

VILLAGE OF EAU CLAIRE, BERRIEN COUNTY, MICHIGAN  
ORDINANCE NUMBER 2021- 1,

AN ORDINANCE TO AMEND THE VILLAGE OF EAU CLAIRE, MICHIGAN  
CODE OF ORDINANCES TITLE XI, BUSINESSES REGULATIONS  
BY ADDING SECTION 117, ADULT USE MARIHUANA ESTABLISHMENTS

AN ORDINANCE TO AUTHORIZE AND REGULATE ADULT USE MARIHUANA ESTABLISHMENTS PURSUANT TO THE MICHIGAN REGULATION AND TAXATION OF MARIHUANA ACT BEING INITIATED LAW 1 OF 2018.

At a regular meeting of the Village of Eau Claire, Berrien County, Michigan, held at the Village of Eau Claire Hall on May 17, 2021, at 5:30 p.m., Council Member Virginia Gonzalez moved to adopt the following Ordinance, which motion was seconded by Council Member Jeff Rice:

THE VILLAGE OF EAU CLAIRE ORDAINS:

**Section 1. Purpose**

- A. An Ordinance to implement the provisions of the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, which authorizes the licensing and regulation of Adult Use Marihuana Establishments and affords the Village of Eau Claire the option to regulate the time, place, and manner by which Adult Use Marihuana Establishments may operate in the Village of Eau Claire; to regulate Adult Use Marihuana Establishments by requiring a permit and compliance with requirements of this Ordinance, in order to maintain the public health safety and general welfare of the community; retain the character of neighborhoods; and mitigate potential impacts on surrounding properties and persons.
- B. The purpose of this Ordinance is to regulate Adult Use Marihuana Establishments. The Village of Eau Claire finds that these activities are significantly connected to the public health, safety, security, and welfare of its citizens and it is therefore necessary to regulate and enforce safety, security, fire, policing, health, and sanitation practices related to such activities and also to provide a method to defray administrative costs incurred by such regulation and enforcement. It is not the intent of this Ordinance to diminish, abrogate, or restrict the protections for adult-use marihuana use found in the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951 et seq.
- C. Nothing in this Ordinance is intended to grant immunity from criminal or civil prosecution, penalty, or sanction for the cultivation, manufacture, possession, use, sale, or distribution of marihuana, in any form, that is not in compliance with the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, MCL 333.27951 et seq.; the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.; the Marihuana Tracking Act, MCL 333.27901 et seq.; and all other applicable rules promulgated by the state of Michigan.
- D. As of the effective date of this Ordinance, 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 process marihuana with intent to manufacture, distribute, or

dispense marihuana. Nothing in this Ordinance is intended to grant immunity from any criminal prosecution under federal laws.

## Section 2. Definitions

For the purposes of this Ordinance:

- A. Any term defined by the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27953, shall have the definition given in the Michigan Regulation and Taxation of Marihuana Act (hereinafter, the "Act" as the same may be amended from time to time, which words and phrases are incorporated herein by reference.
- B. Any term defined by LARA and the Marihuana Regulatory Agency shall have the definition given in the Emergency Rules or the Administrative Rules adopted by the Michigan Marijuana Regulation Agency on June 22, 2020, to implement both the Michigan Regulation and Taxation of Marihuana Act (hereinafter, the "MRTMA") and the Medical Marihuana Facilities Licensing Act (hereinafter, the "MMFLA"), as applicable (hereinafter, the "rules") which words and phrases are incorporated herein by reference.
- C. "Village" shall mean the Village of Eau Claire.
- D. "Village Council" shall mean the Village of Eau Claire Council.
- E. "Village Clerk" shall mean the Village of Eau Claire Clerk.
- F. "Equivalent Licenses" means any of the following held by a person:
  - (i) A Marihuana Grower License of any class issued under the Michigan Regulations and Taxation of Marihuana Act and a grower license, of any class, issued under the Medical Marihuana Facilities Licensing Act.
  - (ii) A Marihuana Processor License issued under the Michigan Regulations and Taxation of Marihuana Act and a processor license issued under the Medical Marihuana Facilities Licensing Act.
  - (iii) A Marihuana Retailer License issued under the Michigan Regulations and Taxation of Marihuana Act and a provisioning center license issued under the Medical Marihuana Facilities Licensing Act.
  - (iv) A Marihuana Secure Transporter License issued under the Michigan Regulations and Taxation of Marihuana Act and a secure transporter license issued under the Medical Marihuana Facilities Licensing Act.
  - (v) A Marihuana Safety Compliance Facility License issued under the Michigan Regulations and Taxation of Marihuana Act and a safety compliance facility license issued under the Medical Marihuana Facilities Licensing Act.
- G. "LARA" shall mean the Michigan Department of Licensing and Regulatory Affairs.
- H. "Municipal Permit" shall mean a current and valid permit (hereinafter referred to as "Permit") for a Marihuana Establishment issued under this Ordinance by the Village, which shall be granted to a Permit Holder only for and limited to a specific Permitted Premises and a specific Permitted Property.
- I. "Marihuana Establishment" shall mean a Marihuana Grower, Marihuana Safety Compliance Facility, Marihuana Processor, Marihuana Microbusiness, Marihuana Retailer,

Marihuana Secure Transporter, or any other type of marihuana related business licensed by LARA. "Marihuana Establishment" or "Establishment" shall mean Adult Use Marihuana Establishments.

- J. "Marihuana Event Organizer" means a person licensed by the State to apply for a temporary marihuana event license under the rules issued by LARA.
- K. "Marihuana Grower" shall mean a person licensed by the State to cultivate marihuana and sell or otherwise transfer marihuana to marihuana establishments.
- L. "Marihuana Microbusiness" shall mean a person licensed by the State to cultivate not more than 150 marihuana plants; process and package marihuana; and sell or otherwise transfer marihuana to individuals who are 21 years of age or older or to a marihuana safety compliance facility, but not to operate other marihuana establishments.
- M. "Marihuana Processor" shall mean a person licensed by the State to obtain marihuana from marihuana establishments; process and package marihuana; and sell or otherwise transfer marihuana to marihuana establishments.
- N. "Marihuana Product" shall mean marihuana or a marihuana-infused product, or both, as those terms are defined in the Act unless otherwise provided for in the Rules.
- O. "Marihuana Retailer" shall mean a person licensed by the State to obtain marihuana from marihuana establishments and to sell or otherwise transfer marihuana to marihuana establishments and to individuals who are 21 years of age or older.
- P. "Marihuana Safety Compliance Facility" means a person licensed by the State to test marihuana, including certification for potency and the presence of contaminants.
- Q. "Marihuana Secure Transporter" shall mean a person licensed by the State to obtain marihuana from marihuana establishments in order to transport marihuana to marihuana establishments.
- R. "Permitee" shall mean a person holding a permit issued under the provisions of this Ordinance.
- S. "Permit Holder" means the person that holds a current and valid permit issued under this Ordinance.
- T. "Permitted Premises" means the building or buildings within which the municipal permit holder will be authorized to conduct the marihuana establishment pursuant to the provisions of this Ordinance.
- U. "Permitted Property" means the real property comprised of a lot, parcel of other designated unit of real property on which the permitted premises is situated.
- V. "Person" shall mean an individual, corporation, limited liability company, partnership of any type, trust, or other legal entity.
- W. "Stakeholder" shall mean any shareholder of a corporation, partner in a partnership, member of a limited liability company or individual of a sole proprietorship.

- X. "State" shall mean the State of Michigan.
- Y. "Temporary Marihuana Event" shall mean an event held by a marihuana event organizer for an event where the onsite sale or consumption of marihuana products, or both, are authorized at the location indicated on the Village permit and State license during the dates indicated on the Village permit and State license.
- Z. "Zoning Ordinance" shall mean the Village of Eau Claire Zoning Ordinance.

**Section 3. Authorization of Marihuana Establishments and Fee**

- A. The maximum number of each type of Adult Use Marihuana Establishments allowed in the Village shall be as follows in accordance with the regulations below:

Number of Marihuana Establishments to be Permitted:

Marihuana Grower:	
Class A - not more than 100 marihuana plants	1
Class B - not more than 500 marihuana plants	1
Class C - not more than 2,000 marihuana plants	1
Marihuana Processor	2
Marihuana Retailer	2
Marihuana Secure transporter	2
Marihuana Safety compliance facility	2
Marihuana Microbusiness	1
Temporary Marihuana Event	1

- B. The Village shall only accept applications for Marihuana Establishments from persons holding both a Municipal Permit and a State Operating License pursuant to the MMFLA, 2016 PA 281, MCL 333.27101 to 333.27801.
- C. At least every year after adoption of this Ordinance, Village Council may, review, as needed the maximum number of each type of marihuana establishments allowed and determine whether this maximum number should be changed. The review and its findings shall be recorded in the minutes of the relevant meeting of the Village Council.
- D. A nonrefundable fee shall be paid by each marihuana establishment permitted under this Ordinance in an annual amount of not more than \$5,000.00 as set by resolution of the Village Council as follows:

- Marihuana Grower (all Classes): \$5,000.
- Marihuana Processor: \$5,000
- Marihuana Retailer: \$5,000
- Marihuana Secure Transporter: \$5,000
- Marihuana Safety Compliance Facility: \$5,000
- Marihuana Microbusiness: \$5,000
- Temporary Marihuana Event: \$1,000 plus \$500.00 per day.
- Marihuana Event Organizer: \$1,000 per event.

#### Section 4. Requirements and Procedure for Issuing Marihuana Establishment Permits

- A. No person shall operate a Marihuana Establishment in the Village without a valid Marihuana Establishment Permit issued by the Village pursuant to the provisions of this Ordinance.
- B. No Person shall be issued a Permit by the Village without first having obtained from the Planning Commission a Special Use Permit authorizing the operation of the establishment pursuant to the Zoning Ordinance.
- C. No person who is employed by the Village, acts as a consultant for the Village or acts as an advisor to the Village, and is involved in the implementation, administration or enforcement of this Ordinance shall have an interest, directly or indirectly, in a Marihuana Establishment.
- D. The Village shall only accept applications for Marihuana Establishments from persons holding both a Municipal Permit and a State Operating License pursuant to the MMFLA, 2016 PA 281, MCL 333.27101 to 333.27801. Upon receipt of an application, the Village Clerk shall file the same and assign it a sequential application number by establishment type based on the date and time of receipt.
- E. The requirements of D. above shall **not** apply to applicants for an adult use Marihuana Microbusiness. Upon receipt of an application, the Village Clerk shall file the same and assign it an application number based on the date and time of receipt.
- F. Application for each Adult Use Marihuana Establishment Permit shall be made in writing to the Village Clerk and shall be considered by the Village Council after the applicant has received a Special Use Permit from the Planning Commission and has been approved by the State prior to commencing operation.
- G. An application for an Adult Use Marihuana Establishment Permit required by this Ordinance shall contain the following:
  - 1. The appropriate non-refundable permit application fee in the amount determined by the Village as set forth in this Ordinance.
  - 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(s) attached to the individual, copy of government issued photo identification, email address, and one or more phone numbers, including emergency contact information, and if applicable Federal EIN;
  - 3. If the applicant is not an individual, the names, date of birth, Social Security Number, physical addresses, including residential and any business address(s), copy of government issued photo identification, email addresses, and one or more phone numbers of each Stakeholder of the applicant, including designation of the highest ranking stakeholder and/or general partner as an emergency contact person and contain information for the emergency contact person, articles of incorporation or organization, assumed name registration documents, Internal Revenue Service SS-4, EIN confirmation letter(s), and a 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 by-laws or shareholder agreement, if a corporation;

4. The name and address of the proposed Adult Use Marihuana Establishment.
5. A copy of the Special Use Permit issued by the Planning Commission.
6. 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.
7. A signed release authorizing the Eau Claire Police Department to perform a criminal background check to ascertain whether the applicant, each Stakeholder of the applicant, each managerial employee and employee of the applicant meet the criteria set forth in this Ordinance;
8. The name, date of birth, physical address (residential and any business address(s)), copy of photo identification, and email address for any managerial employee or employee of the Adult Use Marihuana Establishment, if other than the applicant;
9. One of the following: (a) proof of ownership of the entire premises wherein the Marihuana Establishment is to be operated; or (b) written consent from the property owner for use of the premises as a marihuana establishment requiring a permit under this Ordinance along with a copy of the lease for the premises;
10. Proof of, or ability to obtain, an adequate premise liability and casualty insurance policy in the amount not less than the requirements addressed in the Act or applicable State Laws, covering the Adult Use Marihuana Establishment and naming the Village as an additional insured party.
11. A description of the security plan for the Adult Use Marihuana Establishment, including, but not limited to, any lighting, alarms, barriers, recording/monitoring devices, and/or security guard arrangements proposed for the facility and premises. The security plan must contain the specification details of each piece of security equipment;
12. A floor plan of the Adult Use Marihuana Establishment, as well as a scale diagram site plan illustrating the property upon which the Adult Use Marihuana Establishment is to be operated, including all available parking spaces, and specifying which

parking spaces, if any, are handicapped-accessible, and the location of the Material Safety Data Sheets and any chemical storage;

13. A staffing plan;
  14. Any proposed text or graphical materials to be shown on the exterior of the proposed Adult Use Marihuana Establishment;
  15. A location area map of the Adult Use Marihuana Establishment and surrounding area that identifies the relative locations and the distances (closest property line to the subject Adult Use Marihuana Establishment's building) to the subject Adult Use Marihuana Establishment 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 as determined by the Village Assessor's Office;
  16. As it relates to a Grower Establishment, the following additional items shall be required:
    - a. An affidavit stating that all operations will be conducted in conformance with the Act, the Rules issued by LARA, or other applicable State laws and such operations shall be cultivated on the premises at any one time not more than the permitted number of marihuana plants per the Act;
    - b. An affidavit stating that all Growing shall be performed within an enclosed, locked building.
  17. A Temporary Marihuana Event Permit shall only be issued to a person who also holds a valid Marihuana Event Organizer Permit from the Village, and a License from the State. The application shall state the dates and hours of operation for which the Temporary Marihuana Event Permit is being sought.
- H. Upon receipt of a completed Adult Use Marihuana Establishment Permit application meeting the requirements of this Ordinance and confirmation that the number of existing permits does not exceed the maximum number established by this Ordinance, the Village Clerk shall route a copy of the application to each of the following for their review and approval: the Police Department or their designee, the Fire Department or their designee, the Building Department, the Zoning Administrator and the Village Treasurer or their designee. Once applications are verified by each department to be sufficiently complete and comprehensive, and no sooner, the Village Clerk shall forward the applications to the Village Council for review and approval or denial.
- I. No application shall be approved unless:
- a. The Fire Department or designee and the Building Department have inspected the plans of the proposed location for compliance with all laws they enforce;
  - b. The applicant, each Stakeholder of the applicant, and the managerial employees and employees of the applicant, have passed a criminal background check conducted by the Eau Claire Village Police Department;

- c. The Zoning Administrator has confirmed that the proposed location complies with the Zoning Ordinance;
  - d. The Village Treasurer or their designee has confirmed that the applicant and each Stakeholder of the applicant are not in default to the Village;
- J. When written approval is given by each individual or department identified in Section 4 E. and the applicant has received the required Special Use Permit from the Planning Commission, the Village Clerk shall submit the application to the Village Council for consideration of issuing a permit to the applicant. All permits issued are contingent upon the State of Michigan issuing a license for the operation under State Initiated Law No 1 of 2019, MCL 333.27951 et seq.
- K. Permittees shall report any other change in the information required by this Ordinance, to the Village within ten (10) days of the change.

### **Section 5. Permit Renewal**

- A. Adult Use Marihuana Establishment Permits shall be valid for one year from the date of issuance, unless revoked as provided by law and this Ordinance.
- B. A valid Adult Use Marihuana Establishment Permit may be renewed on an annual basis by submitting a renewal application upon a form provided by the Village and payment of the annual permit fee. Application to renew an Adult Use Marihuana Establishment Permit shall be filed at least thirty (30) days prior to the date of its expiration.
- C. Additionally, a Municipal Permit may be renewed by the Village for one (1) year if (1) there are no uncured administrative and/or legal violations in the prior year, including no taxes owed;(2) the applicant has paid the annual permit fee for the renewal period; (3) any Stakeholder changes have been fully disclosed to the Village; (4) the applicant has paid and received the renewal of its State License; and (5) the applicant is operational or the establishment is under construction with a stated completion date.
- D. The renewal application for an Adult Use Marihuana Permit shall be subject to the same scrutiny and evaluation process as the inaugural permit application.

### **Section 6. Permit Application Evaluation**

- A. The Village Council shall consider all completed applications received from the Village Clerk.
- B. In its application deliberations, the Village Council shall assess each application in each of the following categories:
  - 1. The applicant's experience in operating its medical marihuana facility(s) in the Village.
  - 2. The applicant's record of compliance with all applicable marihuana laws and rules in the State of Michigan and the Ordinances of the Village.



3. As it relates to operation of a Retailer or any other type of marihuana related business, the applicant's type of service and product that will be offered and the overall theme and atmosphere of the proposed marihuana establishment.
- C. The Village Council shall assess each application within the aforementioned categories and may issue a permit to the applicant if an applicant has satisfactorily met all requirements.

### **Section 7. Permits Generally**

- A. To the extent permissible, all information submitted in conjunction with an application for a permit or permit renewal required by this Ordinance is confidential and exempt from disclosure under the Michigan Freedom of Information Act, 1976 PA 442, MCL 15.231 et. seq.
- B. Permittees may transfer a permit issued under this Ordinance to a different location upon receiving written approval from the Village. In order to receive approval to transfer a permit location, the permittee must make a written request to the Village Clerk, indicating the current permit location and the new proposed permit location. Upon receiving the written request, the Village Clerk shall refer a copy of the written request to each of the following for their approval: Fire Department or their designee, the Building Department, the Police Department or their designee, the Zoning Administrator, the Planning Commission and the Village Council. No permit transfer shall be approved unless each such individual or department gives written approval that the permittee and the proposed permit location meet the standards identified in this Ordinance.
- C. Permittees may transfer a permit issued under this Ordinance to a different individual or entity upon receiving written approval by the Village Clerk. In order to request approval to transfer a permit to a different individual or entity, the Permittee must make a written request to the Village Clerk, indicating the current Permittee and the proposed Permittee. Upon receiving the written request, the Village Clerk shall consider the request as a new application for a permit and the procedures set forth in this Ordinance shall be followed as for a new application.
- D. Permittee shall report any other change in the information required by this Ordinance to the Village Clerk within ten (10) business days of the change. Failure to do so may result in suspension or revocation of the permit.

### **Section 8. Minimal Operational Standards for All Marihuana Establishments**

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

- A. All Marihuana Establishments shall comply at all times and in all circumstances with the Act and applicable Michigan law, and the rules of the Department of Licensing and Regulatory Affairs as they may be amended from time to time. It is the responsibility of the owner to be aware of changes in the Act. The Village bears no responsibility for failure of the owner to be aware of changes in the Act.
- B. Consumption and/or use of marihuana shall be prohibited on the premises of the Establishment, except for Temporary Marihuana Events, and a sign shall be posted on the

premises of each Establishment indicating that consumption is prohibited on the premises;

- C. The Establishment shall be open, during regular business hours, to any representative of LARA, state police officer, or Village Police Officer, and said individuals may enter the premises, office, Establishments, or other places of a business of a Permittee, for the following:
  - 1. To inspect and examine all premises of Marihuana Establishments;
  - 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: and
  - 3. To investigate alleged violations of the Act, this Ordinance and applicable Michigan law.
- D. The Marihuana Establishment 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 thirty (30) days and be available upon request of the Village Police Department. The storage establishment shall not be used for any other commercial purpose.
- E. The Marihuana Establishment shall secure every entrance to the Marihuana Establishment and only permit those individuals described in the Ordinance or the Act access to the premises.
- F. The Marihuana Establishment shall be maintained and operated in compliance with all state and local rules, regulations and ordinances. All Marihuana Establishments 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 and secure building;
- H. Disposal of Marihuana shall be accomplished in a manner that prevents its acquisition by any person who may not lawfully possess it and otherwise is in conformance with local and state laws and regulations;
- I. All necessary building, electrical, plumbing and mechanical permits shall be obtained for any portion of the structure in which electrical wiring, lighting and/or watering devices that support the growing, harvesting and processing of marihuana are located.
- J. 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; and
  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.
- K. Litter and waste shall be properly removed and the operating systems for waste disposal shall be maintained so that they do not constitute a source of contamination.
  - L. Floors, walls and ceilings shall be constructed in such a manner that they shall be cleaned and kept clean and in good repair;
  - M. There shall be adequate screening or other protection against the entry of pests. Rubbish shall be disposed of so as to prohibit the development of odor and eliminate the potential for waste becoming an attractant, harborage or breeding place for pests;
  - N. Marihuana that can support the rapid growth of undesirable microorganisms including but not limited to mold shall be held in a manner that prevents the growth of these microorganisms;
  - O. The portion of the structure storing any chemicals such as herbicides, pesticides, and fertilizers shall be subject to inspections at any time and approval by the Village of Eau Claire Fire Department to ensure compliance with all applicable statues, codes and ordinances;
  - P. All building fixtures and equipment shall be maintained in a sanitary condition;
  - Q. Odor from operations shall not be detectable beyond the property line of the Marihuana Establishment.
  - R. No Marihuana Establishment shall be located within one thousand (1,000) feet of real property comprising an operational public or private elementary, vocational, or secondary school in existence at the time of adoption of this Ordinance.
  - S. Equivalent Licenses; operation at same location. A person that holds equivalent licenses with common ownership under the acts may operate those equivalent licenses at the same location provided the person complies with Michigan Administrative Rule 420.205 and all other applicable statues, ordinances and rule.

### **Section 9. Minimum Operational Standards of Grower Establishments**

The following minimum standards for Grower Establishments shall apply:

- A. The Grower Establishment shall comply at all times and in all circumstances with the Act, and the general rules of the Department of Licensing and Regulatory Affairs, as they may be amended from time to time;
- B. The premises shall be open for inspection upon probable cause that a violation of this Ordinance has occurred, during the stated hours of operation and at such other times as anyone is present on the premises;

- C. A Grower Establishment shall maintain a logbook and/or database indicating the number of marihuana plants therein. Each marihuana plant will be tagged as required by the Act;
- D. All marihuana shall be grown and contained within an enclosed, locked building;
- E. The dispensing of marihuana at the Grower Establishment shall be prohibited;
- F. Grower Establishments shall be free from infestation by insects, rodents, birds, or vermin of anykind;
- G. Exterior signage or advertising identifying the facility as a Grower Establishment shall be prohibited.
- H. All Grower Establishments shall comply with all applicable requirements of the Zoning Ordinance.

#### **Section 10. Minimum Operational Standards of Processor Establishments**

The following minimum standards for Processor Establishments shall apply:

- A. The Processor shall comply at all times and in all circumstances with the Act, and the general rules of the LARA, as they may be amended from time to time;
- B. All activity related to the Processor Establishment shall be done in an enclosed locked building;
- C. A Processor Establishment shall maintain a logbook and/or database which complies with the Act or applicable state laws;
- D. All marihuana shall be tagged as required by the Act or applicable state laws;
- E. All marihuana shall be contained within enclosed, locked building in accordance with the Act and the provisions of this Ordinance;
- F. The dispensing of Medical Marihuana at the Processor Establishment shall be prohibited;
- G. Processor Establishment shall be free from infestation by insects, rodents, birds, or vermin or any kind;
- H. Processor Establishments shall produce no products other than useable Marihuana as allowed by the State.
- I. Exterior signage or advertising identifying the establishment as a Processor Establishment shall be prohibited.
- J. All Processor Establishments shall comply with all applicable requirements of the Zoning Ordinance.

## Section 11. Minimum Operational Standards of Marihuana Retailers

The following minimum standards for Retailers shall apply:

- A. No Retailer shall be open between the hours of 9 p.m. and 9 a.m.;
- B. All marihuana storage areas within a Retailer must be separated from any adult use customer areas by a permanent and locked barrier. No marihuana is permitted to be stored in any area accessible by the general public or registered customer/patients. Marihuana may be displayed in a sales area in as permitted by the Act, and be in compliance with all federal, state and local laws and regulations;
- C. Any usable marihuana remaining on the premises of a Retailer while the Retailer is closed shall be secured in a safe that is permanently affixed to the premises;
- D. Drive-through window on the premises of a Retailer shall not be permitted;
- E. The sale, consumption, or use of alcohol or tobacco products on the premises is prohibited;
- F. No Retailer shall be operated in a manner creating odors detectable to normal senses beyond the boundaries of the building on which the Retailer is operated;
- G. The permit and State License required by this Ordinance shall be prominently displayed on the premises of the Retailer;
- H. All marihuana sold to adult customers shall be packaged and labeled as provided by state laws;
- I. Display of signs that are inconsistent with state and local laws or regulations are prohibited.
- J. It shall be prohibited to use the symbol or image of a marihuana leaf in any exterior building signage.
- K. No licensed Retailer shall place or maintain, or cause to be placed or maintained, an advertisement of marihuana in any form or through any medium within one thousand (1,000) feet of the real property comprising a public or private elementary, vocational or secondary school.
- L. Certified laboratory testing results that meet the Act and applicable state laws must be available to all customers upon request.
- M. All Retailers shall comply with all applicable requirements of the Zoning Ordinance.

## Section 12. Minimum Operational Standards of Secure Transporter Establishments

The following minimum standards for Secure Transporters shall apply:

- A. The Secure Transporter shall comply at all times and in all circumstances with the Act and the general rules of the Department of Licensing and Regulatory Affairs, as they may be amended from time to time;
- B. Consumption and/or use of marihuana shall be prohibited at a Storage Establishment of a Secure Transporter.
- C. Storage of marihuana by a Secure Transporter shall comply with the following:
  - 1. The storage facility shall not be open or accessible to the general public.
  - 2. The storage facility shall be maintained and operated so as to comply with all State and local rules, regulations and ordinances.
  - 3. All marihuana stored within the Establishment shall be stored within enclosed, locked building in accordance with the Act and the provisions of this Ordinance.
- D. A Secure Transporter licensee and each stakeholder shall not have an interest in a Grower Processor, Retailer, Microbusiness or Safety Compliance Establishment.
- E. A Secure Transporter shall enter all transactions, current inventory, and other information as required by the state into the statewide monitoring system as required bylaw.
- F. A Secure Transporter shall comply with all of the following:
  - 1. Each driver transporting marihuana must have a chauffer's license issued by the State of Michigan.
  - 2. Each employee who has custody of marihuana or money that is related to a marihuana transaction shall not have been convicted of or released from incarceration for a felony under the laws of this state, any other state, or the United States within the past five (5) years or have been convicted of a misdemeanor involving a controlled substance with the past five (5) years.
  - 3. Each vehicle shall be operated with a two-person crew with at least one individual remaining with the vehicle at all times during the transportation of marihuana.
  - 4. A route plan and manifest shall be entered into the statewide monitoring system, and a copy shall be carried in the transporting vehicle and presented to a law enforcement officer upon request.
  - 5. The marihuana shall be transported by one or more sealed containers and not be accessible while in transit.

- 6. A secure transporting vehicle shall not bear markings or other indication that it is carrying marihuana or a marihuana infused product.
- G. A vehicle used by a Secure Transporter is subject to administrative inspection by a law enforcement officer at any point during the transportation of marihuana to determine compliance with all State and local laws, rules, regulations and ordinances.
- H. All Secure Transporters shall comply with all applicable requirements of the Zoning Ordinance.

**Section 13. Minimum Operational Standards of Safety Compliance Facilities**

The following minimum standards for Safety Compliance Facilities shall apply:

- A. Safety Compliance Facility shall maintain a logbook and/or database which complies with the Act or applicable State laws;
- B. All marihuana shall be contained within the Facility in an enclosed, locked building in accordance with the Act, or applicable State laws and this Ordinance;
- C. There shall be no other accessory uses permitted within the Facility other than those associated with testing marihuana;
- D. Exterior signage or advertising identifying the Facility as a Safety Compliance Facility shall be prohibited.
- E. All Safety Compliance Facilities shall comply with all applicable requirements of the Zoning Ordinance.

**Section 14. Minimum Operational Standards of Microbusiness Establishments**

- A. A Marihuana Microbusiness shall operate the corresponding areas of the microbusiness in compliance with the operational standards of a marihuana retailer, a marihuana grower, and a marihuana processor as provided for in the Act and the Rules.
- B. Stakeholders in a Marihuana Microbusiness Establishment shall not hold any ownership interest, directly or indirectly, in a Grower, Processor, Retailer, Safety Compliance Facility, or Secure Transporter Establishment.
- C. A Stakeholder in a Microbusiness Establishment shall not hold an ownership interest, directly or indirectly, in another Microbusiness Establishment.
- D. No Marihuana Microbusiness shall operate between the hours of 9 p.m. and 9 a.m.
- E. A Marihuana Microbusiness Establishment shall comply with all applicable requirements of the Zoning Ordinance.

### **Section 15. Minimum Operational Standards of Temporary Marihuana Events**

- A. A Temporary Marihuana Event shall comply at all times and in all circumstances with the Act, and the Rules of the Department of Licensing and Regulatory Affairs, as they may be amended from time to time; and the applicable ordinances of the Village.
- B. A Temporary Marihuana Event Permit shall only be issued to a person who holds a Marihuana Event Organizer Permit from the Village and a License issued by LARA.
- C. A Temporary Marihuana Event permit shall only be issued for not less than a single day or up to not more than 7 consecutive days.
- D. A Temporary Marihuana Event shall only be held at a venue approved by the Village for the purpose of holding a temporary marihuana event.
- E. Smoking and vaping of any sort shall be prohibited.

### **Section 16. Minimum Operational Standards of Marihuana Event Organizers**

A Marihuana Event Organizer is not authorized to engage in the operations of a marihuana establishment permittee without first obtaining the appropriate permits from the Village and licenses from LARA.

### **Section 17. Location of Retailers, Microbusinesses or Temporary Marihuana Event**

No Retailers, Microbusiness, or Temporary Marihuana Events shall be located within:

- A. One thousand (1,000) feet of real property comprising an operational public or private elementary, vocational, or secondary school in existence at the time of adoption of this Ordinance; or
- B. Five hundred (250) feet of a church or religious institution defined tax exempt by the Village Assessor's Office and in existence at the time of adoption of this Ordinance.
- C. No Adult Use Marihuana Establishment shall be located within five hundred (500) feet of a public park with activities designed specifically for youth.

### **Section 18. Zoning Districts for Adult Use Marihuana Establishments**

- A. All Marihuana Establishments, except a Marihuana Retailer, shall be located only in an Industrial Zoning District as a Special Use, as further specified in the Zoning Ordinance of the Village.
- B. All Marihuana Retailers shall be located only in the Central Business Zoning District, as a Special Use, as further specified in the Zoning Ordinance of the Village.

### **Section 19. Denial and Revocation**

- A. A permit issued under this Ordinance may be revoked after an administrative hearing at which the Village Council by majority vote of members present determines that any grounds for revocation under this Ordinance exist. Notice of the time and place of the



Hearing and the grounds for revocation must be given to the holder of a permit at least five days prior to the date of the hearing, by first class mail to the address given on the license application; a licensee whose license is subject of such Hearing may present evidence and/or call witnesses at the hearing;

- B. A permit applied for or issued under this Ordinance may be denied or revoked on any of the following basis:
1. Any violation of this Ordinance;
  2. Any conviction of or release from incarceration for a felony under the laws of this State, any other state, or the United States within the past five (5) years by the Applicant or any Stakeholder of the Applicant as measured from the date of the Application or the date of becoming a stakeholder, whichever occurs later, or while licensed under this Ordinance; or any conviction of a substance-related felony by the Applicant or any stakeholder of the Applicant ever or while licensed under this Ordinance;
  3. Commission of fraud or misrepresentation or the making of a false statement by the Applicant or any Stakeholder of the Applicant while engaging in any activity for which this Ordinance requires a Permit;
  4. Sufficient evidence that the Applicant(s) lack, or have failed to demonstrate, the requisite professionalism and/or business experience required to assure strict adherence to this Ordinance and the rules and regulations governing the Medical Marihuana Program in the State of Michigan;
  5. The Marihuana Establishment is determined by the Village to have become a public nuisance;
  6. The Michigan Marihuana Licensing Board has denied, revoked or suspended the applicant's State License.

## **Section 20. Penalties and Discipline**

- A. The Village may require an Applicant or holder of a permit for a Marihuana Establishment to produce documents, records, or any other material pertinent to the investigation of an application or alleged violation of this Ordinance. Failure to provide the required material may be grounds for application denial, Permit revocation, or discipline;
- B. Any person in violation of any provision of this Ordinance or any provision of a permit issued under this Ordinance is responsible for a misdemeanor, punishable by a fine of up to \$500.00 plus cost of prosecution, 90 days imprisonment, or both, for each violation. Each day a violation of this Ordinance continues to exist constitutes a separate violation. This section is not intended to prevent enforcement of any provision of the State law by the Eau Claire Village Police Department. A violator of this Ordinance shall also be subject to such additional sanctions, remedies and judicial orders as are authorized under Michigan law;

- C. A violation of this Ordinance 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 person to restrain, prevent, or abate any violation of this Ordinance.
- D. All fines imposed under this Ordinance shall be paid within forty-five (45) days after the effective date of the order imposing the fine or as otherwise specified in the order;
- E. The Village Council may temporarily suspend a Marihuana Establishment Permit without a hearing if the Village Council finds that public safety or welfare requires emergency action
- F. The Village Council shall cause the temporary suspension by issuing a Suspension Notice by majority vote of members present and voting thereon in connection with institution of proceedings for a Hearing;
- G. If the Village Council temporarily suspends a permit without a hearing, the holder of the permit is entitled to a hearing within thirty (30) days after the Suspension Notice has been issued. The hearing shall be limited to the issues cited in the Suspension Notice.
- H. If the Village Council does not hold a hearing within thirty (30) days after the date of suspension was issued, then the suspended permit shall be automatically reinstated, and the suspension vacated.

#### **Section 21. Applicability**

The provisions of this Ordinance shall be applicable to all persons and facilities described herein, whether the operations or activities associated with a marihuana facility were established without authorization before the effective date of this Ordinance.

#### **Section 22. Enforcement**

This Ordinance shall be enforced and administered by the Village President, or such other Village official as may be designated from time to time by resolution of the Village Council.

#### **Section 23. Severability**

In the event that any one or more sections, provisions, phrases or words of this Ordinance shall be found to be invalid by a court of competent jurisdiction, such holding shall not affect the validity or the enforceability of the remaining sections, provisions, phrases or words of this Ordinance.

#### **Section 24. Effective Date**

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

#### **Section 25. No Vested Rights**

A property owner shall not have vested rights or nonconforming use right that would serve as a basis for failing to comply with this Ordinance or any amendment of this Ordinance.

**Section 26. Prior Ordinances**

All other ordinances or parts of ordinances in conflict with or superseded by this Ordinance are repealed except to the extent that any project, condition, violation or prosecution that was subject to the prior ordinance shall continue.

**Section 27. Heading**

The headings used in each section of this Ordinance are for the purpose of identification and are not a substantive part of this Ordinance.

**Section 28. Publication**

The Village Clerk shall certify to the adoption of this Ordinance and cause the same to be published as required by laws.

Roll Call Vote:

Ayes: 4  
Nays: 0  
Abstain: 0  
Absent: 0

Dated: May 17, 2021

Ordinance declared adopted:

By: John Glassman, President  
John Glassman

By: Shawn Foster, Village Clerk  
Shawn Foster

**CERTIFICATION**

I hereby certify that the above and foregoing Ordinance was duly adopted by the Village Council of Eau Claire at a regular meeting held on the 17 day of May, 2021, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with Act No. 267, Public Acts of Michigan, 1976, as required by said Act, and published in the *Journal Era*, a weekly newspaper published in the Village of Eau Claire, in the issue of said newspaper dated and published on the 26 day of May, 2021.

Shawn Foster  
Shawn Foster, Village Clerk

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