall not operate at more than two (2) locations in the Village. At least every two (2) years after adoption of this Article, the Village shall review the maximum of each type of Marihuana Business license allowed and determine whether the maximum should be change. Factors include but not limited to, demand, compliance, and community profile. The review of the Village’s finding shall be recorded in the meeting minutes of Village Council.
- (c) A Permittee that has any combination of Marihuana Business Permits may operate separate Marihuana Businesses at the same location subject to the Village’s determination that such uses are compatible together at that location, are consistent on a shared basis with all the provisions of the MRTMA, the MMFLA, the Rules, and all applicable laws and regulations including all zoning, land use provisions of the Village Code of Ordinances. If those conditions are met, more than one different Marihuana Business may be co-located on one parcel. However, any co-locations shall count as separate Marihuana Business Permits for purposes of determining the maximum number of Marihuana Business Permits allowed by this Article.

- (d) All other types of Marihuana Facilities and Marihuana Establishments not listed in Section 18-85(a), including, but not limited to, medical marihuana growers, processors, secured transporters, safety compliance facilities and recreational designated consumption establishments, excess growers and temporary marihuana events are prohibited in the Village.
- (e) A nonrefundable Permit application fee shall be paid by each Marihuana Business Permitted under this Article in an annual amount of not more than \$5,000.00 as set by resolution of the Village Council to defray the administrative and enforcement costs of the Village associated with the operation of the licensed Marihuana Business. The application fee is in addition to any other fees required, including, but not limited to, zoning fees.
- (f) Should the Village grant a Marihuana Business Permit, the Permit application fee shall be considered as the nonrefundable fee imposed for the first year the Permit is granted. Prior to the expiration of the first year of the Permit, and as provided in this Article in Section 18-89 of this Article, the Permittee may apply for an extension/renewal of the Permit for an additional one-year period at a nonrefundable fee of not more than \$5,000 as set by resolution of the Village Council.

Section 18-86. – Requirements and Procedures for Issuing Permits

- (a) No person shall operate a Marihuana Business in the Village without a valid Permit issued by the Village pursuant to the provisions of this Article.
- (b) No person shall be issued a Permit by the Village without first having obtained from the Village Planning Commission a Special Use Permit authorizing the operation of the Marihuana Business pursuant to the Zoning Ordinance.
- (c) Every Applicant for a Permit to operate a Marihuana Business shall file an application in the Village Manager's office upon a form provided by the Village (See **Appendix A**). The application shall include:
 - (1) The appropriate nonrefundable Permit application fee in the amount determined by the Village;
 - (2) If the Applicant is an individual, the Applicant's name; date of birth; Social Security number; physical address, including residential and any business address; copy of government-issued photo identification; email address; one or more phone numbers, including emergency contact information;
 - (3) If the Applicant is not an individual, the names; dates of birth; physical addresses, including residential and any business address; copy of government-issued photo identifications; email address; and one or more phone numbers of each Stakeholder of the Applicant, including designation of the highest ranking representative as an emergency contact person; contact information for the emergency contact person;

articles of incorporation or organization; assumed name registration; Internal Revenue Service EIN confirmation letter; copy of the operating agreement of the Applicant, if a limited liability company; copy of the partnership agreement, if a partnership; names and addresses of the beneficiaries, if a trust, or a copy of the bylaws or shareholder agreement, if a corporation;

- (4) The name, address, and type of the proposed Marihuana Business;
- (5) For the Applicant and for each Stakeholder and employee of the Applicant, an affirmation that each and every person is at least 18 years of age and has not been convicted of or pled guilty or no contest to a felony or controlled-substance-related misdemeanor within the past 10 years;
- (6) Before hiring a prospective agent or employee of the Applicant, the holder of a license to operate shall conduct a background check of the prospective employee or agent. 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 Manager;
- (7) A signed release authorizing the Village Manager or his/her designee to perform a criminal background check to ascertain whether the Applicant, each Stakeholder of the Applicant, and each employee of the Applicant meet the criteria set forth in this Article, the cost of which will be charged to the Applicant. Alternatively, the Applicant may satisfy this requirement by providing to the Village a criminal background check conducted by the Michigan State Police or other law enforcement agency;
- (8) The name, date of birth, physical address (residential and any business address), copy of photo identification, and email address for any managerial employee of the Marihuana Business, if other than the Applicant or Stakeholder of Applicant;
- (9) An affirmation under oath as to whether the Applicant or each Stakeholder of Applicant has ever applied for or been granted a 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;
- (10) One of the following: (a) proof of ownership of the entire premises wherein the Marihuana Business is to be operated; or (b) written consent from the property owner for use of the premises as outlined in the application, along with a copy of the lease for the premises;
- (11) A description of the security plan for the Marihuana Business, 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 and details of each piece of security equipment. Each Marihuana Facility must have a security guard present during business hours or alternative security procedures shall be proposed in the business plan;

- (12) A crisis response plan;
- (13) A copy of the Special Use Permit issued by the Village Planning Commission;
- (14) A floor plan of the Marihuana Business, as well as a scale diagram illustrating the property upon which the Marihuana Business is to be operated;
- (15) A list of any chemicals that are or will be stored on the premises;
- (16) An affidavit that neither the Applicant nor any Stakeholder of the Applicant is in default to the Village. Specifically, that neither the Applicant nor Stakeholder of the Applicant has failed to pay any property taxes, special assessments, fines, fee, or other financial obligations to the Village;
- (17) An affidavit that the transfer of Marihuana to and from the Marihuana Business shall be in compliance with the MMA, MMFLA, the MRTMA and all other applicable Michigan laws;
- (18) An estimate of the number and type of jobs that the Marihuana Business is expected to create and the amount and type of compensation expected to be paid for such jobs;
- (19) A business plan which contains, but is not limited to, the following:
 - (i) The Applicant's experience in operating other similarly Permitted or licensed businesses and the Applicant's general business management experience;
 - (ii) The proposed ownership structure of the Marihuana Business, including percentage ownership of each person or entity;
 - (iii) A current organizational chart that includes position descriptions and the names of each person holding each position;
 - (iv) Planned tangible capital investment in the Village, including if multiple Permits are proposed, an explanation of the economic benefits to the Village and job creation, if any, to be achieved through the award of such multiple Permits, with supporting factual data;
 - (v) Expected job creation from the proposed Marihuana Business;
 - (vi) Financial structure and financing of the proposed Marihuana Business.

- (20) A Good Neighbor Plan including community outreach/education plans and strategies;
- (21) A written description of the training and education that the Applicant will provide to all employees, including planned continuing education for existing employees. Further, a written description of the method(s) for record retention of all training provided to existing and former employees;
- (22) A location area map of the Marihuana Business and surrounding area that identifies the relative locations and the distances (closest property line to the subject Marihuana Business's building) to the closest real property comprising a public or private elementary, vocational or secondary school; and church or religious institution, if recognized as a tax-exempt entity by the Village Assessor's Office;
- (23) 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 into the sewerage system is prohibited;
- (24) A description of procedures for testing of contaminants, including mold and pesticides;
- (25) Proof of Insurance. A Permittee shall at all times maintain full force and effect for duration of the license, worker's compensation insurance as required by state law, and general liability insurance with minimum limits of \$1,000,000 per occurrence and a \$2,000,000 aggregate limit issued from a company licensed to do business in Michigan. A Permittee shall provide evidence to the Village Clerk of the ability to obtain a certificate of insurance for a valid and effective policy which discloses the limits of each policy, the name of the proposed insurer, the effective date and expiration date of each policy, the policy number, and the names of the additional insureds.
- (26) A signed acknowledgment that the Applicant is aware and understands that all matters related to marihuana growing, cultivation, possession, testing, safety compliance and transporting, are currently subject to state and federal laws, rules and regulations, and that the approval or granting of a Permit hereunder does not exonerate or exculpate the Applicant from abiding by the provisions and requirements and penalties associated with those laws, rules, and regulations, or exposure to any penalties associated therewith; and further, the Applicant waives and forever releases any claim, demand, action, legal redress, or recourse against the Village, its elected and appointed officials, and its employees and agents for any claims, damages, liabilities, causes of action, damages, or attorney fees that the Applicant may incur as a result of the violation by the Applicant, its Stakeholders and agents of those laws, rules, and regulations.

- (27) All cultivation must be performed within an enclosed, locked facility and there shall be no illumination from the operation outside of the facility. The Applicant shall specifically acknowledge this provision;
- (28) Any other information which may be required by the Village Manager.
- (d) One hard copy and one digital copy of the completed application including all attachments shall be submitted to the Village Clerk. It shall be subject to the Clerk's approval, consistent with this Article, the MMFLA, the MRTMA and the Rules.
- (e) Upon receiving an application, the Village Clerk shall review it to determine whether it is complete under the terms of this Article. If it is not complete, the Clerk shall return the application, the application fee and any escrow deposit to the Applicant. An incomplete application that is returned by the Clerk shall not be deemed submitted and shall not have precedence of consideration over any other application.
- (f) Upon determining that an application is complete, the Clerk shall assign a number to it, based on the order in which it was received. Other Marihuana Business applications under this Article, if any, may be received, but they shall be reviewed for completeness only in the order received, and, if complete, shall be considered for approval of a Permit only in the order received, and only if a Permit for the same type of Marihuana Business is then available and the maximum number of Permits permitted has not been reached.
- (g) The Village Clerk shall forward completed applications to the Village Manager. The Manager shall score each application using the Scoring Rubric at **Appendix B**. In the event of competing applications, the application with the highest point score shall be awarded the available Permit over applications with lower scores.
- (h) Within 21 days of the date of receipt, the Village Manager shall approve an application, deny it, or approve it with conditions in the Permit necessary to verify or assure compliance with this Article, the MMFLA, the MRTMA and the Rules. In considering issuance of a Permit, the Manager shall apply the following standards:
- (1) The Marihuana Business shall comply with the MMFLA, the MRTMA and all applicable Rules.
 - (2) The Marihuana Business shall comply with this Article.
 - (3) The location of the Marihuana Business shall comply with applicable provisions of the Village Zoning Ordinance and the Applicant shall have obtained a Special Land Use Permit from the Village Planning Commission.
- (i) If the application is approved, the Village Manager shall issue a Marihuana Business Permit to the Applicant on a Village Permit form for such purpose. The Permit shall include terms and conditions consistent with this Chapter, any conditions imposed by the Village Manager, and such other provisions as are relevant to the type of Marihuana Business, the location thereof and anticipated operations.

- (j) If the application is denied, the Village Manager shall so inform the Applicant by letter, which shall include the reasons for the denial.
- (k) An Applicant shall have the right to appeal a Permit denial to the Village Council. The appeal shall be submitted in writing and shall state the grounds for appeal and other relevant information the Applicant may include. The written appeal shall be submitted not later than 10 days after the date of the Village Manager's written denial of the application; if the written appeal is not received by the Village by that time, the right of appeal shall have lapsed and be of no further effect.
- (l) The Applicant's appeal and any supporting materials shall be submitted to the Village Manager, who shall forward the same to the Village Council, together with copies of the denied application, the letter stating the grounds for denial of the application and other relevant materials in the Village's file on the matter. The Village Manager may include a memorandum to the Village Council stating the Manager's response to the stated grounds for the appeal.
- (m) The Applicant's appeal shall be scheduled to be heard at a Village Council meeting. The Applicant shall be given at least 10 days' written notice of the date, time and place for the hearing of the appeal. At the appointed time, the Applicant may address the Council concerning the appeal. The Village Council shall render its decision on the appeal by adopting a motion or resolution affirming or reversing, in whole or in part, the decision of the Village Manager. The written decision on the appeal, whether by motion or resolution, shall be forwarded to the Applicant.
- (n) Maintaining a valid State Operating License is a condition for the maintenance of a Permit under this Ordinance and continued operation of a Marihuana Business in the Village. A provisional license does not authorize operations until a final license is issued, which will only occur upon issuance of the appropriate license by the state of Michigan and the issuance of a certificate of occupancy.
- (o) A Permit issued under this Article shall be valid for a period of one (1) year and shall expire one year following the date of issuance.
- (p) A Permit issued under this Article is not transferable without the prior approval of the Village Manager under the same terms and conditions required for the initial issuance of a Permit under this Article.

Section 18-87. – Minimum Operational Standards for All Marihuana Businesses within the Village.

The following minimum standards shall apply to all Marihuana Businesses within the Village:

- (a) Marihuana Businesses shall comply at all times and in all circumstances with the MMMA, MMFLA, MRTMA, and applicable Michigan law, and the Rules, as they may be amended from time to time. It is the responsibility of the owner to be aware of changes in the law.

The Village bears no responsibility for failure of the owner to be unaware of changes in the law or the Rules.

- (b) Consumption and/or use of marihuana shall be prohibited at the Marihuana Business.
- (c) The Marihuana Business Permit issued by the Village shall be prominently displayed on the premises of all Marihuana Businesses.
- (d) A Marihuana Business shall be open, at all times during normal business hours, to any State investigator, agent, auditor, Village Zoning Administrator or Code Official, state police officer, or Barry County Sheriff's Deputy without a warrant and without notice to the licensee, and said individual(s) may enter the premises, offices, facilities, or other places of business of a Marihuana Business, for the following purposes:
 - (1) To inspect and examine all premises of Marihuana Businesses.
 - (2) To inspect, examine, and audit relevant records of the Permittee and, if the Permittee or any employee fails to cooperate with an investigation, 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.
 - (3) To inspect persons, and inspect or examine personal effects present in a Marihuana Business.
 - (4) To investigate alleged violations of the MMA, MMFLA, MRTMA, this Article, the applicable Rules, and/or the Village Zoning Ordinance.
- (e) The Marihuana Business shall be continuously monitored with a surveillance system that includes security cameras. The video recordings shall be maintained in a secure, off- site location for a period of six (6) months and be available upon request of the Village Manager, Zoning Administrator, Code Officer or law enforcement officer. The storage facility shall not be used for any other commercial purpose.
- (f) The Marihuana Business shall be maintained and operated so as to comply with all state and local rules, regulations and Ordinances. All Marihuana Businesses shall comply with applicable requirements of the Zoning Ordinance, including obtaining and maintaining a Special Use Permit.
- (g) All Marihuana shall be contained within an enclosed, locked facility.
- (h) All persons working in direct contact with Marihuana shall conform to acceptable 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 their 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) Certified laboratory testing results that meet the MMFLA, MRTMA, or all applicable Rules promulgated by the State of Michigan regarding marihuana, must be available to all the Marihuana Business customers.
- (j) 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.
- (k) Floors, walls and ceilings shall be constructed in such a manner that they may be adequately cleaned and kept clean and in good repair.
- (l) 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 an attractant, harborage or breeding place for pests.
- (m) All building fixtures and other facilities shall be maintained in a sanitary condition.
- (n) Odor from operations shall be controlled as provided in the Zoning Ordinance and as may be required under the Special Use Permit issued to the Permittee.
- (o) An Applicant for a Medical Marihuana Provisioning Center or a Recreational Marihuana Retailer Permit and all Stakeholders may not have an interest in a Secure Transporter or Safety Compliance Facility.
- (p) Marihuana Businesses may not receive deliveries between the hours of 9pm and 7am.
- (q) The interior of a Marihuana Business must be arranged in a way such that neither Marihuana nor marihuana-infused products are visible from the exterior of the building.
- (r) It shall be unlawful for any Marihuana Business, or any agent, manager, or employee thereof, to sell, give, dispense or otherwise distribute marihuana or marihuana accessories from any outdoor location, including on the property but outside of the physical structure of the Marihuana Business.
- (s) There shall be no sale, consumption or use of alcohol or tobacco products on the permitted premises.
- (t) All Marihuana in any form on the premises of a Marihuana Business shall be cultivated manufactured, tested, packaged, and sold in the State of Michigan.

- (u) Marihuana Business Permittees shall notify local law enforcement authorities within twenty-four (24) hours of becoming aware of the theft or loss of any marihuana product, or of any other criminal activity at the Marihuana Business.

Section 18-88. Standards for Specific Marihuana Businesses.

- (a) In addition to the standards in Section 18-87, Marihuana Businesses shall comply with all specific regulations applicable their license type contained in the promulgated state Rules as they may be amended from time to time.
- (b) Consistent with the MMFLA, elected officials and/or Village employees are not eligible to operate a Medical Marihuana Provisioning Center in the Village.

Section 18-89– Denial and Revocation.

- (a) A Permit issued under this Article may be revoked after an administrative hearing at which the Village Manager determines that grounds for revocation under this Article exist. Notice of the time and place of the hearing and the grounds for revocation must be given to the holder of a Permit at least five days prior to the date of the hearing, by first class mail to the address given on the Permit application; a licensee whose Permit is the subject of such hearing may present evidence and/or call witnesses at the hearing.
- (b) The Village Manager may temporarily suspend the Marihuana Business’s Permit without a hearing if the Village Manager finds that public safety or welfare requires emergency action. If the Village Manager temporarily suspends a Permit without a hearing, the Permittee is entitled to a hearing within thirty (30) days after the suspension notice has been issued.
- (c) A Permit applied for or issued under this Article may be denied or revoked on any of the following bases:
 - (1) Any violation of this Article;
 - (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 Article; or any conviction of the Applicant or any Stakeholder of the Applicant of a controlled substance-related felony at any time, including prior to and after Permitted under this Article;
 - (3) A finding of fraud, 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 Article requires a Permit or in connection with the Application for a Permit or request to renew a Permit;

- (4) Material failure to fulfill the business plan described in Section 18-86(c)(19) of this Article;
 - (5) Sufficient evidence that the Permittee lacks, or has failed to demonstrate, the requisite professionalism and/or business experience required to assure strict adherence to this Article, and the rules and regulations governing Marihuana Businesses in the state of Michigan;
 - (6) The Permit holder or any of its Stakeholders is in default to the Village personally or in connection with any business in which they hold an ownership interest, for failure to pay property taxes, special assessments, fines, fees or other financial obligation;
 - (7) The Marihuana Business is determined by the Village to have become a public nuisance; or
 - (8) LARA has denied, revoked or suspended the Applicant's State Operating License.
- (d) Should the Village Manager revoke a Permit, the Permittee shall have fourteen (14) days from the mailing of the written notice of revocation to appeal the decision to the Village Council. The Village Council may require additional information or act upon the appeal based upon the information supplied to the Village Manager. Should the Village Council reverse the decision of the Village Manager, the Village Manager shall reinstate the Permit. Should the Village Council affirm the decision of the Village Manager, the Village Clerk shall mail by first class mail a written notice affirming the decision to the address for the Permittee contained in the Village's records.

Section 18-90. – Permit Renewal.

- (a) A Permit shall be valid for one year from the date of issuance, unless revoked as provided by law, including this Article.
- (b) A valid Permit may be renewed on an annual basis by submitting a renewal application upon a form provided by the Village (See **Appendix A**) and payment of the annual Permit fee. Applications to renew a Permit shall be filed with the Village at least sixty (60) days prior to the date of its expiration. As long as no changes to the Permittee have occurred, no violations have occurred in the prior year, the Permittee has maintained its state license, there is no pending request to revoke or suspend the Permit, and the Permittee has paid the Permit renewal fee, the Village Manager shall renew the Permit.
- (c) The denial of a renewal application is subject to the appeal procedures of Section 18-86 of this Article.

Section 18-91. – Penalties and Enforcement.

- (a) Any person who violates any of the provisions of this Article shall be responsible for a municipal civil infraction and subject to the payment of a civil fine of \$250 for a first

violation, and \$500 for each subsequent violation, plus costs. Each day a violation of this Article continues to exist constitutes a separate violation. A violator of this Article shall also be subject to such additional sanctions, remedies and judicial orders as are authorized under Michigan law.

- (b) A violation of this Article is deemed to be a nuisance per se. In addition to any other remedy available at law, the Village may bring an action for an injunction or other process against a Permittee to restrain, prevent, or abate any violation of this Article.
- (c) This Article shall be enforced and administered by the Village Manager or the Manger's designee, the Barry County Sheriffs' Department, or such other Village official as may be designated from time to time by resolution of the Village Council.

Section 2. Severability. If any section or provision of this ordinance shall be held invalid in any court of competent jurisdiction, the same shall not affect any other articles, sections or provisions of this ordinance, except so far as the article, section or portion so declared invalid shall be inseparable from the remainder of any portion thereof.

Section 3. Publication; Effective Date. This Ordinance shall become effective upon its publication or upon the publication of a summary of its provisions in a local newspaper of general circulation in the Village.

Passed and adopted by the Village of Middleville on _____, 2021.

Amanda Fisk, President
Village of Middleville

Glorimar Ayala, Clerk
Village of Middleville

CERTIFICATION OF VILLAGE CLERK

I hereby certify that the foregoing is a true and complete copy of an Ordinance adopted by the Village Council of the Village of Middleville, County of Barry, State of Michigan, at a regular meeting held on _____, 2021, and that public notice of said meeting was given pursuant to Act No. 267, Public Acts of Michigan of 1976, as amended, including in the case of a special or rescheduled meeting, notice by publication or posting at least eighteen (18) hours prior to the time set for said meeting.

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

Glorimar Ayala, Clerk

CERTIFICATE OF PUBLICATION

I hereby certify that a summary of Ordinance No. 21_____, adopted by the Village Council of the Village of Middleville, was published in the *Sun & News* on _____, 2021.

Glorimar Ayala, Clerk