

ORDINANCE NO. 2021 - 01

AN ORDINANCE FOR THE VILLAGE OF FARWELL amending the Village of Farwell Zoning Ordinance.

Short Title:

VILLAGE OF FARWELL – ZONING ORDINANCE AMENDMENT AND  
MARIHUANA LICENSING ORDINANCE

**The Village of Farwell Ordains:**

**MARIHUANA LICENSING ORDINANCE**

ARTICLE I. - GENERAL PROVISIONS

Section 1 - Purpose and intent.

- (a) Purpose . The purpose of this chapter is to implement the provisions of Public Act 281 of 2016, being the Michigan Medical Marijuana Facilities Licensing Act, and the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951, et seq. (“MRTMA”), so as to protect the public health, safety, and welfare of the residents and patients of the village by setting forth the manner in which marijuana facilities can be operated in the village. Further, the purpose of this chapter is to:
- (1) Provide for a means of cultivation, processing, and distribution of marijuana under the Michigan Medical Marijuana Act, (MCL 333.26421 et seq.), the Medical Marijuana Facilities Licensing Act (MCL 333.27101 et seq.) and the Marijuana Tracking Act (MCL 333.27901 et seq.), and the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951, et seq. (“MRTMA”);
  - (2) Protect public health and safety through reasonable limitations on marijuana commercial entity operations as they relate to noise, air and water quality, neighborhood and patient safety, security for the facility and its personnel, and other health and safety concerns;
  - (3) Protect residential neighborhoods by limiting the location and the concentration of types of marijuana commercial entities to specific areas of the village;

- (4) Impose fees to defray and recover the cost to the village of the administrative and enforcement costs associated with marijuana facilities;
  - (5) Coordinate with laws and regulations that may be enacted by the state addressing marijuana; and
  - (6) To restrict the issuance of marijuana facility licenses only to individuals and entities that have demonstrated an intent and ability to comply with this chapter without monitoring by village officials.
- (b) Legislative intent. This chapter authorizes the establishment of marijuana facilities within the Village of Farwell consistent with the provisions of the Michigan Medical Marijuana Facilities Act; and the Michigan Regulation and Taxation of Marijuana Act, MCL 333.27951, et seq. ("MRTMA"), subject to the following:
- (1) Marijuana cultivation and processing can have an impact on health, safety, and community resources, and this chapter is intended to permit marijuana cultivation and processing where it will have a minimal impact.
  - (2) Use, distribution, cultivation, production, possession, and transportation of marijuana remains illegal under federal law and state law, and marijuana remains classified as a "controlled substance" by federal law and state law.
  - (3) The regulations for marijuana commercial entities are not adequate at the state level to address the impacts on the village of the commercialization of marijuana, making it appropriate for local regulation of the impact of marijuana commercial entities on communities.
  - (4) Nothing in this chapter is intended to promote or condone the production, distribution, or possession of marijuana in violation of any application law.
  - (5) This chapter is to be construed to protect the public over marijuana facility interests. Operation of a marijuana facility is a revocable privilege and not a right in the village. There is no property right for an individual or facility to engage or obtain a license to engage in marijuana as a commercial enterprise in the village.
  - (6) Because marijuana is a heavily regulated industry in the village, all licensees are assumed to be fully aware of the law; the village shall not therefore be required to issue warnings before issuing citations for violations of this chapter.

(c) Relationship to federal law. As of the effective date of this chapter, marijuana is classified as a schedule 1 controlled substance under federal law which makes it unlawful to manufacture, distribute, cultivate, produce, possess, dispense or transport marijuana. Nothing in this chapter is intended to grant immunity from any criminal prosecution under federal law.

(d) Relationship to state law.

- (1) Except as otherwise provided by the MMFLA, MRTMA, and this chapter, a licensee and its employees and agents who are operating within the scope of a valid state-issued operating license are not subject to criminal or civil prosecution under village ordinances regulating marijuana.
- (2) Except as otherwise provided by the MMFLA, MRTMA, and this chapter, a person who owns or leases real property upon which a marijuana facility is located and who has no knowledge that the licensee is violating or violated the MMFLA, MRTMA, or a provision of this chapter, is not subject to criminal or civil prosecution under village ordinances regulating marijuana.
- (3) Nothing in this chapter is intended to grant immunity from criminal or civil prosecution, penalty or sanction for the cultivation, manufacture, possession, use, sale, distribution or transport of marijuana in any form that is not in strict compliance with the Michigan Medical Marijuana Act, the Medical Marijuana Facilities Licensing Act, the Marijuana Tracking Act, the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951, et seq. ("MRTMA"), and all applicable rules promulgated by the State of Michigan regarding marijuana. Strict compliance with any applicable state law or regulation shall be deemed a requirement for the issuance or renewal of any license issued under this chapter, and noncompliance with any applicable state law or regulation shall be grounds for revocation or nonrenewal of any license issued under the terms of this chapter.
- (4) A registered qualifying patient or registered primary caregiver is not subject to criminal prosecution or sanctions for purchasing marijuana from a provisioning center if the quantity purchased is within the limits established under the Michigan Medical Marijuana Act. A registered primary caregiver is not subject to

criminal prosecution or sanctions for any transfer of 2.5 ounces or less of marijuana to a safety compliance facility for testing.

- (5) In the event of any conflict, the terms of this chapter are preempted and the controlling authority shall be the statutory regulations set forth by the MMFLA or the rules adopted by the board to implement, administer or enforce the MMFLA.

(e) Village liability and indemnification.

- (1) By accepting a license issued pursuant to this chapter, the licensee waives and releases the village, its officers, elected officials and employees from any liability for injuries, damages or liabilities of any kind that result from any arrest or prosecution of marijuana facility owners, operators, employees, clients or customers for a violation of state or federal laws, rules or regulations.
- (2) By accepting a license issued pursuant to this chapter, all licensees, agree to indemnify, defend and hold harmless the village, its officers, elected officials, employees, and insurers, against all liability, claims or demands arising on account of bodily injury, sickness, disease, death, property loss or damage or any other loss of any kind, including, but not limited to, any claim of diminution of property value by a property owner whose property is located in proximity to a licensed operating facility, arising out of, claimed to have arisen out of, or in any manner connected with the operation of a marijuana facility or use of a product cultivated, processed, distributed or sold that is subject to the license, or any claim based on an alleged injury to business or property by reason of a claimed violation of the Federal Racketeer Influenced and Corrupt Organizations Act (RICO), 18 U.S.C. Section 1964(c).
- (3) By accepting a license issued pursuant to the chapter, a licensee agrees to indemnify, defend and hold harmless the village, its officers, elected officials, employees, and insurers, against all liability, claims, penalties, or demands arising on account of any alleged violation of the Federal Controlled Substances Act, 21 U.S.C. Section 801 et seq. or Article 7 of the Michigan Public Health Code, MCL 333.7101 *et seq.*

ARTICLE II.

Section 2 - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this chapter, except where the context clearly indicates a different meaning:

*Applicant* means a person who applies for a state operating license. With respect to disclosures in an application, or for purposes of ineligibility for a license, the term applicant includes an officer, director, and managerial employee of the applicant and a person who holds any direct or indirect ownership interest in the applicant.

*Board* means the medical marijuana licensing board created pursuant to part 3 of the MMFLA.

*Cultivate or cultivation means* (1) all phases of marijuana growth from seed to harvest; and (2) the preparation, packaging, and labeling of harvested usable marijuana.

*Department* means the Michigan Department of Licensing and Regulatory Affairs, or its successor agency.

*Grower* means a licensee that is a commercial entity that cultivates, dries, trims, or cures and packages marijuana for sale to a processor or provisioning center.

*Licensee* means a person holding a state operating license.

*Marijuana* means that term as defined in section 7106 of the Public Health Code, 1978 PA 368, MCL 333.7106. Marijuana may be spelled with either "marijuana," or "marihuana."

*Marijuana commercial entity* means any and all of the following marijuana facilities:

- (1) A grower.
- (2) A processor.
- (3) A secure transporter.
- (4) A provisioning center, a dispensary, or a marijuana retailer.
- (5) A safety compliance facility.

*Marijuana facility* means a location at which a licensee is licensed to operate under the MMFLA, MRTMA, and this chapter.

*Marijuana plant* means any plant of the species *Cannabis sativa* L.

*Marijuana-infused product* means a topical formulation, tincture, beverage, edible substance, or similar product containing any usable marijuana that is intended for human consumption in a manner other than smoke inhalation. Marijuana-infused product shall not be considered a food for purposes of the Food Law, 2000 PA 92, MCL 289.1101 et seq.

*Michigan Medical Marijuana Act or MMMA* means 2008 IL 1, MCL 333.26421 et seq., as may be amended.

*Michigan Medical Marijuana Facilities Licensing Act or MMFLA* means Public Act 281 of 2016, MCL 333.27101 et seq., as may be amended.

*Michigan Marijuana Tracking Act* means Public Act 282 of 2016, MCL 333.27901 et seq., as may be amended.

*Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951, et seq. ("MRTMA")*, means Initiated Law 1 of 2018.

*Paraphernalia* means any equipment, product, or material of any kind that is designed for or used in growing, cultivating, producing, manufacturing, compounding, converting, storing, processing, preparing, transporting, injecting, smoking, ingesting, inhaling, or otherwise introducing into the human body, marijuana.

*Person* means an individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, trust, or other legal entity.

*Plant* means any living organism that produces its own food through photosynthesis and has observable root formation or is in growth material.

*Processor* means a licensee that is a commercial entity that purchases marijuana from a grower and that extracts resin from the marijuana or creates a marijuana-infused product for sale and transfer in packaged form to a provisioning center.

*Marijuana retailer*, means a provisioning center or dispensary, a licensee that is a commercial entity that purchases marijuana from a grower or processor and sells, supplies, or provides marijuana. *Marijuana retailer*, includes any commercial property where marijuana is sold at retail to

registered qualifying patients or registered primary caregivers, or the public. A noncommercial location used by a primary caregiver to assist a qualifying patient connected to the caregiver through the Department's marijuana registration process in accordance with the Michigan Medical Marijuana Act is not a *Marijuana retailer* for purposes of this chapter.

*Registered primary caregiver* means a primary caregiver who has been issued a current registry identification card under the MMMA.

*Registered qualifying patient* means a qualifying patient who has been issued a current registry identification card under the MMMA or a visiting qualifying patient as that term is defined in the MMMA.

*Registry identification card* means that term as defined in the MMMA.

*Rules* means rules promulgated by the department in consultation with the State of Michigan to implement this Act.

*Safety compliance facility* means a licensee that is a commercial entity that received marijuana from a marijuana facility or registered primary caregiver, tests it for contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the marijuana to the marijuana facility.

*Secure transporter* means a licensee that is a commercial entity that stores marijuana and transports marijuana between marijuana facilities for a fee.

*State operating license* or, unless the context requires a different meaning, "license" means a license that is issued under the MMFLA, MRTMA, and this chapter that allows the licensee to operate as one of the following marijuana commercial entities, as specified in the license:

- (1) A grower.
- (2) A processor.
- (3) A secure transporter.
- (4) A marijuana retailer, including a provisioning center or dispensary.
- (5) A safety compliance facility.

*Statewide monitoring system* or, unless the context requires a different meaning, system means an internet-based, statewide database established, implemented, and maintained by the department under the Marijuana Tracking Act, that is available to licensees, law enforcement

agencies, and authorized state departments and agencies on a 24-hour basis for all of the following:

- (1) Verifying registry identification cards.
- (2) Tracking marijuana transfer and transportation by licensees, including transferee, date, quantity, and price.
- (3) Verifying in commercially reasonable time that a transfer will not exceed the limit that the patient or caregiver is authorized to receive under section 4 of the Michigan Medical Marijuana Act, MCL 333.26424, MRTMA, or any applicable state law.

*True party of interest* means:

- (1) For an individual or sole proprietorship: the proprietor and spouse.
- (2) For a partnership and limited liability partnership: all partners and their spouses. For a limited partnership and limited liability limited partnership: all general and limited partners and their spouses. For a limited liability company: all members, managers, and their spouses.
- (3) For a privately held corporation: all corporate officers or persons with equivalent titles and their spouses and all stockholders and their spouses.
- (4) For a publicly held corporation: all corporate officers or persons with equivalent titles and their spouses.
- (5) For a multilevel ownership enterprise: any entity or person that receives or has the right to receive a percentage of the gross or net profit from the enterprise during any full or partial calendar or fiscal year.
- (6) For a nonprofit corporation: all individuals and entities with membership or shareholder rights in accordance with the articles of incorporation or the bylaws and their spouses.
- (7) For a trust: the names of the settlors, trustees and beneficiaries.

However, true party of interest does not mean:

- (1) A person or entity receiving reasonable payment for rent on a fixed basis under a bona fide lease or rental obligation, unless the lessor or property manager exercises control over or participates in the management of the business.



(2) A person who receives a bonus as an employee if the employee is on a fixed wage or salary and the bonus is not more than 25 percent of the employee's pre-bonus annual compensation or if the bonus is based on a written incentive or bonus program that is not out of the ordinary for the services rendered.

*Usable marijuana* means the dried leaves, flowers, plant resin, or extract of the marijuana plant, but does not include the seeds, stalks, and roots of the plant.

## ARTICLE III. - LICENSING OF MARIJUANA FACILITIES

### Section 3 - License and annual fee required.

- (a) No person shall establish or operate a marijuana commercial entity in the village without first having obtained from the village and the state a license for each such facility to be operated. License certificates shall be kept current and publicly displayed within the facility. Failure to maintain or display a current license certificate shall be a violation of this chapter.
- (b) A nonrefundable, initial application fee to defray the administrative and enforcement costs associated with marijuana facilities located in the village of not more than \$5,000.00 per license, for each facility; and an annual nonrefundable license renewal fee per licensed facility each year thereafter as set by resolution adopted by the village council.
- (c) The annual nonrefundable fee required under this section shall be due and payable with the application for a license and upon the application for renewal of any such license under this chapter.
- (d) The license fee requirement set forth in this chapter shall be in addition to, and not in lieu of, any other licensing and permitting requirements imposed by any other federal, state or village ordinance, including by way of example any applicable zoning or building permits.
- (e) The issuance of any license pursuant to this chapter does not create an exception, defense, or immunity to any person in regard to any potential criminal liability the person may have for the production, distribution, or possession of marijuana under federal law.

### Section 4 - General license application requirements.

- (a) A person seeking a license pursuant to the MMFLA, MRTMA and the provisions of this chapter shall submit an application to the village on forms provided by the village. At the time of application, each applicant shall pay a nonrefundable application fee to defray the costs incurred by the village for background investigations and inspection of the proposed

premises, as well as any other costs associated with the processing of the application. In addition, the applicant shall present a suitable form of identification.

(b) The applicant shall also provide the following information, under the penalty of perjury, on the village-issued form approved by or acceptable to, the village clerk and the Clare County Sheriff's Department. Such information is required for the applicant, the proposed manager of the marijuana commercial entity, and all persons who are true parties of interest in the marijuana commercial entity that is the subject of the application:

(1) The name, address, date of birth, business address, business telephone number, social security number, and, if applicable, federal tax identification number;

(2) If the applicant is a business entity, information regarding the entity, including, without limitation, the names and address of the entity, its legal status, and proof of registration with, or a certificate of good standing from, the State of Michigan, as applicable;

(3) The identity of every person having any ownership interest in the applicant with respect to which the license is sought;

(4) If the applicant is not the owner of the proposed licensed premises, a notarized statement from the owner of such property authorizing the use of the property for a marijuana facility;

(5) A copy of any deed reflecting the applicant's ownership of, or lease reflecting the right of the applicant to possess, or an option reflecting the applicant's right to purchase or lease, the proposed licensed premises;

(6) A "to scale" diagram of the proposed licensed premises, no larger than 11 inches by 17 inches, showing, without limitation, building layout, all entryways and exits to the proposed licensed premises, loading zones and all areas in which marijuana will be stored, grown, manufactured or dispensed;

(7) A comprehensive facility operation plan for the marijuana commercial entity which shall contain, at a minimum, the following:

(a) A security plan indicating how the applicant will comply with the requirements of this chapter and any other applicable law,

rule, or regulation. The security plan shall include details of security arrangements and will be protected from disclosure as provided under the Michigan Freedom of Information Act, MCL 15.231 et seq. If the village finds that such documents are subject to disclosure, it will attempt to provide at least two business days' notice to the applicant prior to such disclosure.

(b) For grower and processing facilities, a plan that specifies the methods to be used to prevent the growth of harmful mold and compliance with limitations on discharge into the wastewater system of the village.

(c) A lighting plan showing the lighting outside of the marijuana facility for security purposes and compliance with applicable village requirements.

(d) A plan for disposal of any marijuana or marijuana-infused product that is not sold in a manner that protects any portion thereof from being possessed or ingested by any person or animal.

(e) A plan for ventilation of the marijuana facility that describes the ventilation systems that will be used to prevent any odor of marijuana off the premises of the business. For marijuana facilities that grow marijuana plants, such plan shall also include all ventilation systems used to control the environment for the plants and describe how such systems operate with the systems preventing any odor leaving the premises. For marijuana businesses that produce marijuana-infused products, such plan shall also include all ventilation systems used to mitigate noxious gases or other fumes used or created as part of the production process.

(f) A description of all toxic, flammable, or other materials regulated by a federal, state, or local authority that would have jurisdiction over the business if it was not a marijuana business, that will be used or kept at the marijuana business, the location of such materials, and how such materials will be stored.

(g) A statement of the amount of the projected daily average and peak electric load anticipated to be used by the business and certification from a licensed electrician that the premises are equipped to safely accept and utilize the required or anticipated electric load for the facility.

(8) Prior to making a modification to a structure that would require a building permit or which would alter or change items required by this subsection, the licensee shall submit to the village and have approved a completed application for modification of premises in the form provided by the village.

(9) Proof of insurance. A licensee shall at all times maintain in full force and effect for the duration of the license, worker's compensation insurance as required by state law, and general liability insurance with minimum limits of \$1,000,000.00 per occurrence and a \$2,000,000.00 aggregate limit issued from a company licensed to do business in Michigan having an AM Best rating of at least A-. A licensee shall provide proof of insurance to the village clerk in the form of a certificate of insurance evidencing the existence of a valid and effective policy which discloses the limits of each policy, the name of the insurer, the effective date and expiration date of each policy, the policy number, and the names of the additional insureds. The policy shall name the Village of Farwell and its officials and employees as additional insureds to the limits required by this section. A licensee or its insurance broker shall notify the village of any cancellation or reduction in coverage within seven days of receipt of insurer's notification to that effect. The licensee, permittee, or lessee shall forthwith obtain and submit proof of substitute insurance to the village clerk within five business days in the event of expiration or cancellation of coverage.

(10) Whether an applicant has been indicted for, charged with, arrested for, or 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, regardless of whether the offense has been reversed on appeal or otherwise, including the date, the name and location of the court, arresting agency, and prosecuting agency, the case caption, the docket number, the offense, the disposition, and the location and length of incarceration.

(11) Whether an applicant 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.

(12) Whether an applicant has filed, or been served with a complaint or other notice filed with any public body, regarding the delinquency in the payment of, or a dispute over the filings concerning the payment of, any tax required under federal, state, or local law, including the amount, type of tax, taxing agency, and time periods involved.

(13) A description of the type of marijuana facility and the anticipated or actual number of employees.

(14) An acknowledgement and consent that the village may conduct a background investigation, including a criminal history check, and that the village will be entitled to full and complete disclosure of all financial records of the marijuana commercial entity, including records of deposit, withdrawals, balances and loans.

(15) Any additional information that the village clerk or public safety chief reasonably determines to be necessary in connection with the investigation and review of the application.

(c) Consistent with the MMFLA, MRTMA, and the Freedom of Information Act, MCL 15.231 et seq., the information provided to the village clerk pursuant to this section relative to licensure is exempt from disclosure.

(d) All marijuana commercial entities shall obtain all other required permits of licenses related to the operation of the marijuana commercial entity, including, without limitation, any development approvals or building permits required by any applicable code or ordinance. (e) If the village clerk identifies a deficiency in an application, the applicant shall have five business days to correct the deficiency after notification by the village clerk.

(e) Upon an applicant's completion of the above-provided form and furnishing of all required information and documentation, the village clerk shall accept the application and assign it an application number by facility type.

(f) Upon receipt of a completed application, the village clerk may circulate the application to all affected service areas and departments of the village to determine whether the application is in full compliance with all applicable laws, rules and regulations.

Section 5 - Denial of application.

(a) The village clerk shall reject any application that does not meet the requirements of the MMFLA, MRTMA, or this chapter. The village clerk shall reject any application that contains any false, misleading or incomplete information.

(b) An applicant is ineligible to receive a license under this chapter if any of the following circumstances exist regarding a true party of interest of the applicant:

(1) Conviction or of release from incarceration for a felony under the laws of this state, any other state, or the United States within the past ten years or conviction of a controlled substance-related felony within the past ten years.

(2) Within the past five years, conviction of a misdemeanor involving a controlled substance, theft, dishonestly or fraud in any state or been found responsible for violating a local ordinance in any state involving a controlled substance, dishonesty, theft, or fraud that substantially corresponds to a misdemeanor in that state.

(3) The applicant has knowingly submitted an application for a license that contains false, misleading or fraudulent information, or who has intentionally omitted pertinent information on the application for a license.

(4) Is a member of the village council.

(5) The applicant fails to provide and maintain adequate premises liability and casualty insurance for its proposed marijuana facility.

(6) Holds an elective office of a governmental unit of this state, another state, or the federal government; is a member of or employed by a regulatory body of a governmental unit in this state, another state, or the federal government; or is employed by a governmental unit of this state. This subdivision does not apply to an elected officer of or employee of a federally recognized Indian tribe or to an elected precinct delegate.

(7) The applicant fails to meet other criteria established by state-issued rule.

Section 6 - Issuance of provisional approval certificate.

(a) Complete applications for a marijuana facility license determined to be in full compliance with the requirements of this chapter shall be issued a provisional marijuana facility approval certificate in accordance with the procedures specified in this section.

(b) The village clerk shall issue a provisional marijuana facility approval certificate if the inspection, background checks, and all other information available to the village verify that the applicant as a grower, processor, safety compliance facility, or secure transporter has submitted a full and complete application, has made improvements to the business location consistent with the application, complies with applicable zoning and location requirements, and is prepared to operate the business as set forth in the application, all in compliance with the Village Ordinances and any other applicable law, rule, or regulation.

(c) A provisional marijuana facility approval certificate means only that the applicant has submitted a valid application for a marijuana facility license, and is eligible to receive the appropriate marijuana facility license from the State of Michigan. The applicant shall not locate or operate a marijuana facility in the village without obtaining a license issued by the state.

(d) The conditions of an approval of a marijuana facility license shall include, at a minimum, operation of the facility in compliance with all of the plans and information made part of the application.

#### Section 7 - Issuance of village marijuana facility operating license.

(a) An applicant holding an unexpired provisional certificate issued pursuant to this chapter and for which the State of Michigan has granted the appropriate marijuana facility state operating license shall provide proof of same to the village clerk.

(b) Inspection. An inspection of the proposed marijuana facility by the village shall be required prior to issuance of the village operating license. Such inspection shall occur after the premises are ready for operation, but prior to the stocking of the business with any marijuana, and prior to the opening of the business to any patients or the public. The inspection is to verify that the business facilities are constructed and can be operated in accordance with the application submitted and the applicable requirements of the code and any other applicable law, rule, or regulation.



(c) After verification that the business facilities are constructed and can be operated in accordance with the application submitted and the applicable requirements of the code and any other applicable law, rule, or regulation, the village clerk shall issue a village marijuana operating license whose term shall run concurrent with the state operating license for the facility.

(d) Maintaining a valid marijuana facility license issued by the state is a condition for the issuance and maintenance of the village marijuana facility operating license issued under this chapter and the continued operation of any marijuana facility.

#### Section 8 - License forfeiture.

In the event that a marijuana facility does not commence operations within one year of issuance of a village operating license, the license shall be deemed forfeited; the business may not commence operations and the license is not eligible for renewal.

#### Section 9 - License renewal.

(a) A village marijuana facility operating license shall run concurrently with the state operating marijuana license issued for the facility, unless revoked as provided by law.

(b) A valid marijuana facility license may be renewed on an annual basis by a renewal application upon a form provided by the village and payment of the annual license fee. An application to renew a marijuana facility license shall be filed at least 30 days prior to the date of its expiration.

(c) Prior to the issuance of a renewed marijuana facility license by the village, the premises shall be inspected to assure that it and its systems are in compliance with the requirements of this chapter.

#### Section 10 - Transfer, sale or purchase of license.

(a) A marijuana business license is valid only for the owner named thereon, the type of business disclosed on the application for the license, and the location for which the license is issued. The licensees of a marijuana business license are only those persons disclosed in the

application or subsequently disclosed to the village in accordance with this chapter.

(b) Each operating license is exclusive to the licensee and a licensee or any other person must submit an application for licensure with the village clerk before a license is transferred, sold, or purchased. The attempted transfer, sale, or other conveyance of an interest in a license without prior application with the village clerk is grounds for suspension or revocation of the license.

#### Section 11 - License as revocable privilege.

An operating license granted by this chapter is a revocable privilege granted by the village and is not a property right. Granting a license does not create or vest any right, title, franchise, or other property interest. Each license is exclusive to the licensee, and a licensee or any other person must apply for and receive the village's approval before a license is transferred, sold, or purchased. A licensee or any other person shall not lease, pledge, or borrow or loan money against a license. The attempted transfer, sale, or other conveyance of an interest in a license without prior board approval is grounds for suspension or revocation of the license or for other sanction considered appropriate by the village.

#### Section 12 - Nonrenewal, suspension or revocation of license.

(a) The village may, after notice and hearing, suspend, revoke or refuse to renew a license for any of the following reasons:

- (1) The applicant or licensee, or his or her agent, manager or employee, has violated, does not meet, or has failed to comply with, any of the terms, requirements, conditions or provisions of this chapter or with any applicable state or local law or regulation.
  - (2) The applicant or licensee, or his or her agent, manager or employee, has failed to comply with any special terms or conditions of its license pursuant to an order of the state or local licensing authority, including those terms and conditions that were established at the time of issuance of the license and those imposed as a result of any disciplinary proceedings held subsequent to the date of issuance of the license; or
  - (3) The marijuana commercial entity has been operated in a manner that adversely affects the public health, safety or welfare.
- (b) Evidence to

support a finding under this section may include, without limitation, a continuing pattern of conduct, a continuing pattern of drug-related criminal conduct within the premises of the marijuana commercial entity or in the immediate area surrounding such business, a continuing pattern of criminal conduct directly related to or arising from the operation of the marijuana commercial entity, or an ongoing nuisance condition emanating from or caused by the marijuana commercial entity. Criminal conduct shall be limited to the violation of a state law or regulation or village ordinance.

(b) The zoning board of appeals shall hear and decide questions that arise in the administration of this chapter, including appeals of suspension and revocations of village operating licenses. The concurring vote of a majority of the members of the zoning board of appeals is necessary to reverse an order, requirement, decision, or determination of an administrative official in the application of this chapter.

## ARTICLE IV. - SPECIFIC MARIJUANA FACILITY REQUIREMENTS

### Section 13 - Grower license.

- (a) A grower may not hold more than one class of grower license.
- (b) A grower shall comply with all of the following:
  - (1) Until December 31, 2021, have as an active employee an individual who has a minimum of two years' experience as a registered primary caregiver.
  - (2) While holding a license as a grower, not be a registered primary caregiver and not employ and individual who is simultaneously a registered primary caregiver.
  - (3) Enter all transactions, current inventory, and other information into the statewide monitoring system as required in this act, rules, and the marijuana tracking act.
  - (4) Sell or transfer marijuana seeds or marijuana plants only to another grower by means of a secure transporter.
  - (5) Sell or transfer marijuana, other than seeds, only to a processor or provisioning center by means of a secure transporter.
- (c) No pesticides or insecticides which are prohibited by applicable law for fertilization or production of edible produce shall be used on any marijuana cultivated, produced, or distributed by a marijuana business.
- (d) A marijuana business shall be ventilated so that the odor of marijuana cannot be detected by a person with a normal sense of smell at the exterior of the marijuana business or at any adjoining use or property.

### Section 14 - Processor license.

- (a) A processor license authorizes the purchase or transfer of marijuana only from a grower and sale or transfer of marijuana-infused products or marijuana only to a provisioning center.
- (b) A processor shall comply with all of the following:
  - (1) Until December 31, 2021, have as an active employee an individual who has, a minimum of two years' experience as a registered primary caregiver.

(2) While holding a license as a processor, not be a registered primary caregiver and not employ an individual who is simultaneously a registered primary caregiver.

(3) Enter all transactions, current inventory, and other information into the statewide monitoring system as required in this act, rules, and the marijuana tracking act.

(4) Transfer marijuana and marijuana-infused products only by means of a secure transporter.

#### Section 15 - Secure transporter license.

(a) A secure transporter license authorizes the storage and transport of marijuana, marijuana-infused products and money associated with the purchase or sale of marijuana and marijuana-infused products between marijuana facilities at the request of a person with legal custody of the marijuana, marijuana-infused products, or money. It does not authorize transport to a registered qualifying patient or registered primary caregiver who is not a licensee.

(b) A secure transporter which operates from a marijuana facility located within the village shall secure a license from the village. A state-licensed secure transporter which does not have a facility located in the village, may, without securing a license from the village operate on public streets and highways within the village.

(c) A secure transporter shall comply with all of the following:

(1) Each driver transporting marijuana, marijuana-infused products, or money related to the purchase or sale of marijuana or marijuana-infused products must have a chauffeur's license issued by the State of Michigan.

(2) Each employee of a secure transporter who has custody of marijuana, marijuana-infused products or money that is related to the purchase or sale of marijuana or marijuana-infused products 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 years or have been convicted of a misdemeanor involving a controlled substance within the past five 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 marijuana or marijuana-infused products.
- (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 marijuana and marijuana-infused products shall be transported in one or more sealed containers and shall not be accessible while in transit.
- (6) A secure transporting vehicle shall not bear markings or other indication that it is carrying marijuana or a marijuana-infused product.
- (7) A secure transporter is subject to administrative inspection by a law enforcement officer at any point during the transportation of marijuana or marijuana-infused products to determine compliance with this Act.
- (8) A secure transporter shall enter all transactions, current inventory, and other information into the statewide monitoring system as required in this Act, rules, and the Marijuana Tracking Act.
- (9) When determining and reporting the route to take, a secure transporter shall select the most direct route that provides efficiency and safety.

#### Section 16 - Marijuana retailer license.

- (a) No Marijuana retailers, nor provisioning centers, nor dispensaries as defined by MRTMA are authorized to operate within the Village of Farwell.
- (b) All transfers of marijuana and marijuana-infused products to a provisioning center from a separate marijuana facility shall be by means of a secure transporter.

#### Section 17 - Safety compliance facility license.

- (a) A licensed safety compliance facility is authorized to:

(1) Receive marijuana from, test marijuana for, and return marijuana to a marijuana facility; and

(2) Receive from, test for, and return 2.5 ounces or less of marijuana to a registered primary caregiver.

(b) A safety compliance facility must be accredited by an entity approved by the board by one year after the date the license is issued or have previously provided drug testing services to this state or this state's court system and be a vendor in good standing in regard to those services. The board may grant a variance from this requirement upon a finding that the variance is necessary to protect and preserve the public health, safety, or welfare.

(c) An applicant and each investor with any interest in a safety compliance facility cannot have an interest in a grower, secure transporter, processor, or provisioning center.

(d) A safety compliance facility shall comply with all of the following:

(1) Perform tests to certify that marijuana is reasonably free of chemical residues such as fungicides and insecticides.

(2) Use validated test methods to determine tetrahydrocannabinol, tetrahydrocannabinol acid, cannabidiol, and cannabidiol acid levels.

(3) Perform tests that determine whether marijuana complies with the standards the board establishes for microbial and mycotoxin contents.

(4) Perform other tests necessary to determine compliance with any other good manufacturing practices as prescribed in rules.

(5) Enter all transactions, current inventory, and other information into the statewide monitoring system as required in this act, rules, and the marijuana tracing act.

(6) Have a secured laboratory space that cannot be accessed by the general public.

(7) Retain and employ at least one staff member with a relevant advanced degree in a medical or laboratory science.

## ARTICLE V. - GENERAL REQUIREMENTS

### Section 18 - Compliance with rules; inspections.

(a) A licensee shall strictly comply with the rules and emergency rules that may from time to time be promulgated by the State of Michigan.

(b) A licensee shall adopt and use the statewide monitoring system of inventory control and tracking authorized by the Marijuana Tracking Act so as to provide the capability for the licensee to comply with the state requirements applicable to the type of license held by the licensee.

(c) A marijuana facility and all articles of property in the facility are subject to inspection, search and examination at any time by a member of the Clare County Sheriff's Department or the Department of State Police.

(d) Any failure by a licensee to comply with department rules or the provisions of this chapter is a violation of this chapter and any infraction or violation, however slight, is sufficient grounds for suspension and revocation of licensure under this chapter.

### Section 19 - Signage and advertising.

All signage and advertising for a marijuana facility shall comply with all applicable provisions of this Ordinance and the Village Zoning Ordinance. In addition, it shall be unlawful for any licensee to:

(1) Use signage or advertising with the word marijuana, marijuana or cannabis or any other word, phrase or symbol commonly understood to refer to marijuana unless such word, phrase or symbol is immediately preceded by the word "medical" in type and font that is at least as readily discernible as all other words, phrases or symbols;

(2) Use advertising material that is misleading, deceptive or false or that, as evidenced by the content of the advertising material or by the medium or the manner in which the advertising materials is disseminated, is designed to appeal to minors.

### Section 20 - Warning signs.



There shall be posted in a conspicuous location in each facility a legible sign containing the content of this section warning that:

- (1) The possession, use or distribution of marijuana is a violation of federal law;
- (2) It is illegal under state law to drive a motor vehicle or to operate machinery when under the influence of, or impaired by, marijuana; and
- (3) No one under the age of 18 years is permitted on the premises.

#### Section 21 - Security requirements.

(a) Security measures at all licensed premises shall comply with the requirements of all applicable rules and regulations promulgated by the department.

(b) A description of the security plan shall be submitted with the application for a village operating license. The security system, shall be maintained in good working order and provide 24 hours per day coverage. A separate security system is required for each facility.

(c) The security plan must include, at a minimum, the following security measures:

(1) Cameras. The marijuana business shall install and use security cameras to monitor and record all areas of the premises (except in restrooms) where persons may gain or attempt to gain access to marijuana or cash maintained by the marijuana business entity. Cameras shall record operations of the business to the off-site location, as well as all potential areas of ingress or egress to the business with sufficient detail to identify facial features and clothing. Recordings from security cameras shall be maintained for a minimum of 45 days in a secure offsite location in the village or through a service over a network that provides on-demand access, commonly referred to as a "cloud." The offsite location shall be included in the security plan submitted to the village and provided to the department of public safety upon request, and updated within 72 hours of any change of such location.

(2) Use of safe for storage. The marijuana business shall install and use a safe for storage of any processed marijuana and cash on the premises when a business is closed to the public. The safe shall be incorporated into the building structure or securely

attached thereto. For marijuana-infused products that must be kept refrigerated or frozen, the business may lock the refrigerated container or freezer in a manner authorized by the village in place of use of a safe so long as the container is affixed to the building structure.

(3) Alarm system. The marijuana business shall install and use an alarm system that is monitored by a company that is staffed 24 hours a day, seven days a week. The security plan submitted to the village shall identify the company monitoring the alarm, including contact information, and updated within 72 hours of any change of monitoring company.

#### Section 22 - Visibility of activities; control of emissions.

(a) All activities of marijuana commercial entities, including, without limitation, the cultivating, growing, processing, displaying, manufacturing, selling, and storage of marijuana and marijuana-infused products shall be conducted indoors and out of public view.

(b) No marijuana or paraphernalia shall be displayed or kept in a business so as to be visible from outside the licensed premises.

(c) Sufficient measures and means of preventing smoke, odors, debris, dust, fluids and other substances from exiting a marijuana commercial entity must be provided at all times. In the event that any odors, debris, dust, fluids or other substances exit a marijuana commercial entity, the owner of the subject premises and the licensee shall be jointly and severally liable for such conditions and shall be responsible for immediate, full clean-up and correction of such condition. The licensee shall properly dispose of all such materials, items and other substances in a safe, sanitary and secure manner and in accordance with all applicable federal, state and local laws and regulations.

#### Section 23 - Marijuana cultivation.

(a) Cultivation, generally:

(1) No marijuana cultivation shall be conducted openly or publicly.

(2) Marijuana cultivation shall comply with all applicable requirements of the laws and regulations of the village and the state.

(3) Marijuana cultivation shall not occur in detached outbuildings.

(4) All marijuana cultivation shall take place in a locked and enclosed space.

(b) All marijuana products kept on premises where marijuana plants are grown shall be stored in a locked and enclosed space.

(c) The use of any lighting for indoor marijuana cultivation shall be limited to light-emitting diodes (LEDs), compact fluorescent lamps (CFLs) or other fluorescent lighting. All high-intensity discharge (HID) lighting, including, but not limited to, mercury vapor lamps, metal-halide (MH) lamps, ceramic MH lamps, sodium-vapor lamps, high-pressure sodium (HPS) lamps and xenon short-arc lamps, is prohibited.

(d) No marijuana cultivation activity shall result in the emission of any gas, vapors, odors, smoke, dust, heat or glare that is noticeable at or beyond the property line of the parcel at which the cultivation occurs. Sufficient measures and means of preventing the escape of such substances from a parcel must be provided at all times. In the event that any gas, vapors, odors, smoke, dust, heat or glare or other substances exit a parcel, the owner of the subject premises shall be liable for such conditions and shall be responsible for immediate, full clean-up and correction of such condition. The owner shall properly dispose of all such materials, items and other substances in a safe, sanitary and secure manner and in accordance with all applicable federal, state and local laws and regulations. In the event there is a lessee of the subject premises, the owner and the lessee shall be jointly and severally liable for such conditions.

#### Section 24 - Odor control.

(a) No person, tenant, occupant, or property owner shall permit the emission of marijuana odor from any source to result in detectable odors that leave the premises upon which they originated and interfere with the reasonable and comfortable use and enjoyment of another's property.

(b) Whether or not a marijuana odor emission interferes with the reasonable and comfortable use and enjoyment of a property shall be measured against the objective standards of a reasonable person of normal sensitivity.

(c) A grower or a processor shall install and maintain in operable condition a system which precludes the emission of marijuana odor from the premises.

#### Section 25 - Separation of licensed premises.

A grower facility and processor facility are separate marijuana commercial entities requiring separate licenses and separate premises, although consistent with the zoning ordinance may occupy one zoning parcel. In addition to all other application requirements for separate premises, each business shall:

- (1) Have separate operations, ventilation, security, and fire suppression systems, and separate access from a public area.
- (2) Be divided within a building from floor to roof. Unless higher performance is required by applicable law, there must be a minimum of a one-hour fire separation between a marijuana business and any adjacent business.

#### Section 26 - Prohibited acts.

(a) It shall be unlawful for any licensee to permit the consumption of alcohol beverages on the licensed premises.

(b) It shall be unlawful for any licensee holding a marijuana retailer license, or for any agent, manager or employee thereof, to:

- (1) Sell, give, dispense or otherwise distribute marijuana or marijuana paraphernalia from any outdoor location;
- (2) Sell, give, dispense or otherwise distribute to any patient or primary caregiver who is not a licensee more usable form of marijuana (including the useable marijuana equivalent of marijuana-infused products) within any seven-day period of time than they are allowed by the MMMA to possess.

(c) It shall be unlawful for retail marijuana establishments to distribute marijuana or marijuana-infused products to a consumer free of charge.

(d) It shall be unlawful for any licensee to permit the consumption of retail marijuana or retail marijuana products on the licensed premises.

(e) It shall be unlawful for any licensee to sell marijuana or marijuana products at a licensed provisioning center at any time other than between the hours of 7:00 a.m. and 9:00 p.m. daily.

#### Section 27 - Reports of crime.

Reports of all criminal activities or attempts of violation of any law at the marijuana facility or related thereto shall be reported to Clare County Sheriff's Department within 12 hours of occurrence, or its discovery, whichever is sooner.

#### Section 28 - Inspection of licensed premises.

(a) During all business hours and other times when the premises are occupied by the licensee or an employee or agent of the licensee, all licensed premises shall be subject to examination and inspection by the village for the purpose of investigating and determining compliance with the provisions of this chapter and any other applicable state and local laws or regulations.

(b) Consent to inspection. Application for a marijuana business license or operation of a medical marijuana business, or leasing property to a marijuana business, constitutes consent by the applicant, and all owners, managers and employees of the business, and the owner of the property to permit the village manager to conduct routine examinations and inspections of the marijuana business to ensure compliance with this chapter or any other applicable law, rule or regulation. For purposes of this chapter, examinations and inspections of marijuana businesses and recordings from security cameras in such businesses are part of the routine policy of enforcement of this chapter for the purpose of protecting the public safety, individuals operating and using the services of the marijuana business, and the adjoining properties and neighborhood.

(c) Application for a marijuana business license constitutes consent to the examination and inspection of the business as a public premise without a search warrant, and consent to seizure of any surveillance records, camera recordings, reports, or other materials required as a condition of a marijuana license without a search warrant.

(d) A licensee, or an employee or agent of the licensee, shall not threaten, hinder or obstruct a law enforcement officer or a village inspector or investigator in the course of making an examination or inspection of the

licensed premises and shall not refuse, fail, or neglect to cooperate with a law enforcement officer, inspector, or investigator in the performance of his or her duties to enforce this chapter, the MMFLA, MRTMA, or applicable state administrative rules.

#### Section 29 - Financial statements.

Within 30 days after the end of the state fiscal year, each licensee shall transmit to the village financial statements of the licensee's total operations. The financial statements shall be reviewed by a certified public accountant licensed in this state. The financial statements shall be in a manner and form prescribed by the board.

#### Section 30 - Additional requirements.

(a) No marijuana business may use metals, butane, propane, or other flammable product, or produce flammable vapors, to process marijuana unless the process used and the premises are verified as safe and in compliance with all applicable codes by a qualified industrial hygienist.

(b) The village shall require the business to obtain verification from a qualified industrial hygienist that the manner in which the business is producing marijuana complies with all applicable laws and does not produce noxious or dangerous gases or odors or otherwise create a danger to any person or entity in or near the businesses.

#### Section 31 - Other laws remain applicable.

To the extent the state adopts in the future any additional or stricter law or regulation governing the sale or distribution of marijuana, the additional or stricter regulation shall control the establishment or operation of any marijuana commercial entity in the village. Compliance with any applicable state law or regulation shall be deemed an additional requirement for issuance or denial of any license under this article, and noncompliance with any applicable state law or regulation shall be grounds for revocation or suspension of any license issued hereunder.

#### Section 32 - Grant of administrative authority.

The village clerk is granted the power and duty to fully and effectively implement and administer the license application process and issuance of provisional approval certificates and operating licenses issued by the village under this Ordinance. The village clerk, after consultation with the village council, shall promulgate such rules as necessary to implement and administer this chapter.

Section 33 - Violations and penalties.

In addition to the possible denial, suspension, revocation or nonrenewal of a license under the provisions of this Ordinance, any person, including, but not limited to, any licensee, manager or employee of a marijuana commercial entity, or any customer of such business, who violates any of the provisions of this Ordinance, shall be guilty of a misdemeanor punishable by no more than 90 days in jail and/or \$500 fine.

Section 34 - Repealer.

All former ordinances or parts of ordinances conflicting or inconsistent with the provisions of this chapter are repealed.

Section 35 - Severability.

If any section, subsection, sentence, clause, phrase or portion of this chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, said portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity and enforceability of the remaining portions of this chapter.

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**Zoning Ordinance, Article 16, Sections 16.30 of the Code of Ordinances, Village of Farwell, Michigan, is hereby repealed.**

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**Zoning Ordinance, Article 16, Sections 16.31, Application for and Renewal of Permits, of the Code of Ordinances, Village of Farwell, Michigan, is hereby repealed.**

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**Zoning Ordinance, Article 12, Section 12.03, Special Land Uses, of the Code of Ordinances, Village of Farwell, Michigan, is hereby revoked and restated as follows:**

Section 12.03 Special Land Uses.

The following special land uses shall be permitted subject to review by the Planning Commission and approval by the Village Council and further subject to any and all reasonable conditions which may be imposed in accordance with the Zoning Enabling Act, as amended, Article 15, "Special Land Use Conditions, Review, and Approval," Article 16, "Special Land Use Requirements," and Article 17, "Site Plan Review and Approval" of this Zoning Ordinance.

- (1) Heating and Electrical Power Generating Plants.
- (2) Heavy Metals Processing and Production (foundries, casting plants, or similar).
- (3) Public Utility Facilities with Service Yards.
- (4) Wireless communication Support Facilities and Antennas.
- (5) Solar Energy Facilities.
- (6) The Village hereby authorizes the operation of the following types of Commercial Marihuana Facilities, subject to the number of available Permits issued in this Section:
  - (a) As permitted and licensed, pursuant to the Michigan Medical Marihuana Facilities and Licensing Act, Public Act 281 of 2016,  
Growers: Class C, four state licenses stacked at one location.  
One Processor license.
  - (b) As permitted and licensed pursuant to the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951,



Three Grower Licenses Class C

One Processor License.

(c) The Village Council may review and amend these numbers by resolution annually or as it determines to be advisable.

(d) To the extent “stacking” is allowed under the rules and regulations of the State of Michigan, stacking shall be permitted.

Passed by the Village Council of the VILLAGE OF FARWELL on April 19, 2021, at its regular meeting with six council members in attendance, six voting aye, zero nay. Adopted by the Village Council of the Village of FARWELL this 19<sup>th</sup> day of April, 2021.

Signed:   
Tracey Jackson, President

I hereby certify that the foregoing was duly adopted by the VILLAGE OF FARWELL, Michigan, at its regular meeting on the 19th of April, 2021, that of seven members of the Village Council, six were in attendance and six voted for the adoption of the Ordinance. I further certify that the above and foregoing ordinance is recorded in Ordinances for the VILLAGE OF FARWELL.

Effective Date: May 6, 2021

This Ordinance shall take effect twenty (20) days following date of publication as required by law. All Ordinances or part Ordinances in conflict with any of the provisions of this Ordinance are hereby repealed.

  
Adrian Krawczynski, Clerk



Village of Farwell  
Summary of Ordinance Adoption

Following a formal adoption of the following named Ordinance at a regularly scheduled Council Meeting on Monday, April 19, 2021, the Village of Farwell has adopted the Ordinance No. 2021-01 *“Village of Farwell – Zoning Ordinance Amendment and Marihuana Licensing Ordinance”*. For a full copy of the ordinance, please contact the Village Clerk, at the Village of Farwell, 109 S Hall St, Farwell, MI 48622.

Adrian Krawczynski  
Village of Farwell Clerk

