Allison J. Ferreira
Town Clerk

TOWN OF MIDDLEBOROUGH
Town Clerk's Office

Bank Building, 20 Centre Street
Middleborough, Massachusetts 02346-2250
508-946-2415 phone
508-946-2308 fax

October 26, 2018

To Whom It May Concern:

I do hereby certify that the following vote was taken at the October 1, 2018 Special Town Meeting, held in the Middleborough High School Auditorium, which was called to order at 7:08 PM by the Town Moderator, Robert M. Desrosiers, who declared a quorum present:

ARTICLE 22: By counted vote of 148 yes, 10 no to amend the Middleborough Zoning Bylaw by adding a new Overlay District, Section 8.5 Cannabis Business District (CBD), to allow marijuana cultivators, independent testing laboratories, marijuana product manufacturers, marijuana retailers by Special Permit in the Cannabis Business District (CBD); to amend Section 2.2 Overlay Districts; to amend Section 3.0 Table of Uses – D. Commercial Uses; amend Section 10.0 Definitions, as follows:

8.5 CANNABIS BUSINESS DISTRICT (CBD)

8.5.1 Purpose. The purpose of the Cannabis Business District (CBD) is to provide for the placement and regulation of Adult Use Marijuana Establishments as authorized pursuant to State law and regulations with the goal of minimizing potential adverse impacts on adjacent property owners, neighborhoods and the Town in general.

8.5.2 Applicability. The Cannabis Business District is hereby established as an Overlay District which shall consist of lots as they existed as of January 1, 2018 within the GU, GUA, GUX and CD, with frontage on Route 28 and Route 44 west of the rotary.

8.5.3 Definitions. For definitions applicable to the Cannabis Business District, see Section 10.0.

8.5.4 GENERAL PROVISIONS

1. Special Permit. A Special Permit shall be required for the operation of a Marijuana Establishment, as defined by G.L. c.94G, §1. For the purposes of this Section, the Special Permit Granting Authority (SPGA) shall be the Planning Board.

2. CCC License. All permitted Marijuana Establishments shall have a provisional license from the Cannabis Control Commission (CCC) and shall comply with all applicable state and local public health regulations and all other applicable state and local laws, rules and regulations at all times. No Special Permit shall be issued for a Marijuana Establishment that has not received a provisional license from the CCC.

TOWN OF MIDDLEBOROUGH
Town Clerk's Office
Allison J. Ferreira
Town Clerk
Bank Building, 20 Centre Street
Middleborough, Massachusetts 02346-2250
508-946-2415 phone
508-946-2308 fax

3. Cessation of Operation. The Special Permit shall be valid only for the Applicant and shall become void if the Applicant ceases operating the licensed Marijuana Establishment for a period of three (3) consecutive months, except where such cessation is the result of natural disaster, act of terrorism, riot, or other criminal acts of third parties, strike or other *force majeure* event determined by the SPGA to constitute good cause.

4. Loss of CCC License; Failure to Obtain Final License. The Special Permit shall become void if a Final License is not issued by the CCC or upon the expiration or termination of the Marijuana Establishment's CCC license.

5. Parking and Loading. Parking and loading for a Marijuana Establishment shall be in accordance with Section 5.3 - Off Street Parking and Loading of Middleborough's Zoning By-Law. However, the SPGA may require a greater number of parking spaces and/or loading bays if it finds, based on the application, plans and documents submitted to the SPGA regarding operation of the Marijuana Establishment, that the minimum requirements are not sufficient.

6. Signs. The SPGA may impose restrictions on signage as appropriate for the site. If additional sign restrictions are not specified within the Special Permit, the Marijuana Establishment shall abide by 935 CMR 500.105(4).

7. Enclosed Building. All Marijuana Establishments, with the exception of licensed Marijuana Transporters, as defined in 935 CMR 500.002, shall operate within a fully enclosed building and shall not operate within any mobile facility. A minimum separation of seven hundred fifty (750) feet is required between Marijuana Retail Establishments. The distance under this section is measured in a straight line from the nearest point of each structure containing a marijuana establishment to the structure proposed to contain the Marijuana Establishment.

8. Hours of Operation may be set by the Planning Board but, if none are specified in the Special Permit, hours of operation shall be limited to 8:00am to 6:00pm. Monday through Saturday and 12:00p.m. to 6:00p.m. on Sunday.

8.5.5 LOCATION

1. Overlay. Marijuana Establishments shall be located in the Cannabis Business Overlay District;

2. Proximity to other Uses.

a. No Marijuana Establishment shall be located within five hundred (500') feet of any public or private school or daycare center;

TOWN OF MIDDLEBOROUGH
Town Clerk's Office
Allison J. Ferreira
Town Clerk
Bank Building, 20 Centre Street
Middleborough, Massachusetts 02346-2250
508-946-2415 phone
508-946-2308 fax

b. In determining whether to issue a Special Permit, and what conditions to impose, the SPGA shall evaluate (in addition to any criteria set forth elsewhere in this Bylaw) proximity of other land uses that may be adversely affected by the proposed Marijuana Establishment, including without limitation, libraries, playgrounds, parks, martial arts and dance studios, houses of worship, pediatric medical offices, toy stores, and comic book stores.

3. Measurement. The distance under this section is measured in a straight line from the nearest point of any structure, in existence as of the passage of this bylaw, October 1, 2018, and continuing to be in existence as of the date of SPGA's decision, containing one or more of the protected uses identified in Section 8.5.5.1(a.) and (b.) above, to the nearest point of the structure proposed to contain the Marijuana Establishment.

8.5.6 APPLICATION PROCESS AND REQUIREMENTS:

1. Application Procedures. The application for a Special Permit for a Marijuana Establishment shall be filed with the Planning Board and with the Town Clerk in accordance with G.L. c. 40A § 9. The application shall be signed by a duly authorized officer of the Applicant and the property owner, if the Applicant is not the owner of the subject property.

2. Fees. The Special Permit Fee shall be established by the Special Permit Granting Authority.

3. Required Documents. The Applicant shall provide the SPGA with fifteen (15) paper copies of the application and plans, an electronic copy of the application and plans, and required fees. All plans and maps shall be prepared, stamped, and signed by a professional engineer or architect licensed to practice in Massachusetts. An application to the SPGA shall include, at a minimum, the following information:

a. The Applicant's name, address, telephone number, and email address;

b. Evidence that the Applicant has site control and the right to use the site for a facility in the form of a deed or valid purchase and sale agreement, or, in the case of a lease, a notarized statement from the property owner and a copy of the lease agreement;

c. A certified copy of the Provisional License issued by the CCC to the Applicant, along with copies of all other materials issued by the CCC to the Applicant, except for those materials that are deemed by the CCC to be confidential and therefore subject to the public records exemption;

d. A notarized statement signed by the organization's Chief Executive Officer and corporate attorney disclosing all of its designated representatives, including officers and directors, shareholders, partners, members, managers, directors, officers, or other similarly-situated individuals and entities and their addresses. If any of the above are

Allison J. Ferreira
Town Clerk

TOWN OF MIDDLEBOROUGH
Town Clerk's Office
Bank Building, 20 Centre Street
Middleborough, Massachusetts 02346-2250
508-946-2415 phone
508-946-2308 fax

entities rather than persons, the Applicant must disclose the identity of all individual persons associated with the entity as set forth above;

e. A narrative providing information about the type and scale of all activities that will take place on the proposed site, including but not limited to, cultivating and processing of marijuana or marijuana products as defined in G.L. c. 94G, § 1, on-site sales, off-site deliveries, distribution of educational materials, and other programs or activities;

f. A map depicting all properties and land uses within a five hundred foot (500') radius (minimum) of the project site, whether such uses are located in Middleborough or within surrounding communities, including, but not limited to, libraries, playgrounds, parks, martial arts and dance studios, houses of worship, pediatric medical offices, toy stores, and comic book stores;

g. A plan or plans depicting all proposed development on the property, including the dimensions of all existing and proposed structures, the layout of parking, the location of pedestrian and vehicular points of access and egress, the location and design of all loading, refuse and service facilities, the location, type, and direction of all outdoor lighting on the site, and any landscape design;

h. A plan or plans showing any proposed stormwater management system, which plan(s) shall meet the submission requirements of MassDEP's Stormwater Management Regulations;

i. Architectural drawings of all exterior building facades and all proposed signage, specifying materials and colors to be used. Prospective drawings and illustrations of the site from public ways and abutting properties is required;

j. Completed FCR Inspections Checklist, to be submitted to the SPGA and the Middleborough Police Department prior to commencement of operations by the Marijuana Establishment;

k. Traffic Impact Report;

l. All Marijuana Establishments shall comply with Chapter 38 – Marijuana Growing, Processing, or Extraction Facilities of the National Fire Protection Association's (NFPA) Codes and Standards, if said establishment is a grow, cultivation, processing or extraction facility;

m. Provide detailed information on all chemicals, fertilizers, etc. being used within or on the same property as the Marijuana Establishment;

n. As required for Medical Marijuana Facilities, organic practices for adult use marijuana cultivation are required. Provide narrative of organic pest control being used;

o. Provide plans and narrative of odor mitigation;

Allison J. Ferreira
Town Clerk

TOWN OF MIDDLEBOROUGH
Town Clerk's Office
Bank Building, 20 Centre Street
Middleborough, Massachusetts 02346-2250
508-946-2415 phone
508-946-2308 fax

p. A list of waivers, if any, which were requested by the Marijuana Establishment and granted by the CCC to any section of the regulations, 935 CMR 500.00.

4. Department, Commission and Board Review. Within five business days of the receipt of the application, the SPGA shall refer copies of the application to the Building Commissioner, the Conservation Commission, the Board of Health, the Fire Department, and the Police Department. These boards/departments shall review the application and shall submit their written recommendations.

5. Decision. After notice and public hearing and consideration of application materials, public comments, and the recommendations of other Town boards and departments, the SPGA shall act upon the application.

6. Decision Criteria. The SPGA shall issue a Special Permit for a Marijuana Establishment only if it finds that the Applicant has submitted sufficient information from which it can conclude that:

a. The Marijuana Establishment has received a provisional license from the CCC and complies with all applicable state and local laws, regulations, and requirements, including, but not limited to, health and safety regulations, and construction and environmental requirements;

b. The building and site have been designed to be reasonably compatible with other buildings and sites in the area;

c. The siting of the Marijuana Establishment will be accomplished so as to minimize any adverse impacts on abutters and other parties in interest, as defined in G.L. c. 40A, § 11;

d. The Marijuana Establishment will create no substantial harm to the established or future character of the neighborhood or town;

e. With due consideration to aesthetics, the Marijuana Establishment is designed to ensure convenient, safe and secure access as follows:

    i. personal safety of those working at or utilizing the facility;

    ii. personal safety for clients and invitees;

    iii. loading and service areas are designed to be secure; and

    iv. protection of the premises from theft.

f. The Applicant has not provided materially false documents or testimony;

g. The Applicant has demonstrated the availability and provision of adequate access, utilities and other infrastructure and that the operation of the Marijuana Establishment will not adversely affect such access, utilities and infrastructure;

Allison J. Ferreira
Town Clerk

TOWN OF MIDDLEBOROUGH
Town Clerk's Office

Bank Building, 20 Centre Street
Middleborough, Massachusetts 02346-2250
508-946-2415 phone
508-946-2308 fax

h. The Applicant has satisfied all of the conditions and requirements of Middleborough's Zoning By-Law, including without limitation the provisions of Section 9.4 – Special Permits.

7. Special Permit Conditions. The SPGA shall impose those conditions it deems appropriate in its opinion to improve siting, design placement, traffic flow, and public safety; protect water quality, air quality, and significant environmental resources; preserve the character of the surrounding area; and otherwise serve the purpose of this By-Law. In addition to any specific conditions applicable to the Marijuana Establishment, the SPGA shall include, but not be limited to, the following conditions in any Special Permit granted under this By-Law:

a. The permit holder shall file a copy of any Incident Report required under the CCC Regulations with the Board of Selectmen, with copies to the Zoning Enforcement Officer and the SPGA, within 24 hours of creation by the Marijuana Establishment. Such reports may be redacted as necessary to comply with any and all applicable laws and regulations;

b. The permit holder shall file a copy of any summary cease and desist order, cease and desist order, quarantine order, summary suspension order, order limiting sales, notice of a hearing, or final action issued by the CCC or the Division of Administrative Law Appeals, as applicable, regarding the Marijuana Establishment with the Board of Selectmen, with copies to the Zoning Enforcement Officer and the SPGA, within 48 hours of receipt by the Marijuana Establishment;

c. The permit holder shall provide to the Board of Selectmen, the Zoning Enforcement Officer, the SPGA, the Police Chief, and the Fire Chief the name, telephone number and email address of a contact person in the event that the Police Department, Zoning Enforcement Officer or other Town official determines it necessary to contact the Applicant after regular business hours. Such contact information shall be kept updated by the permit holder;

d. The Special Permit shall be limited to the current applicant and shall become void if the permit holder ceases operating the Marijuana Establishment or transfers greater than fifty-one (51%) percent ownership;

e. The Special Permit shall become void if the CCC refuses to issue a final license or upon the expiration or termination of the applicant's CCC license;

f. The permit holder shall notify the Board of Selectmen in writing, with copies to the Zoning Enforcement Officer, the Police Department, and SPGA, within 48 hours of the cessation of operation of the Marijuana Establishment, notice from the CCC of a denial of a final license, transfer or sale of interest, enforcement action taken by the CCC or the expiration or termination of the permit holder's CCC license;

g. The permit holder shall not operate, and the Special Permit will not take effect, until the Applicant has entered into a Host Community Agreement, specific to the adult use Marijuana Establishment, with the Town. The Special Permit shall become void upon the expiration or termination of the Host Community Agreement. However, the Applicant may

TOWN OF MIDDLEBOROUGH
Town Clerk's Office
Allison J. Ferreira
Town Clerk
Bank Building, 20 Centre Street
Middleborough, Massachusetts 02346-2250
508-946-2415 phone
508-946-2308 fax

apply to renew on the same terms and conditions if the HCA is renewed on the same terms and conditions;

h. In the event that the CCC revokes, fails or refuses to issue a final license to the Marijuana Establishment, a Special Permit issued for the Marijuana Establishment shall be deemed null and void;

i. The Applicant/Owner agrees to provide the SPGA with any and all documents related to the Marijuana Establishment if and when requested to do so.

8.5.7 Prohibition against Nuisances. The Marijuana Establishment shall not create a nuisance to abutters or to the surrounding area, or create any hazard, including, but not limited to, fire, explosion, fumes, gas, smoke, odors, obnoxious dust, vapors, offensive noise or vibration, flashes, glare, objectionable effluent, or electrical interference, which may impair the normal use and peaceful enjoyment of any property, structure or dwelling in the area. Violation of this Bylaw or the conditions of any Special Permit issued hereunder shall entitle the Planning Board to notice a public hearing to consider the modification, suspension or revocation of the Special Permit or any orders or conditions relating thereto.

8.5.8 Waivers.

1. Waivers from the requirements of this Section may be requested in writing to the Planning Board. A waiver may be granted by the SPGA if it determines that:
   a. Strict enforcement of this Bylaw would do manifest injustice;
   b. Any alleged hardship is not self-created; and
   c. The granting of a waiver shall not in any way impair the public health, public safety or the environment.
2. The Planning Board may impose any conditions, safeguards and other limitations on a waiver when it deems it appropriate to protect the public health, public safety or the environment.

8.5.9 Conflicts with State Law and Regulations. If any provision, paragraph, sentence, or clause of this By-Law shall be determined to be in conflict with applicable State Law or Regulations, the provisions of said State Law or Regulations shall prevail.

8.5.10 Definition of terms used in this section. Where not expressly defined in the Middleborough Zoning Bylaw, terms used in this section shall be interpreted as defined in The Regulation and Taxation Of Marijuana Act, as amended, and as codified in G.L. c.94G, and the CCC Regulations promulgated thereunder, 935 CMR 500.000, *et seq.*, as the same may be amended from time-to-time, and otherwise by their plain language.

8.5.11 Severability. The provisions of this By-Law are severable. If any provision, paragraph, sentence, or clause of this By-Law or the application thereof to any person, establishment, or

Allison J. Ferreira
Town Clerk

TOWN OF MIDDLEBOROUGH
Town Clerk's Office

Bank Building, 20 Centre Street
Middleborough, Massachusetts 02346-2250
508-946-2415 phone
508-946-2308 fax

circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this By-Law.

And to Amend Section 2.2 Overlay Districts

Cannabis Business District (CBD)

And to Amend Section 3.0 Table of Uses – D. Commercial Uses, to include

35. Marijuana Establishments*

*Marijuana Establishments are allowed in the Cannabis Business Overlay District (CBD) by Special Permit as set forth in Section 8.5.

And to Amend Section 10.0 - Definitions - to include

Marijuana Establishment: A marijuana cultivator, independent testing laboratory, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana-related business, all as defined in G.L. c. 94G, §2 and 935 CMR 500.002. Said Marijuana Establishments shall be deemed independent of any other definition in this by-law and not a subset or subcategory of any other category.

(NOTE: Article 22 appears as voted. Kindly refer to end of Article for Record of Amendments and Motions for Article 22.)

RECORD OF AMENDMENTS AND MOTIONS FOR ARTICLE 22:

A ***motion*** *was made and seconded to waive the entire reading of Article 22,* ***motion passed*** *unanimously.*

A ***motion*** *was made and seconded to table Article 22 indefinitely;* ***motion failed*** *by counted vote of 29 yes, 134 no.*

Allison J. Ferreira
Town Clerk

TOWN OF MIDDLEBOROUGH
Town Clerk's Office

Bank Building, 20 Centre Street
Middleborough, Massachusetts 02346-2250
508-946-2415 phone
508-946-2308 fax

A ***motion*** *was made and seconded to add a paragraph after paragraph 8.5.11, paragraph 8.5.12, which states all facilities, processes and procedures operating in these districts must comply with United States Food and Drug Administration regulations;* ***motion failed*** *by majority vote.*

Very truly yours,

Allison J. Ferreira
Town Clerk

A TRUE COPY ATTEST:
Allison J. Ferreira
TOWN CLERK