



## PLANNING COMMISSION MEETING

City Hall, 125 South Maple Street, Fennville, MI 49408  
Tuesday, July 7, 2020  
6:30 p.m.

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In light of the recent orders to limit social interactions due to COVID-19, the Planning Commission will allow for participation in person or through a virtual meeting site. To access the meeting visit:

Join Zoom Meeting  
<https://us02web.zoom.us/j/83164741092>

Meeting ID: 831 6474 1092

One tap mobile  
+13126266799,,83164741092# US (Chicago)

Dial by your location  
+1 312 626 6799 US (Chicago)

### AGENDA

1. **Call to Order**
2. **Roll Call**
3. **Pledge of Allegiance**
4. **Public Comments**
5. **Minutes** – click on date to view draft minutes online
  - a. Regular Meeting: [January 7, 2020](#)
  - b. Special Meeting: [February 24, 2020](#)
  - c. Special Meeting: [March 23, 2020](#)
6. **The Planning Commission will be asked to review a proposed ordinance amendment to address homes being built “shotgun” on a lot.**
7. **The Planning Commission will review the draft regulatory ordinance regarding medical marijuana and will be asked to consider making a recommendation to the City Commission.**
8. **Adjournment**

#### 2019 Meeting Schedule

6:30 p.m., City Hall - Quarterly – 1<sup>st</sup> Tuesday  
January 7                      July 7  
April 7                              October 6

**City of Fennville**  
**Proposed text amendment**  
**Drafted: Tasha Smalley, ZA**  
**“Shotgun” house placement**

Minimum dwell width currently 24 feet.

Possible text:

Add to chart: Longest length to face the street

SAMPLE –

24x42=1008sq ft – this is the minimum

66ft (approx width of most parcels) – 42’house length – 20ft setback –  
approx 12 feet left on each side

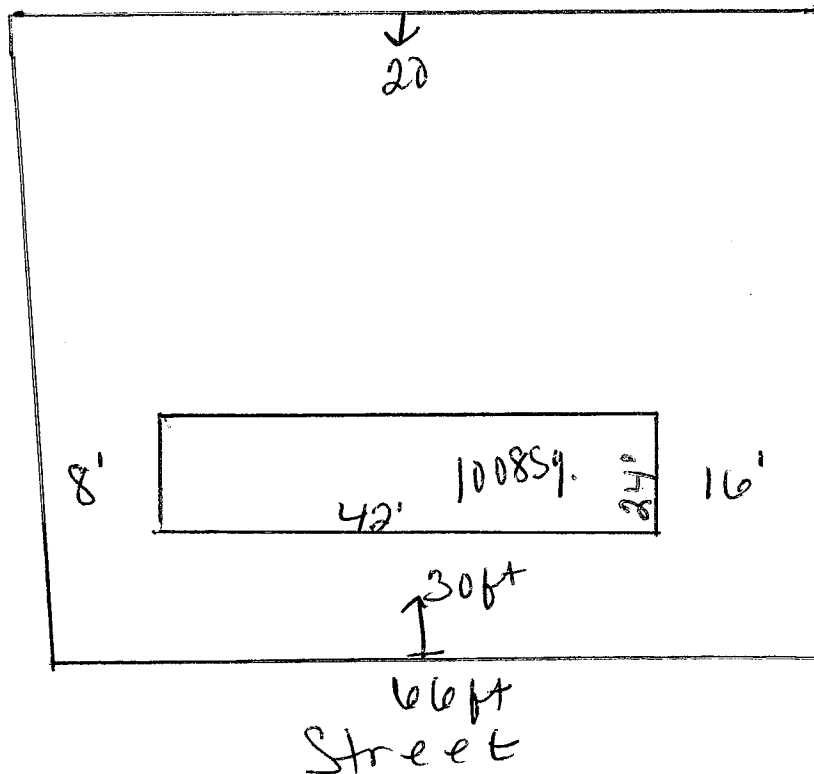
Min 8ft side, 42’wide, 16ft side

If lot is 61ft wide or less, they would not be able to build a dwelling without a variance.

- proposed -

Front Yard	30 feet
Side Yards*	A total of 20 feet for all side yards with no single side yard less than 8 feet
Rear Yard	20 feet
Lot Coverage	35%
Building Height	2 ½ stories or 35', whichever is less
Minimum Lot Area	7,800 square feet
Minimum Lot Width	60 feet
Minimum Floor Area	One story dwelling - 800 sq. ft. 1 <sup>st</sup> floor of 2 story - 750 square feet
Minimum Dwelling Width	24 feet throughout entire length; <i>Longest length to face Street.</i>

minimum



**ORDINANCE \_\_\_\_\_**

**MEDICAL MARIHUANA ESTABLISHMENT ORDINANCE**

AN ORDINANCE TO AUTHORIZE THE OPERATION OF AND PROVIDE REGULATIONS FOR MEDICAL MARIHUANA FACILITIES WITHIN THE CITY OF FENNVILLE, PURSUANT TO THE MICHIGAN MEDICAL MARIHUANA LICENSING ACT (MMFLA), 2016 PA 281, AS MAY BE AMENDED; TO PROVIDE FOR AN ANNUAL FEE; TO PROVIDE PENALTIES FOR VIOLATION OF THIS ORDINANCE; TO PROVIDE FOR SEVERABILITY; TO REPEAL ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH AND TO PROVIDE AN EFFECTIVE DATE.

THE CITY OF FENNVILLE, LOCATED IN THE COUNTY OF ALLEGAN, STATE OF MICHIGAN ORDAINS:

**SECTION 1: TITLE**

This ordinance may be known and cited as the City of Fennville Medical Marihuana Facilities Ordinance.

**SECTION 2. PURPOSE**

The purpose of this Ordinance is to permit and regulate state-licensed medical marihuana facilities within the City's boundaries, pursuant to 2016 PA 281, the Medical Marihuana Facilities Licensing Act, being MCLA 333.27101, *et seq.*, and the various Administrative Rules adopted by the Department of Licensing and Regulatory Affairs, Marihuana Regulatory Agency, filed with the Secretary of State on June 22, 2020, as each may be modified and amended.

**SECTION 3: DEFINITIONS**

A. Words and phrases used in this Ordinance will have the definitions as provided for in the Medical Marihuana Facilities Licensing Act, Public Act 281 of 2016, MCLA 333.27101, *et seq* (hereafter, the "Act"), and the various Administrative Rules adopted pursuant to the Act and filed with the Secretary of State on June 22, 2020, as the same may be amended from time to time, which words and phrases are incorporated by reference.

B. "City Commission" means the Fennville City Commission.

C. "City Clerk" means the City of Fennville Clerk.

D. "LARA" means the Michigan Department of Licensing and Regulatory Affairs.

E. "Person" means an individual, corporation, limited liability company, partnership of any type, trust or other legal entity.

F. "Stakeholder" means and shareholder of a corporation, partner in a partnership, member of a limited liability company or individual of a sole proprietorship.

**SECTION 4: AUTHORIZATION OF MARIHUANA ESTABLISHMENTS AND FEE**

A. The City hereby authorizes, subject to the issuance of a municipal license by the City Clerk, the following marihuana establishments within the boundaries of the City, as are authorized pursuant to Section 6.1. of the Act. The establishments authorized pursuant to this Chapter are relating to the Act and are not Marihuana Facilities that may be authorized pursuant to the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.

B. The marihuana establishments and the number authorized pursuant to this Ordinance are:

Type of Establishment	Number Authorized
Marihuana Grower	2
Marihuana Processor	2
Marihuana Microbusiness	2
Marihuana Retailer	2
Marihuana Safety Compliance Establishment	2
Marihuana Secure Transporter	2

C. A nonrefundable municipal license application fee must be paid by each marihuana establishment applying to be licensed under this ordinance in the amount of \$2,500.00. The municipal license fee is in addition to any other fees required, including, but not limited to, zoning fees.

D. Should the City grant a marihuana establishment a municipal license, the municipal license application fee will be considered as the fee imposed for the first year the license is granted. Prior to the expiration of the first year of the license, and as provided in this Ordinance in Section 13, the licensee may apply for an extension/renewal of the municipal license for an additional one year period at a nonrefundable fee of not more than \$2,500 as set by resolution of the City Commission to defray the administrative and enforcement costs of the City associated with the operation of the licensed marihuana establishment.

**SECTION 5: REQUIREMENTS AND PROCEDURE FOR ISSUING MUNICIPAL LICENSE**

A. No person may operate a marihuana establishment in the City without a valid municipal license issued by the City pursuant to the provisions of this ordinance.

B. No person who is employed by the City, acts as a consultant for the City or acts as an advisor to the City, and is involved in the implementation, administration or enforcement of this Ordinance may have an interest, directly or indirectly, in a Marihuana Establishment.

C. Every applicant for a municipal license to operate a marihuana establishment must file an application in the City Clerk's office upon a form provided by the City. The application must include:

1. The appropriate nonrefundable municipal license application fee in the amount determined by the City;
2. If the applicant is an individual, the applicant's name; date of birth; Social Security number; physical address, including residential and any business address; copy of government-issued photo identification; email address; one or more phone numbers, including emergency contact information;
3. If the applicant is not an individual, the names; dates of birth; physical addresses, including residential and any business address; copy of government-issued photo identifications; email address; and one or more phone numbers of each Stakeholder of the applicant, including designation of the highest ranking representative as an emergency contact person; contact information for the emergency contact person; articles of incorporation or organization; assumed name registration; Internal Revenue Service EIN confirmation letter; copy of the operating agreement of the applicant, if a limited liability company; copy of the partnership agreement, if a partnership; names and addresses of the beneficiaries, if a trust, or a copy of the bylaws or shareholder agreement, if a corporation;
4. The name and address of the proposed marihuana establishment;
5. A location area map of the marihuana establishment and surrounding area that identifies the relative locations and the distances (closest property line to the subject marihuana establishment's building) to the closest real property comprising a public or private elementary, vocational or secondary school;
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 license 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 City, 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; and
7. Any other information which may be required by the City Clerk.

D. Upon an applicant's completion of the above-described form and furnishing of all required information and documentation, the City Clerk will file the same and assign it a sequential application number by establishment type based on the date and time of acceptance. The City Clerk must act to approve or deny an application not later than twenty-one (21) days from the date the completed application is filed. If approved, the City Clerk will issue the applicant a provisional License and subsequently a final license after issuance by the state of Michigan of an operating license. If the application is denied, the City Clerk must issue a written notice of denial to the Applicant and mail the same by first class mail to the address for the Applicant provided in the application.

E. Should the City Clerk deny an application, the Applicant will have fourteen (14) days from the mailing of the denial to appeal the denial to the City Manager by filing a notice of appeal with the City Manager's Office. The City Manager may require additional information or Act upon the appeal based upon the information supplied to the City Clerk. Should the City Manager reverse the decision of the City Clerk, the City Clerk must issue a provisional license. Should the City Manager affirm the decision of the City Clerk, the City Manager will mail a written notice affirming the decision by first class mail to the address for the Applicant provided in the application.

F. The Applicant will have fourteen (14) days from the mailing of a decision by the City Manager affirming the decision of the City Clerk to appeal to the City Commission. To appeal the decision of the City Manager the Applicant must file a notice of appeal with the City Clerk. City Commission must hear the appeal at its next regular meeting, but not sooner than 7 days from the receipt of the appeal.

G. Maintaining a valid license issued by the state is a condition for the maintenance of a license under this ordinance and continued operation of a marijuana establishment. A provisional license does not authorize operations until a final license is issued, which will only occur upon issuance of the appropriate license by the state of Michigan and the issuance of a Certificate of Occupancy.

H. A License issued under this ordinance is not transferable without the prior approval of the City under the same terms and conditions required for the initial issuance of a license under this Ordinance.

I. The Act in Section 9. 4. (MCL 333.27959 4.) requires that the City establish a competitive process to select applicants who are best suited to operate in compliance with the Act and this Ordinance, when more than one applicant has applied for a single available license. Pursuant to this requirement the City requires that applicants:

1. An estimate of the number and type of jobs that the marijuana establishment is expected to create and the amount and type of compensation expected to be paid for such jobs;
2. A business plan which contains, but is not limited to, the following:
  - i. The applicant's experience in operating other similarly permitted or licensed businesses and the applicant's general business management experience;

- ii. The proposed ownership structure of the establishment, including percentage ownership of each person or entity;
- iii. A current organizational chart that includes position descriptions and the names of each person holding each position;
- iv. Planned tangible capital investment in the City, including if multiple permits are proposed, an explanation of the economic benefits to the City and job creation, if any, to be achieved through the award of such multiple permits, with supporting factual data;
- v. Expected job creation from the proposed marihuana establishment(s);
- vi. If a Marihuana Grower Establishment is proposed, the number of plants anticipated;
- vii. Financial structure and financing of the proposed marihuana establishment(s); and;
- viii. Community outreach/education plans and strategies.

3. A written description of the training and education that the Applicant will provide to all employees, including planned continuing education for existing employees. Further, a written description of the method(s) for record retention of all training provided to existing and former employees;

4. A location area map of the marihuana facility and surrounding area that identifies the relative locations and the distances (closest property line to the subject marihuana facility's building) to the closest real property comprising a public or private elementary, vocational or secondary school; and

5. A facility sanitation plan to protect against any marihuana being ingested by any person or animal, indicating how the waste will be stored and disposed of, and how any marihuana will be rendered unusable upon disposal. Disposal by on-site burning or introduction into the sewerage system is prohibited.

## **SECTION 6: MINIMUM OPERATIONAL STANDARDS FOR ALL MARIHUANA ESTABLISHMENTS**

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

A. Marihuana Establishments must comply at all times and in all circumstances with the Act, and applicable Michigan law, and the general 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 City bears no responsibility for failure of the owner to be unaware of changes in the Act.

B. Consumption and/or use of marihuana is prohibited at the establishment.

C. The establishment must be open, during regular business hours, to any representative of LARA, state police officer, or City of Fennville Police Officer, and said individual(s) may enter



the premises, offices, Establishments, or other places of business of a Licensee, for the following purposes:

1. To inspect and examine all premises of Marihuana Establishments;
2. To inspect, examine, and audit relevant records of the Licensee and, if the Licensee 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 must be continuously monitored with a surveillance system that includes security cameras. The video recordings must be maintained in a secure, offsite location for a period of fourteen (14) days and be available upon request of the City of Fennville Police Department. The storage establishment may not be used for any other commercial purpose.

E. The marihuana establishment may not be located closer than 1,000 feet to any real property comprising a public or private elementary, vocational or secondary school. The marihuana establishment must secure every entrance to the establishment and only permit those individuals described in this Ordinance or the Act access to the premises.

F. The marihuana establishment must be maintained and operated so as to comply with all state and local rules, regulations and ordinances.

G. All marihuana must be contained within an enclosed, secure area;

H. All necessary building, electrical, plumbing and mechanical permits must be obtained for any portion of the structure in which electrical wiring, lighting and/or watering devices that support the Grower, growing or harvesting of marihuana are located;

I. All persons working in direct contact with marihuana must 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.

J. Litter and waste must be properly removed and the operating systems for waste disposal must be maintained in an adequate manner so that they do not constitute a source of contamination.

K. Floors, walls and ceilings must be constructed in such a manner that they may be adequately cleaned and kept clean and in good repair;

L. There must be adequate screening or other protection against the entry of pests. Rubbish must be disposed of so as to minimize the development of odor and minimize the potential for the waste development of odor and minimize the potential for waste becoming an attractant, harborage or breeding place for pests;

M. All building fixtures and other Establishments must be maintained in a sanitary condition;

N. Odor from operations must be controlled so as not to create a nuisance.

## **SECTION 7: MINIMUM OPERATIONAL STANDARDS FOR MARIHUANA GROWER ESTABLISHMENTS**

The following minimum standards for Grower Establishments apply:

A. Grower Establishments must maintain a log book and/or database indicating the number of Marihuana Plants therein;

B. A Stakeholder in a Grower Establishment may not hold an ownership interest, directly or indirectly, in more than five (5) Marihuana Grower Establishments.

C. The establishment must be subject to inspection by the City of Fennville Fire Department to insure compliance with all applicable statutes, codes and ordinances; and

D. Multiple Grower Establishment Licenses in a single location may be permitted, subject to approval of the same by the City Clerk.

## **SECTION 8: MINIMUM OPERATIONAL STANDARDS FOR SAFETY COMPLIANCE ESTABLISHMENTS**

The following minimum standards for Safety Compliance Establishments apply:

A. Safety Compliance Establishments must maintain a log book and/or database which complies with the Act or applicable Michigan law; and

B. No other accessory uses will be permitted within the same establishment other than those associated with testing marihuana.

C. A Stakeholder in a Safety Compliance Establishment may not hold an ownership interest, directly or indirectly, in a Grower, Processor, Retailer or Microbusiness Establishment.

## **SECTION 9: MINIMUM OPERATIONAL STANDARDS OF MARIHUANA PROCESSOR ESTABLISHMENTS**

The following minimum standards for Processor Establishments apply:

A. All Activity related to the Processor Establishment must occur indoors;

B. Processor Establishments must maintain a log book and/or database which complies with the Act or other applicable state laws;

C. All marihuana must be tagged as required by the Act or applicable state laws;

D. That structure must be subject to inspection at any time by the City of Fennville Fire Department to insure compliance with all applicable statutes, codes and ordinances; and

E. Processor Establishments may not produce any products other than useable marihuana intended for human consumption.

## **SECTION 10: MINIMUM OPERATIONAL STANDARDS FOR SECURE TRANSPORTER ESTABLISHMENTS**

The following minimum standards for Secure Transporter Establishments apply:

A. Secure Transporters and each Secure Transporter Stakeholder may not hold an ownership interest, directly or indirectly, in a Grower, Processor, Retailer or Microbusiness Establishment.

B. A Secure Transporter must enter all transactions, current inventory, and other information as required by the state into the statewide monitoring system.

C. A Secure Transporter must comply with all of the following:

1. Each driver transporting marihuana must have a chauffeur's license issued by the state.

2. Each employee who has custody of marihuana or money that is related to a marihuana transaction must not have been convicted of delivery of a controlled substance.

3. Each vehicle must 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. The marihuana must be transported by one or more sealed containers and may not be accessible while in transit.

5. A secure transporting vehicle may not bear markings or other indication that it is carrying marihuana or a marihuana infused product.

D. A vehicle used by a Secure Transporter is subject to administrative inspection by a law enforcement officer at any point during the transportation of marihuana to determine compliance with all state and local laws, rules, regulations and ordinances.

## **SECTION 11: MINIMUM OPERATIONAL STANDARDS FOR MARIHUANA MICROBUSINESS ESTABLISHMENTS**

The following minimum standards for Marihuana Microbusiness Establishments apply:

A. A Stakeholder in a Microbusiness Establishment may not hold an ownership interest, directly or indirectly, in a Grower, Processor, Retailer, Safety Compliance, or Secure Transporter Establishment.

B. A Stakeholder in a Microbusiness Establishment may not hold an ownership interest, directly or indirectly, in another Microbusiness Establishment.

## **SECTION 12: MINIMUM OPERATIONAL STANDARDS FOR MARIHUANA RETAILERS**

The following minimum standards for Marihuana Retailers apply:

A. Marihuana Retailers may not sell edible marihuana-infused candy in shapes or packages that are attractive to children or that are easily confused with commercially sold candy that does not contain marihuana.

B. Marihuana Retailers may not sell or otherwise transfer marihuana that is not contained in an opaque, resealable, child-resistant package designed to be significantly difficult for children under 5 years of age to open and not difficult for normal adults to use properly as defined by 16 C.F.R. 1700.20 (1995), unless the marihuana is transferred for consumption on the premises where sold.

C. Marihuana Retailers and their agents must ensure that all purchasers of marihuana are over 21 years of age.

## **SECTION 13: DENIAL AND REVOCATION**

A. A License issued under this Ordinance may be revoked after an administrative hearing at which the City Clerk determines that 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 License at least five days prior to the date of the hearing, by first class mail to the address given on the license application; a licensee whose license is the subject of such hearing may present evidence and/or call witnesses at the hearing;

B. A License applied for or issued under this Ordinance may be denied or revoked on any of the following basis:

1. Any violation of this Ordinance;
2. Any conviction of delivery of a controlled substance to a minor;
3. City Clerk finding of fraud, misrepresentation or the making of a false statement by the Applicant or any stakeholder of the Applicant while engaging in any Activity for which this Ordinance requires a License or in connection with the Application for a License or request to renew a License;
4. Sufficient evidence that the Licensee lacks, or has 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 Act;
5. The License holder or any of its Stakeholders is in default to the City personally or in connection with any business in which they hold an ownership interest, for failure to pay property taxes, special assessments, fines, fees or other financial obligation;

6. The marihuana establishment is determined by the City to have become a public nuisance; or

7. LARA has denied, revoked or suspended the applicant's state operating license.

C. Should the City Clerk revoke a License, the Licensee will have fourteen (14) days from the mailing of the written notice of revocation to appeal the decision to the City Manager. The City Manager may require additional information or Act upon the appeal based upon the information supplied to the City Clerk. Should the City Manager reverse the decision of the City Clerk, the City Clerk must reinstate the license. Should the City Manager affirm the decision of the City Clerk, he/she must mail by first class mail a written notice affirming the decision to the address for the Licensee contained in the City Clerk's records.

D. Should the City Manager affirm the denial, revocation or suspension of a License by the City Clerk, the Licensee will have fourteen (14) days from the mailing of the decision of the City Manager to appeal the decision to City Commission, by filing with the City Clerk a written notice of appeal. City Commission must hear the appeal at its next regularly scheduled meeting, but no sooner than 7 days from the receipt of the appeal.

#### **SECTION 14: LICENSE RENEWAL**

A. A License will be valid for one year from the date of issuance, unless revoked as provided by law, including this Ordinance.

B. A valid License may be renewed on an annual basis by submitting a renewal application upon a form provided by the City and payment of the annual license fee. Applications to renew a License must be filed with the City Clerk at least thirty (30) days prior to the date of its expiration. As long as no changes to the Licensee have occurred and there is no pending request to revoke or suspend a License, and the Licensee has paid the License Renewal Fee, the City Clerk must renew the License.

#### **SECTION 15: UNLAWFUL ACTIVITIES**

Any act which is a violation of MCL 333.27954, or any amendment thereto, will also be considered a violation of this Ordinance. It is unlawful to consume marihuana in a public place in the City of Fennville, except in a location designated by the act of the City Commission for consumption and only when not accessible to persons under 21 years of age.

#### **SECTION 16: APPLICABILITY**

The provisions of this Ordinance are applicable to all persons and Establishments described herein, including if the operations or Activities associated with a marihuana establishment were established without authorization before the effective date of this ordinance.

**SECTION 17: PENALTIES AND ENFORCEMENT**

A. Any person who violates any of the provisions of this Ordinance is responsible for a municipal civil infraction and subject to the payment of a civil fine of \$500, plus costs, except that a violation of Section 867.14 by consuming marihuana in a public place is a civil infraction and subject to the payment of a civil fine of up to \$100. Each day a violation of this Ordinance continues to exist constitutes a separate violation. A violator of this Ordinance will also be subject to such additional sanctions, remedies and judicial orders as are authorized under Michigan law.

B. A violation of this Ordinance is deemed to be a nuisance per se. In addition to any other remedy available at law, the City may bring an Action for an injunction or other process against a Licensee to restrain, prevent, or abate any violation of this Ordinance.

C. This Ordinance may be enforced and administered by the City Clerk, any City of Fennville Police Officer, City Manager or such other city official as may be designated from time to time by resolution of the City Commission.

**SECTION 18: SEVERABILITY**

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

**SECTION 19: EFFECTIVE DATE**

This Ordinance was approved and adopted by the Fennville City Commission on \_\_\_\_\_, 2020, after introduction and a first reading on \_\_\_\_\_, 2020, as required by Section 5.9 of the City Charter. This Ordinance shall be effective upon its publication, on \_\_\_\_\_, 2020, in the \_\_\_\_\_.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk