

**Whitewater Zoom is inviting you to a scheduled Zoom meeting.**

**Topic: Planning Commission Special Meeting**

**Time: March 24, 2021 07:00 PM Eastern Time (US and Canada)**

**Join Zoom Meeting**

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**Passcode: 413018**

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**WHITEWATER TOWNSHIP PLANNING COMMISSION**

**SPECIAL MEETING AGENDA, March 24, 2021**

7:00 p.m., Whitewater Township Hall

Via ZOOM and in person

5777 Vinton Road, Williamsburg, MI 49690

Phone 231-267-5141/Fax 231-267-9020

1. Call to Order/Pledge Allegiance
2. Roll Call of Commission Members
3. Set/Adjust Meeting Agenda
4. Declaration of Conflict of Interest
5. **Public Comment:** Any person shall be permitted to address a meeting of the Planning Commission. Public comments shall be carried out in accordance with the following rules and procedures:
  - a. Comments shall be directed to the Commission, with questions directed to the Chair.
  - b. Any person wishing to address the Commission shall speak from the lectern and state his/her name and address.
  - c. Persons may address the commission on matters that are relevant to township planning and zoning issues.
  - d. No person shall be allowed to speak more than once on the same matter, excluding the time needed to answer Commission members' questions.
  - e. Public comment shall be limited to 3 minutes.

PC agenda 03/24/2021

6. Public Hearing: None

7. Special Meeting Business:

- a. Article 25, Yearly review standards for major home occupations
- b. Marihuana Ordinance standards

8. Next Meeting April 7, 2021

9. Public Comment

10. Commission Discussion/Comments

11. Adjournment

Whitewater Township will provide necessary reasonable auxiliary aids and services to individuals with disabilities who are planning to attend. Contact the township clerk at 231-267-5141 or the TDD at 800-649-3777.

# Draft Marihuana Zoning Ordinance Amendment 3/24/21 Kim

## Article 26 - Licensed Marihuana Facility Standards - Worksheet

### Choices to make:

Should this be located under SUP, Article 6 R1 or Article 26 as independent section?

What do we want to allow where, districts?

Do we want to list every definition or only those that we use?

Preferred term? Establishments or facilities?

### Additional Resources:

Kalkaska Medical Marihuana Ordinance” only the first 7 pages are relevant to us.

Acme Township excerpt provided in the March PC packet

Township Attorney version provided in the Feb. PC packet

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### Article 3: Definitions

#### Marihuana Related Definitions:

Shall include all of the definitions contained in the Medical Marihuana Facilities Licensing Act (MMFLA), Public Act 281 of 2016, and Michigan Regulation & Taxation of Marihuana Act (MRTMA) and Michigan Department of Licensing and Regulatory Affairs (LARA) Rules and Regulations.

**Licensed Marihuana Facility:** A facility authorized and defined pursuant to the Medical Marihuana Facilities Licensing Act, Public Act 281 of 2016, Michigan Regulation and Taxation of Marihuana Act which shall include the following:

- a. Residential Cultivation
- b. Grower
- c. Processor
- d. Secure Transporter
- e. Provisioning Center
- f. Safety Compliance Facility
- g. Excess Marihuana Grower

**Residential Cultivation** is the cultivation of medical marihuana by a patient or caregiver as defined by the Michigan Medical Marihuana Act, Initiated Law 1 of 2008.

**Primary Caregiver** means a person who has agreed to assist a patient with the medical use of marihuana and has a valid state license to do so.

# Draft Marihuana Zoning Ordinance Amendment 3/24/21 Kim

**Qualifying Patient** is a person who had been diagnosed by a physician as having a debilitating medical condition being treated by marihuana.

**Medical Secure Transport** is a commercial entity licensed to store and/or transport marihuana between facilities.

**Processor** is a commercial entity licensed to purchase marihuana from a grower and extract resin, package, create marijuana-infused products, or similarly prepare marihuana substances for sale.

**Grower** is a commercial entity licensed to cultivate, dry, trim, or cure and package marihuana for sale to a processor or provisioning center.

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**Location to be determined. 6, 26, or 37.**

**Residential Cultivation** by a Qualifying Patient or Primary Caregiver shall adhere to the following standards:

1. All marihuana plants or product must be contained within the dwelling, or enclosed structure which prevents access by unauthorized persons.
2. No more than two individuals may operate within a Residential Cultivation establishment.
3. The qualifying patient or Primary Caregiver must possess and maintain a valid registry identification card by the Bureau of Health Professions, Michigan Department of Licensing and Regulatory Affairs or their successors.
4. Primary Caregivers shall comply with the standards set forth in accordance with MMA, MCL 33.26421, et seq as to the number of plants, ounces of usable Marihuana, record keeping, and security to prevent theft of stored product.
5. Residential Cultivation establishments shall obtain all necessary building, electrical, plumbing and mechanical permits for work required to house or maintain equipment used to support the cultivation, growing, or harvesting of Marihuana.
6. There shall be no external evidence, signage, odor, or lighting related to the Residential Cultivation operation detectable from the exterior of the property.
7. All lighting, and associated equipment, such as but not limited to lamps, lights, ballasts, switches, controllers, computers, and any and all other electrical, electromechanical, or electronic devices employed on the premises must meet and fully comply with all applicable rules as required by the Federal Communications Commission ("FCC"), including but not limited to 47 CFR 15 (FCC Part 15) and 47 CFR 18 (FCC Part 18). Further, there must be no harmful and/or interfering electromagnetic emissions to any one-way or two-way radio communications, on or off the premises. Compliance with FCC Rules and Regulations is a condition of licensure by the Township.



# Draft Marihuana Zoning Ordinance Amendment 3/24/21 Kim

8. All activities shall be conducted so as not to permit spillage of dust, glare, sounds, noise, vibrations, fumes, odors, or light, onto neighboring properties.

Or

No equipment or process shall be used which creates noise, dust, vibration, glare, fumes, odor or electrical interference detectable to the normal senses beyond the parcel boundary.

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## Article 25.22E or 26 or 37.60 Licensed Marihuana Facilities Standards

### A. Standards applicable to Licensed Marihuana Establishments in all districts:

1. All commercial establishments must have a **valid license** to grow or process marihuana from both Whitewater Township and the State of Michigan.
2. All marijuana plants or products must be contained in an **enclosed, locked facility** that restricts and prevents access by any unauthorized person and meets all state requirements.
3. Any **artificial lighting** must be shielded to prevent glare and light trespass and must not be visible from neighboring properties, adjacent streets or public right of ways.
4. All lighting, and associated equipment, such as but not limited to lamps, lights, ballasts, switches, controllers, computers, and any and all other electrical, electromechanical, or electronic devices employed on the premises must meet and fully comply with all applicable rules as required by the Federal Communications Commission ("FCC"), including but not limited to 47 CFR 15 (FCC Part 15) and 47 CFR 18 (FCC Part 18). Further, there must be **no harmful and/or interfering electromagnetic emissions** to any one-way or two-way radio communications, on or off the premises. Compliance with FCC Rules and Regulations is a condition of licensure by the Township.
5. All activities shall be conducted so as **not to permit spillage of dust, glare, sounds, noise, vibrations, fumes, odors, or light**, onto neighboring properties, adjacent streets or public right of ways.  
Or  
No equipment or process shall be used which creates noise, dust, vibration, glare, fumes, odor or electrical interference detectable to the normal senses beyond the parcel boundary.
6. All external Signage indicating the nature of the establishment as a Marijuana facility is prohibited.
7. Each Facility or Establishment shall comply with all Site Plan requirements of this Ordinance. The **Site Plan shall include** the surrounding area and identify any school, youth facility, house of worship, park, or residential dwelling within 000 feet of the proposed Permitted Premises at the time of application.

# Draft Marihuana Zoning Ordinance Amendment 3/24/21 Kim

8. The Facility shall be the **only principal use** located on the Permitted Property, except that the co-location of facilities and establishments is permitted, and the stacking of applicable licenses is permitted.
- 9.
- 10.
11. G

## **Additional information required for all Marihuana SUP 25.22 E**

All Marihuana related SUP applications shall include the following information in addition to the existing requirement for SUP.

1. A waste disposal plan shall be included with all applications for and operation detailing plans for chemical, plant, and byproduct disposal which does not include on site incineration.
2. A security plan shall be included with all applications for and operation detailing plans for 24-hour security monitoring.
- 3.
4. Security Lighting Plan which takes into consideration neighboring properties shall be provided.
5. Hours of operation or production shall be approved by the PC
6. For purposes of measuring distance from a neighboring use, the measurement shall be taken from the nearest lot line to the nearest ( building or lot line) where the facility is proposed.
7. A marihuana facility shall not be located within a 1,000 foot radius of any existing public or private elementary, vocational or secondary school, public or private college, library, playground, park, or youth recreation facility. (Do we need to define school, park, etc.?)
8. Exceptions for distances may be considered when a proposed marihuana facility will be operating from an existing site previously used for a commercial application.
9. A marihuana facility shall not be located within a 0000 foot radius of another existing marihuana facility. ????
- 10.

**Distance standards could vary by type of establishment or district.**

## **SUP Standards for location and operation**

**Do we treat Grow and Processing the same?**

**Do we treat Medical and Rec the same?**

### 25.22.E Medical Marihuana Establishments

1. A Medical Marihuana Grower is allowed in the \_\_\_\_\_ districts if it **complies with all of the following:**
  - a.

# Draft Marihuana Zoning Ordinance Amendment 3/24/21 Kim

**Industrial** – location? Anywhere

Distance from other facilities? None

Restrictions? Basic standards

Property Size – Min property size? 5 acres

Maximum facility size?

Commercial – location????

Village - ?????? location????

**Agricultural** ????????

Road type?

Visibility? Cannot be visible from?

Distance from other facilities? none

Property Size – Min property size? 5 acres

Maximum facility size?

Note: Should we limit scale building size to property size for this application

Neighboring Uses: No existing homes within 1000 feet and Less than 2 existing homes within 2000 ft.,

or is located on an existing site previously used for a commercial application.

Must be 1000 ft from park, school, etc....

Must be 1000 ft from an existing agritourism venue.

2. A Medical Marihuana Processor is allowed in the \_\_\_\_\_ zoning districts if it complies with the following:

a. Location

A. Recreational Marihuana Establishments

1. A Recreational Grower is allowed in the \_\_\_\_\_

zoning district if it complies with all of the following:

b. Location

c. .

d. .

e. .

2. A Recreational Processor is allowed in \_\_\_\_\_

zoning districts if it complies with the following:

# Draft Marihuana Zoning Ordinance Amendment 3/24/21 Kim

- a. Location
- b. .
1. For purposes of measuring distance in this section, the measurement shall be taken from the nearest point on the lot line of a neighboring use exists to the nearest (point or lot line) where the facility is proposed.
- 2.
3. Exceptions may be considered when a proposed marihuana facility will be operating from an existing site previously used for a commercial application.

## Residential District R1

### 6.10 Permitted Uses

O. **Residential Cultivation** establishments subject to the standard of Article 26?

(Note: This will allow Residential cultivation in all districts.  
Treating as a Home Occupation would restrict to in home only not outbuildings)

**Commercial District? or Village? SUP?**

## Industrial

### 9.10 Uses Permitted by Special Use Permit

O. Medical Marihuana Grower and Processor Facilities subject to the standards of Article 25.25

O. **Recreational Processor and Grower Facilities** subject to the standards of Article 25.25

## Agricultural

### 10.11 Uses Permitted by Special Use Permit

O. Medical Marihuana Grower and Processor Facilities subject to the standards of Article 25.25

O. **Recreational Processor and Grower Facilities** subject to the standards of Article 25.25

# Draft Marihuana Zoning Ordinance Amendment 3/24/21 Kim





**Village of Kalkaska**  
**Ordinance No. 2017-009**

**TITLE: ORDINANCE AMENDING TITLE XI (BUSINESS REGULATIONS), CHAPTER 120 (MEDICAL MARIHUANA) OF THE KALKASKA CODE OF ORDINANCES**

**THE VILLAGE OF KALKASKA ORDAINS:**

That Title XI, Business Regulations, Chapter 120, Medical Marihuana, of the Kalkaska Code of Ordinances, be amended to read in its entirety as follows:

**§ 120.01 Title**

This ordinance shall be known and cited as the Village of Kalkaska Medical Marihuana Ordinance.

**§120.02 Purpose**

The purpose of this ordinance is to regulate and license the conduct of activity pursuant to the Michigan Medical Marihuana Act, Public Act 1 of 2008 as amended, the Medical Marihuana Facilities Licensing Act, Public Act 281 of 2016, and the Marihuana Tracking Act, Public Act 282 of 2016 (the Acts) in order to:

- A) Protect the health, safety, and welfare of the general public;
- B) Establish a set of rules and regulations which are fair and equitable for those interested in establishing medical marihuana related activities or Medical Marihuana Facilities in compliance with the Acts;
- C) Provide reasonable regulation pursuant to the Village's general police power granted to villages by the Michigan Constitution of 1963 and the General Law Village Act, MCL 61.1 *et seq.*

The Village does not intend that registration and regulation under this ordinance be constructed as a finding that such businesses and activities are legal under federal law. Although some specific uses of marihuana are purported to be exempt from prosecution by the Acts, marihuana continues to be classified as a Schedule 1 controlled substance under federal law making it unlawful under federal law to use, manufacture, distribute or dispense marihuana, or to possess it with intent to manufacture, distribute or dispense. By requiring registration and compliance with requirements as provided in this ordinance, the Village intends to protect, to the extent possible, the public health, safety and welfare of the residents of and visitors to the Village, including but not limited to registered Qualifying Patients, from harm that may result from the activities of persons who unilaterally or on the advice of their own attorney determine that they may legally operate a business involved in the possession, use, manufacture, distribution or dispensing or medical marihuana.

Nothing in this ordinance is intended to grant, nor shall it be construed as granting, immunity from criminal prosecution, for use, manufacture, distribution or dispensing of marihuana not in strict compliance with the Acts.

This ordinance permits authorization for certain activities based on the Acts. Nothing in this ordinance shall be construed as allowing persons to engage in conduct that endangers others or causes a public nuisance, or to allow use, cultivation, growth, possession, or control of marihuana not in strict accordance with the express authorization of the Act and this ordinance; and, nothing in this ordinance shall be construed to undermine or provide immunity from federal law as it may be enforced by the federal or state government relative to the cultivation, distribution, or use of marihuana. Thus, the authorization of activity, and the approval of a license under this ordinance shall not have the effect of superseding or nullifying federal law applicable to the cultivation, use, and possession of marihuana, and all applicants and grantees of licenses are on notice that they may be subject to prosecution and civil penalty, including forfeiture of property.

#### **§120.03 Legal Basis**

This ordinance is enacted pursuant to the statutory authority granted by MCL 67.1 and 67.2, authorizing the Village Council to adopt licensing ordinances and regulations to secure the public health, safety and general welfare.

#### **§120.04 Definitions**

For purposes of this ordinance, terms and words defined by the Acts shall have the same meaning as provided in the Michigan Medical Marihuana Act.

Additionally, certain terms and words used herein shall have the following meaning:

- A) **Act** means the Michigan Medical Marihuana Act, Public Act 1 of 2008 as amended, the Medical Marihuana Facilities Licensing Act, Public Act 281 of 2016, and the Marihuana Tracking Act, Public Act 282 of 2016, and all related Michigan Administrative Rules, as amended.
- B) **Applicant** means a person who applies for a license under this ordinance and includes an officer, director, and managerial employee of the applicant and a person who holds any direct or indirect ownership interest in the applicant.
- C) **Distribute or Distribution** means the physical transfer of any amount of marihuana in any form by one person to any other person or persons, whether or not any consideration is paid or received.
- D) **Dwelling** shall have the same meaning as defined in the Village Zoning Ordinance.
- E) **Premises** shall have the same meaning as defined in the Village Zoning Ordinance.
- F) **Licensee** means a person holding a license from the Villager under this ordinance and also holding a state operating license.
- G) **Lot** shall have the same meaning as defined in the Village Zoning Ordinance.
- H) **Medical Marihuana** means marihuana grown, used, or transferred for “medical use” as defined by the Acts.
- I) **Medical Marihuana Grower** means a licensee that is a commercial entity located in the Village that cultivates, dries, trims, or cures and packages marihuana for sale to a processor or provisioning center.

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- J) ***Medical Marihuana Provisioning Center*** means a licensee that is a commercial entity located in the Village that purchases marihuana from a grower or processor and sells, supplies, or provides marihuana to registered qualifying patients, directly or through the patients' registered primary caregivers. Provisioning center includes any commercial property where marihuana is sold at retail to registered qualifying patients or registered primary caregivers. A noncommercial location used by a primary caregiver to assist a qualifying patient connected to the caregiver through the department's marihuana registration process in accordance with the Michigan medical marihuana act is not a provisioning center for purposes of this ordinance.
- K) ***Medical Marihuana Facility*** means a location at which a license holder is licensed to operate under this ordinance.
- L) ***Medical Marihuana Processor*** means a licensee that is a commercial entity located in this state that purchases marihuana from a grower and that extracts resin from the marihuana or creates a marihuana-infused product for sale and transfer in packaged form to a provisioning center.
- M) ***Medical Marihuana Residential Cultivation*** means *Medical Marihuana Cultivation* undertaken by a Primary Caregiver, or a Qualifying Patient that has not specified a Primary Caregiver to cultivate marihuana for qualifying patient, at Primary Caregiver's or Qualifying Patient's primary place of residence.
- N) ***Medical Marihuana Safety Compliance Facility*** means a licensee that is a commercial entity that receives marihuana from a marihuana facility or registered primary caregiver, tests it for contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the marihuana to the marihuana facility.
- O) ***Medical Marihuana Secure Transporter*** means a licensee that is a commercial entity located in this state that stores marihuana and transports marihuana between marihuana facilities for a fee.
- P) ***Person*** means an individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, trust, or other legal entity.
- Q) ***Primary Caregiver*** means a person who is at least 21 years old and who has agreed to assist with a patient's medical use of marihuana and who has not been convicted of any felony within the past 10 years and has never been convicted of a felony involving illegal drugs of a felony that is an assaultive crime as defined in section 9a of chapter X of the code of criminal procedure, 1927 PA 175, MCL 770.96a
- R) ***Principal Residence*** means the place where a person resides more than half of the calendar year.
- S) ***Qualifying Patient or Qualified Patient*** means a person who has been diagnosed by a physician as having a debilitating medical condition.
- T) ***Residential Cultivation*** means the cultivation of medical marihuana by a patient or caregiver as defined by the Michigan Medical Marihuana Act, Initiated Law 1 of 2008.

#### **§120.05 Regulations for Qualifying Patients**

The Residential Cultivation of marihuana by a Qualifying Patient in that qualifying patient's primary dwelling or an accessory building is allowed and shall be subject to any applicable regulations imposed on Primary Caregiver Facilities, as well as State Law, and also the following regulations:

*Kalkaska info*

- 1) The qualifying patient must possess and maintain a valid registry identification card by the Bureau of Health Professions, Michigan Department of Licensing and Regulatory Affairs or any successor agency under the provisions of the Act
- 2) All marihuana plants or products must be contained within the dwelling or accessory building in an enclosed, locked facility that restricts and prevents access by any persons other than the qualifying patient.
- 3) All lighting, and associated equipment, such as but not limited to grow lamps, grow lights, ballasts, switches, controllers, and any other electrical or electronic devices employed on the premises must meet and fully comply with all applicable rules as required by the Federal Communications Commission ("FCC"), including but not limited to FCC Part 15 and FCC Part 18. Further there must be no harmful and/or interfering electromagnetic emissions with either one-way or two-way electronic communications, on or off the premises.
- 4) All activities shall be conducted so as not to create or permit trespass or spillage of dust, glare, sounds, noise, vibrations, fumes, odors, or light, onto neighboring properties, adjacent streets or public right of ways.
- 5) Any artificial lighting must be shielded to prevent glare and light trespass must not be visible from neighboring properties, adjacent streets or public right of ways.
- 6) Only the qualifying patient may use the marihuana cultivated in his/her principal residence.
- 7) There shall not be more than twelve (12) marihuana plants cultivated at any one time.
- 8) All activities shall be conducted so as not to be visible in any way from neighboring properties, adjacent streets or public right of ways.

#### **§120.06 Regulations for Primary Caregiver**

A Primary Caregiver Residential Cultivation shall comply with all of the following regulations:

- 1) The Primary Caregiver Location shall be operated by a Primary Caregiver who has been issued and maintains a valid registry identification card by the Bureau of Health Professions, Michigan Department of Licensing and Regulatory Affairs or any successor agency under the provisions of the Acts.
- 2) All marihuana plants or products must be contained in an enclosed, locked facility that restricts and prevents access by any persons other than the Primary Caregiver or Qualifying Patient and meets all state requirements.
- 3) At a Primary Caregiver Location at which a caregiver or any other person permitted under the Act cultivates marihuana for use by patients, there shall not be more than twelve (12) marihuana plants being cultivated at any one time per patient, and in no event more than seventy-two (72) marihuana plants being cultivated at any one time (which assumes cultivation for five (5) patients, plus and additional twelve (12) plants if the caregiver is also a patient that has not designated a caregiver to assist in providing medical marihuana).
- 4) Any artificial lighting must be shielded to prevent glare and light trespass and must not be visible from neighboring properties, adjacent streets or public right of ways.
- 5) All lighting, and associated equipment, such as but not limited to grow lamps, grow lights, ballasts, switches, controllers, and any other electrical or electronic devices employed on the premises must meet and fully comply with all applicable rules as required by the Federal Communications Commission ("FCC"), including but not limited to FCC Part 15 and FCC Part 18. Further, there must be no harmful and/or interfering

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electromagnetic emissions with either one-way or two-way electronic communications, on or off the premises.

- 6) All activities shall be conducted so as not to create or permit trespass or spillage of dust, glare, sounds, noise, vibrations, fumes, odors, or light, onto neighboring properties, adjacent streets or public right of ways.
- 7) No more than one (1) Primary Caregiver shall be permitted to distribute or to provide Primary Caregiver services to Qualifying Patients within a single Primary Caregiver Location.
- 8) Qualifying Patient visits to a Primary Caregiver Location shall be restricted to between the hours of 9:00 a.m. and 6:00 p.m.
- 9) No Qualifying Patients under the age of 18 (eighteen) shall be permitted at any time at a Primary Caregiver Location, except in the presence of his/her parent or guardian.
- 10) A Primary Caregiver shall display within a Primary Caregiver Location, indoors, and in a manner legible and visible only to his/her Qualifying Patients:
  - a) A notice that Qualifying Patients under the age of eighteen (18) are not allowed at the Primary Caregiver Facility, except in the presence of his/her parent or guardian, and
  - b) A notice that no consumption of marihuana shall occur at the Primary Caregiver Facility.
- 11) No signs shall be allowed at a Primary Caregiver Location.
- 12) The Primary Caregiver Location, including any room or area utilized to grow marihuana for medical use, shall contain electrical service and wiring, certified by an electrician licensed in the State of Michigan, and shall meet all the applicable requirements of the electrical code in effect.
- 13) The enclosed, locked facility shall also meet all state requirements.
- 14) A caregiver and any other person authorized under the Acts to assist patients shall distribute medical marihuana only on a confidential, one-to-one, basis with no other caregiver being present at the same Location at the same time, and no other patient or other persons being present at the same Location at the same time, provided, that a patient's immediate family members or guardian may be present within the patient's private residence, and one family member or guardian may be present in any Location other than the patient's private residence.

#### **§120.07 Regulations for Medical Marihuana Grower**

Medical Marihuana Grower shall comply at all times with the following:

- 1) A Medical Marihuana Grower shall comply at all times with the Acts and Administrative Rules, as they may be amended from time to time.
- 2) A Medical Marihuana Grower shall have at all times a valid license from the State Medical Marihuana Licensing Board created by the Acts.
- 3) No Distribution of Medical Marihuana to any Primary Caregiver or Qualifying Patient may take place at a Medical Marihuana Grower.
- 4) A Medical Marihuana Grower's may grow no more marihuana plants than allowed pursuant to its license from the State Medical Marihuana Licensing Board for one of the following classes:
  - a. Class A – 500 marihuana plants
  - b. Class B – 1,000 marihuana plants
  - c. Class C -- 1,500 marihuana plants

*Kalkaska info*

- 5) A Medical Marihuana Grower may only sell marihuana seeds or marihuana plants to a grower by means of a secure transporter pursuant to the Acts.
- 6) A Medical Marihuana Grower may sell marihuana, other than seeds to a processor or provisioning center by means of a secure transporter pursuant to the Acts.
- 7) Until December 31, 2021, a Medical Marihuana Grower must have, or have as an active employee an individual who has, a minimum of 2 years' experience as a registered primary caregiver.
- 8) A Grower may not be a registered primary caregiver and may not employ a registered primary caregiver.
- 9) A Medical Marihuana Grower may only operate in an area zoned for industrial uses.
- 10) All marihuana plants or products must be contained within the Medical Marihuana Grower in an enclosed, locked facility that restricts and prevents access by any persons other than those allowed and meets all state requirements.
- 11) Any artificial lighting must be shielded to prevent glare and light trespass and must not be visible from neighboring properties, adjacent streets or public right of ways.
- 12) All lighting, and associated equipment, such as but not limited to grow lamps, grow lights, ballasts, switches, controllers, and any other electrical or electronic devices employed on the premises must meet and fully comply with all applicable rules as required by the Federal Communications Commission ("FCC"), including but not limited to FCC Part 15 and FCC Part 18. Further, there must be no harmful and/or interfering electromagnetic emissions with either one-way or two-way electronic communications, on or off the premises.
- 13) All activities shall be conducted so as not to create or permit trespass of spillage of dust, glare, sound, noise, vibrations, fumes, odors, or light, onto neighboring properties, adjacent streets or public right of ways.

#### **§120.08 Regulations for Medical Marihuana Provisioning Center**

A Medical Marihuana Provisioning Center shall comply at all times with the following:

- 1) A Medical Marihuana Provisioning Center shall comply at all times with the Acts and Administrative Rules, as they may be amended from time to time.
- 2) A Medical Marihuana Provisioning Center shall have at all times a valid license from the State Medical Marihuana Licensing Board created by the Acts.
- 3) A Provisioning Center may only purchase or transfer medical marihuana from a grower or processor and may only sell or transfer medical marihuana to a qualifying patient or registered primary caregiver.
- 4) A Provisioning Center may transfer medical marihuana to or from a safety compliance facility for testing.
- 5) All transfers to or from a separate marihuana facility must be by means of a secure transporter.
- 6) A Provisioning Center may only sell or transfer medical marihuana to a qualifying patient or primary caregiver after the medical marihuana has been tested and bears the label required for retail sale.
- 7) No use of medical marihuana shall be allowed at a Provisioning Center.
- 8) A Provisioning Center shall not allow a physician to conduct a medical examination or issue a medical certification document on its premises for the purpose of obtaining a registry identification card.
- 9) All electrical, electromechanical, and/or electronic devices employed on the premises must meet and fully comply with all applicable rules as required by the Federal

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Communications Commission ("FCC"), including but not limited to FCC Part 15 and FCC Part 18. Further there must be no harmful and/or interfering electromagnetic emissions with either one-way or two-way electronic communications, on or off the premises.

- 10) All activities shall be conducted so as not to create or permit trespass or spillage of dust, glare, sounds, noise, vibrations, fumes, odors, or light, onto neighboring properties, adjacent streets or public right of ways.
- 11) Any artificial lighting must be shielded to prevent glare and light trespass must not be visible from neighboring properties, adjacent streets or public right of ways.

#### **§120.09 Regulations for Medical Marihuana Processor**

A Medical Marihuana Processor shall comply at all times with the following:

- 1) A Medical Marihuana Processor shall comply at all times with the Acts and Administrative Rules, as they may be amended from time to time.
- 2) A Medical Marihuana Processor shall have at all times a valid license from the State Medical Marihuana Licensing Board created by the Acts.
- 3) A Processor may only purchase marihuana from a grower and may only sell marihuana-infused products or marihuana to a Provisioning Center.
- 4) A Processor may only transfer medical marihuana by means of a secure transporter.
- 5) Until December 31, 2021, a Processor must have, or have as an active employee an individual who has, a minimum of 2 years' experience as a registered primary caregiver.
- 6) A Processor may not be a registered primary caregiver and may not employ a registered primary caregiver.
- 7) All electrical, electromechanical, and/or electronic devices employed on the premises must meet and fully comply with all applicable rules as required by the Federal Communications Commission ("FCC"), including but not limited to FCC Part 15 and FCC Part 18. Further there must be no harmful and/or interfering electromagnetic emissions with either one-way or two-way electronic communications, on or off the premises.
- 8) All activities shall be conducted so as not to create or permit trespass or spillage of dust, glare, sounds, noise, vibrations, fumes, odors, or light, onto neighboring properties, adjacent streets or public right of ways.
- 9) Any artificial lighting must be shielded to prevent glare and light trespass must not be visible from neighboring properties, adjacent streets or public right of ways.

#### **§120.10 Regulations for Medical Marihuana Secure Transporter**

A Medical Marihuana Secure Transporter shall comply at all times with the following:

- 1) A Medical Marihuana Secure Transporter shall comply at all times with the Acts and Administrative Rules, as they may be amended from time to time.
- 2) A Medical Marihuana Secure Transporter shall have at all times a valid license from the State Medical Marihuana Licensing Board created by the Acts.
- 3) A Secure Transporter may store and transport marihuana and money associated with the purchase or sale of marihuana between marihuana facilities for a fee upon request of a person with legal custody of that marihuana or money.

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- 4) A Secure Transporter may not transport to a registered qualifying patient or to a registered primary caregiver.
- 5) No Secure Transporter or investor therein may have an interest in a Grower, Processor, Provisioning Center or Safety Compliance Facility.
- 6) No Secure Transporter or investor therein may be a registered qualifying patient or a registered primary caregiver.
- 7) 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 the act.
- 8) All electrical, electromechanical, and/or electronic devices employed on the premises must meet and fully comply with all applicable rules as required by the Federal Communications Commission ("FCC"), including but not limited to FCC Part 15 and FCC Part 18. Further there must be no harmful and/or interfering electromagnetic emissions with either one-way or two-way electronic communications, on or off the premises.
- 9) All activities shall be conducted so as not to create or permit trespass or spillage of dust, glare, sounds, noise, vibrations, fumes, odors, or light, onto neighboring properties, adjacent streets or public right of ways.

#### **§120.11 Regulations for Medical Marihuana Safety Compliance Facility**

- 1) A Medical Marihuana Safety Compliance Facility shall comply at all times with the Acts and Administrative Rules, as they may be amended from time to time.
- 2) A Medical Marihuana Safety Compliance Facility shall have at all times a valid license from the State Medical Marihuana Licensing Board created by the Acts.
- 3) A Safety Compliance Facility may receive marihuana from, test marihuana for, and return marihuana to only a medical marihuana facility or a Registered Caregiver.
- 4) A Safety Compliance Facility must be accredited or have a variance pursuant to the Acts.
- 5) No Safety Compliance Facility owner or investor may have an interest in a Grower, Secure Transporter, Processor, or Provisioning Center.
- 6) A Safety Compliance Facility must have a secured laboratory space that cannot be accessed by the general public.
- 7) All electrical, electromechanical, and/or electronic devices employed on the premises must meet and fully comply with all applicable rules as required by the Federal Communications Commission ("FCC"), including but not limited to FCC Part 15 and FCC Part 18. Further there must be no harmful and/or interfering electromagnetic emissions with either one-way or two-way electronic communications, on or off the premises.
- 8) All activities shall be conducted so as not to create or permit trespass or spillage of dust, glare, sounds, noise, vibrations, fumes, odors, or light, onto neighboring properties, adjacent streets or public right of ways.

#### **§120.12 Certificate of Registration Required**

No Medical Marihuana Facility, or previously licensed medical marihuana use, whether proposed, or existing at time of enactment of this ordinance, shall be permitted within the Village at a location unless such location shall have obtained a current Certificate of Registration under this ordinance which shall constitute a license pursuant to the Kalkaska Code. Certificate of Registration is required for and shall be subject for the following:

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- 1) The exact location of a Facility used for the Medical Marihuana including the space within a building so used shall be clearly identified on the Certificate;
- 2) By way of exception, it is not the intent of this ordinance to require a Certificate of Registration for the principal residence of a Qualified Patient where marihuana is cultivated or used exclusively for such patient's personal consumption however, a location other than a patient's principal residence where a patient cultivates marihuana shall be subject to the Certificate of Registration requirements of this ordinance.
- 3) The registration requirement in this ordinance applies to all Medical Marihuana Facilities that are proposed or existing on the effective date of this ordinance.
- 4) The registration requirement set forth in this ordinance shall be in addition to, and not in lieu of, any other licensing and permitting requirement imposed by any other state or local law.
- 5) A Certificate of Registration issued under this ordinance shall be valid for the calendar year in which it is issued, unless revoked for violation(s), in which case it is considered to be null and void.
- 6) No Certificate of Registration issued under this ordinance may be transferred or assigned, and no Certificate of Registration is valid for any location other than the location specified in the Certificate of Registration.

#### **§120.13 Application for Certificate of Registration**

The requirement of this ordinance is to license a person and a specific location. Any change in ownership in any manner and any change in location requires a new license. An application for a Certificate of Registration under this section shall be submitted to the Director of Public Safety as the Medical Marihuana Officer of the Village of Kalkaska and shall conform to the following specifications. On the application, an applicant shall:

- 1) Include the address and legal description of the precise premises (other than a patient's principal residence) at which there shall be a Medical Marihuana Facility. The fact that a caregiver or other person providing assistance to patients also has an ID Card as a patient shall not relieve the obligation to provide this information.
- 2) Specify the name and address of the place where all unused portions of marihuana plants cultivate in connection with the use of marihuana or caregiver activity shall be disposed.
- 3) Describe the enclosed, locked facility, which must be contained within or permanently affixed to real property, in which any and all cultivation of marihuana is proposed to occur, or where marihuana is stored, with such description including: location in building; measurements, in feet, of the floor dimensions and height; a general description of the security measures in place, and a narrative providing an overview of access control for the facility. *No specific information such as lock or access codes or combinations is to be provided on the application.*
- 4) If a Provisioning Center, describe all locations in the premises where the sale or transfer to a qualified patient or caregiver shall take place, and include a floorplan.
- 5) If a Grower, specify the Class under which the Grower seeks the license. For safety and other code inspection purposes, it shall describe and provide detailed specifications of all lights, equipment, and all other electrical, plumbing, and other means to be used to facilitate the cultivation of marihuana plants, to a degree of detail satisfactory to the Village of Kalkaska Medical Marihuana Officer.
- 6) Manufacturer documentation must be provided certifying that all lighting, and associated equipment, such as but not limited to grow lamps, grow lights, ballasts, switches,

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controllers, and any other electrical or electronic devices employed on the premises meets and fully complies with all applicable rules as required by the Federal Communications Commission ("FCC"), including but not limited to FCC Part 15 and FCC Part 18. Further there must be no harmful and/or interfering electromagnetic emissions with either one-way or two-way electronic communications, on or off the premises.

- 7) Include a statement attesting and consenting that all activities will be conducted so as not to create or permit trespass or spillage of dust, glare, sounds, noise, vibrations, fumes, odors, or light, onto neighboring properties, adjacent streets or public right of ways.
- 8) Include a statement attesting and consenting that all artificial lighting will be shielded to prevent glare and light trespass and must not and will not be visible, from neighboring properties, adjacent streets or public right of ways.
- 9) May not contain the name, home address, or date of birth of a patient.
- 10) The name and address of all owners of the real property where the Medical Marihuana Facility is located, including a statement by each owner attesting to their knowledge, understanding, and approval of such activity upon their property.
- 11) Name, address, and other contact information of all Applicants as defined above. A statement attesting whether an Applicant has been indicted for, charged with, arrested for, or convicted of, pled guilty or nolo contendere to, forfeited bail concerning any criminal offense under the laws of any jurisdiction, either felony or controlled substance related misdemeanor, not including traffic violations, regardless of whether the offense has been reversed on appeal or otherwise, including the date, the name and location of the court, arresting agency, and prosecuting agency, the case caption, the docket number, the offense, the disposition, and the location and length of incarceration.
- 12) A zoning compliance verification that shows the structure for the proposed Medical Marihuana Facility meets the requirements of the applicable Village Zoning Code.
- 13) A building compliance verification or a certificate of occupancy that shows the structure for the proposed Medical Marihuana Facility meets the requirements of the applicable use group under the Michigan Building Code.
- 14) Payment of a non-refundable registration fee, which shall be determined by resolution of the Village Council. Fees for zoning compliance permits, building compliance verification, and certificates of occupancy shall be separate from the registration fee.

#### **§120.14 Standards for Certificate**

In addition to the regulations stated above, the requirements and standards for approval of a Certificate of Registration for the activity permitted are as follows:

- 1) Locations for any facility must comply with zoning.
- 2) A Medical Marihuana Grower's cultivation shall occur inside of an enclosed, locked facility within the confines of a building registered under this section, and such activities shall occur only in locations not visible to the public and adjoining uses, provided however, this subsection shall not prohibit a caregiver from assisting a patient at the patient's principal residence or at a hospital.
- 3) Documentation proving that electrical and plumbing inspectors (and/or other inspector(s) as required by various codes, and/or by the Medical Marihuana Officer) have inspected and confirmed that all electrical wiring, lighting, plumbing, and any other related equipment and/or means used to facilitate the growth or cultivation of marihuana plants, are in full and complete compliance with respective applicable code(s).
- 4) For proposed facilities, a site plan indication that all electrical and plumbing requirements are clearly shown. During and at completion of inspections of all electrical, plumbing and

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other related equipment are in full and complete compliance with respective applicable code(s). A Certification of Registration may be issued upon an administrative review of a site plan. Should the completed structure not pass all necessary inspections, the Certificate shall be null and void.

- 5) All use of property or land must be in accordance with an approved application, and, be in full compliance with all other Village ordinances.
- 6) An Applicant shall meet all requirements found in the Acts.
- 7) The Applicant has signed and sworn that the Applicant has not knowingly submitted an Application containing false information.
- 8) A Medical Marihuana operation that has a Certificate of Registration or seeks a Certificate of Registration on or after the effective date of this ordinance is subject to the previous ordinance until December 31, 2017. The previous ordinance shall remain in effect for these operations until December 31, 2017.
- 9) A satisfactory background investigation, experience in the specific medical marihuana facility activity, cooperation with law enforcement, community investment, proof of financial stability, and a good faith effort to recognize and address community sensibilities and sensitivities, all equally weighted, as evaluated by the Village of Kalkaska Medical Marihuana Officer and his designees.
- 10) Beginning January 1, 2018, all existing operations must be a state licensed Medical Marihuana Facility and must make application for and receive a Certificate of Registration to continue to operate pursuant to this Ordinance. The Certificate of Registration must be applied for and approved prior to January 1, 2018 for any Medical Marihuana Facility.
- 11) A satisfactory background investigation.
- 12) Demonstration of experience in the specific medical marihuana facility activity.

**§120.15 Inspection of Medical Marihuana Facility prior to Issuance of Certificate of Registration**

1. Additionally, contingent to licensing and registration of a medical marijuana facility, the community Medical Marihuana Officer may require and is permitted to coordinate electrical and plumbing inspectors, and any other inspectors deemed necessary, with regard to a site of such cultivation, or point of sale, for the purpose of determining whether all lights, plumbing, equipment, and any other means used to facilitate the Medical Marihuana Facility are in accordance with both this ordinance, and, any other applicable local, State, or Federal code.
2. This section is not meant to imply that the Village of Kalkaska Medical Marihuana Officer is responsible for determining all such inspections that are necessary, but that he may require additional inspections that he feels in his judgement are prudent and/or necessary.
3. In carrying out provisions of the subsection, community officials will not require the name or address of patients, but rather, the intent of this subsection is to focus on the premises to ensure public health and safety are accommodated.
4. A quarterly compliance review for each Certificate of Registration shall be conducted by the Medical Marihuana Officer and/or his designees. The fee shall be listed in the Village Schedule of Fees.

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#### **§120.16 Renewal or Amendment of Existing Certificate of Registration**

The same procedures for application for and issuance of a new Certificate of Registration shall apply to renewal, or amendment, of an existing Certificate of Registration, subject also to the following:

- 1) To renew an existing Certificate of Registration, the registrant shall submit an application with full supporting documentation, in the same manner and degree as is required to apply for a new Certificate of Registration, no later than forty-five (45) days before the expiration date.
- 2) An amended application shall be submitted when there is a change in any information the applicant was required to provide in the most recent application on file with the Village.
- 3) An application to change the location of an existing Certificate of Registration shall require a new application, with full supporting documentation, must meet all requirements, and shall be processed in the same manner as provided for the issuance of a new Certificate of Registration.
- 4) The Applicant has used the property or land in accordance with any prior approved application for that property.

#### **§120.17 Certificate of Registration Revocation**

- 1) A Certificate of Registration issued under this ordinance shall be revoked for any of the following violations:
  - a. Any person required to be named on the application for the Certificate of Registration is convicted of or found responsible for violation of any provision of this ordinance;
  - b. The application contains any misrepresentation or omission of any material fact, or false or misleading information, or the applicant has provided the Village with any other false or misleading information;
  - c. Marihuana is transferred or otherwise Distributed on the premises in violation of this ordinance or any other applicable state or local law, rule or regulation;
  - d. The Facility is operated or is operating in violation of the specifications of the Certificate of Registration application, any additional applicable conditions or approvals required by the Village, or any other applicable state or local law, rule or regulation.
  - e. The Village, or the County or the department of any other governmental entity with jurisdiction, has closed the business temporarily or permanently or issues and sanction for failure to comply with health and safety provisions of this ordinance or otherwise applicable to the business or any other applicable state or local law.
  - f. The Facility is determined to have become a public nuisance.
  - g. Other reasons pursuant to Section 110.11 of Title XI of the Kalkaska Ordinances.
- 2) The procedure for revocation for the above violations shall be pursuant to Section 110.12 of Title XI of the Kalkaska Ordinances.

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#### **§120.18 Revocation Not Exclusive Penalty**

Nothing in this ordinance shall be deemed to prohibit the Village from imposing other penalties authorized by this code or other ordinance of the Village, including filing a public nuisance action or any other legal action in a court of competent jurisdiction.

#### **§120.19 Civil Infraction**

Any person, firm, or corporation who violates any of the provisions of this ordinance shall be deemed to be responsible for a municipal civil infraction as defined by Michigan statute which shall be punishable by a civil fine for each violation in accordance with the schedule set forth herein, along with costs which may include all expenses, direct or indirect, which the Village incurs in connection with the municipal civil infraction. A violator of this ordinance shall also be subject to such additional sanctions and judicial orders as are authorized under Michigan law. Each day that a violation continues to exist shall constitute a separate violation of this ordinance. The Village's Medical Marihuana Officer or any police officer may issue appearance ticket citations for violations of this ordinance. The provisions of this ordinance may also be enforced by suit for injunctive relief.

#### **§120.20 Civil Fines for Municipal Infractions**

Civil fines for municipal civil infractions under this ordinance shall be assessed in accordance with the following schedule:

	Fine and Suspension
1 <sup>st</sup> violation within a 3-year period	\$ 500.00
2 <sup>nd</sup> violation within a 3-year period	\$1000.00
3 <sup>rd</sup> violation within a 3-year period	\$2000.00

The fines listed above supersede those reflected in Village Ordinance 35.02.

#### **§120.21 Severability**

The provisions of this ordinance are hereby declared to be severable and if any clause, sentence, word, section or provision is declared void or unenforceable for any reason by any court of competent jurisdiction, it shall not affect any portion of this ordinance other than said part or portion thereof.

Publication and Recording. A summary of this Ordinance shall be published once in a newspaper of general circulation within the boundaries of the Village of Kalkaska qualified under State law to publish legal notices immediately after its adoption, and the same shall be recorded in the minutes of the Village of Kalkaska of the meeting at which this Ordinance was adopted and, in addition shall be recorded in the Ordinance Book of the Village.

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Effective Date. The effective date of this Ordinance shall be 20 days after its enactment or its publication, whichever occurs first, as provided by law.

Ayes: President Sieting; Trustees Ellis, Kelly, Needham, Sanborn and White.

Nays: Trustee Dupuie

Absent: None

ORDINANCE DECLARED ADOPTED.

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By: Jeff Sieting, Village President

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By: Angie Koon, Village Clerk

Date: August 28, 2017

#### CERTIFICATION

I hereby certify that the foregoing is a true and complete copy of an Ordinance adopted by the Village Council of the Village of Kalkaska, County of Kalkaska, State of Michigan, at a regular meeting held on August 28, 2017, that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be or have been made available as required by said Act. I further certify that the foregoing Ordinance was published on September 7, 2017 in the following newspaper: Kalkaska Review.

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Angie Koon, Village Clerk

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## 9.26 MEDICAL MARIHUANA DISPENSARY

### 9.26.1 STATEMENT OF INTENT:

The purpose of a Medical Marihuana Dispensary is to allow an establishment or place of business to undertake the following "Medical uses" of Medical Marihuana on the property: acquisition, possession, delivery or transfer of marihuana or paraphernalia relating to the administration of marihuana to treat or alleviate a registered qualifying patient's debilitating medical conditions or symptoms associated with the debilitating medical condition under the Medical Marihuana Act. Acme Township desires to allow all legal businesses to operate in the Township, but recognizes the need to zone for all uses to protect the health, safety and welfare of the general public. A Medical Marihuana Dispensary must satisfy the general standards in Section 9.1, the specific requirements of this Section, and all other requirements of the Acme Township Zoning Ordinance.

### 9.26.2 REQUIRED STANDARDS:

- a. ~~The acquisition, possession, delivery or transfer of Medical Marihuana or paraphernalia shall comply at all times with the Medical Marihuana Act and the General Rules of the Michigan Department of Community Health, as amended.~~
- b. ~~The transfer of Medical Marihuana shall be only allowed to a Qualifying Patient by his or her Registered Primary Caregiver or by another Qualifying Patient as allowed by the Medical Marihuana Act and the General Rules of the Michigan Department of Community Health, as amended.~~
- c. ~~A Medical Marihuana Dispensary shall not operate between the hours of 8:00 p.m. and 8:00 a.m.~~
- d. ~~Except for parents or guardians of a Qualifying Patient who is under the age of eighteen (18) and the Owner or staff of the facility, persons other than a Qualifying Patient or Primary Caregiver shall not be permitted within the facility when Medical Marihuana is being transferred.~~
- e. ~~A Medical Marihuana Dispensary shall not be owned or operated by, or employ, a person that has been convicted of a felony involving controlled substances.~~
- f. ~~No use by way of smoking, ingestion, consumption, or any other method of taking Medical Marihuana into the body shall occur at a Medical Marihuana Dispensary.~~
- g. ~~No person under the age of 18 shall be permitted into a Medical Marihuana Dispensary at any time unless that person is a Qualifying Patient and is accompanied by that person's parent or guardian.~~
- h. ~~Medical Marihuana Dispensaries shall be considered a Retail store for purposes of determining Off Street Parking and Loading requirements under the Zoning Ordinance.~~
- i. ~~A Medical Marihuana Dispensary shall not be located within a 500 foot radius of another existing Medical Marihuana Dispensary or Medical Marihuana Cultivation Operation.~~

1. ~~For purposes of measuring the 500 foot radius in this section, the measurement shall be taken from the nearest point on the building where the existing Medical Marihuana Dispensary or Medical Marihuana Cultivation Operation exists to the nearest point on the building where the proposed Medical Marihuana Dispensary is proposed.~~
  2. ~~Exception shall be made when the operator of a Medical Marihuana Dispensary is also approved to operate a Medical Marihuana Cultivation Operation on the same parcel as granted through a Special Use Permit.~~
- j. ~~A Medical Marihuana Dispensary shall not be located within a 1,000 foot radius of any existing public or private elementary, vocational, or secondary school, or a public or private college, junior college, or university, or a library, or a playground or park, or a public or private youth recreation facility.~~
1. ~~For purposes of this section the term "library" means a library that is established by the state; a county, city, township, village, school district, or other local unit of government or authority or combination of local units of government and authorities; a community college district; a college or university; or any private library open to the public.~~
  2. ~~For purposes of this section the term "playground" means any outdoor facility (including any parking lot appurtenant thereto) intended for recreation, open to the public, and with any portion thereof containing three or more separate apparatus intended for the recreation of children including, but not limited to, sliding boards, swing sets, and teeterboards.~~
  3. ~~For purposes of this section the term "park" means any land or facility of any size or shape, including but not limited to linear ways, road ends, and submerged lands, that are open to the public and used for recreation or held for future recreational use.~~
  4. ~~For purposes of measuring the 1,000 foot radius in this section, the measurement shall be taken from the nearest property line of the existing public or private elementary, vocational, or secondary school, or public or private college, junior college, or university, library, or playground or park, or a public or private youth recreation facility to the nearest point on the building where the proposed Medical Marihuana Dispensary is proposed.~~
- k. ~~The planting, growing, harvesting, processing and packaging of Medical Marihuana shall not be allowed on the parcel unless approved through a Special Use Permit and pursuant to Section 9.1 and Section 9.27~~

**~~SECTION 9.26 ADDED BY AMENDMENT 013. ADOPTED 08/02/11. EFFECTIVE 08/13/11. AMENDED BY AMENDMENT 036. ADOPTED 01/05/16. EFFECTIVE 01/24/16~~**

**~~SECTION 9.26 DELETED BY AMENDMENT 045. ADOPTED 10/03/17. EFFECTIVE 12/01/17.~~**



## 9.27 MEDICAL MARIHUANA CULTIVATION OPERATION

### 9.27.1 STATEMENT OF INTENT

The purpose of a Medical Marihuana Cultivation Operation is to allow an establishment or place of business to undertake the following "Medical uses" of Medical Marihuana on the property: planting, growing, harvesting, processing, packaging or storing of Medical Marihuana to treat or alleviate a registered Qualifying Patient's debilitating medical conditions or symptoms associated with the debilitating medical condition under the Medical Marihuana Act. Acme Township desires to allow all legal businesses to operate in the Township, but recognizes the need to zone for all uses to protect the health, safety and welfare of the general public. A Medical Marihuana Cultivation Operation must satisfy the general standards of Section 9.1, the specific requirements of this Section, and all other requirements of the Acme Township Zoning Ordinance.

### 9.27.1 REQUIRED STANDARDS

- a. ~~The planting, growing, harvesting, processing, packaging or storing of Medical Marihuana shall comply at all times with the Medical Marihuana Act and the General Rules of the Michigan Department of Community Health.~~
- b. ~~The cultivation of Medical Marihuana shall be only allowed by a Primary Caregiver for the Qualifying Patients registered under their care.~~
- c. ~~Medical Marihuana Cultivation Operations shall be limited to growing a maximum of sixty (60) Medical Marihuana plants for Qualifying Patients. The number of Medical Marihuana plants shall increase to seventy two (72) if the Primary Caregiver operating the Medical Marihuana Cultivation Operation is also a Qualifying Patient.~~
- d. ~~Except for the Owner of the property, persons other than the Primary Caregiver shall not be permitted within the Operation when Medical Marihuana is being cultivated, harvested, processed, packaged or stored.~~
- e. ~~No person under the age of eighteen (18) shall be permitted into a Medical Marihuana Cultivation Operation at any time.~~
- f. ~~A Medical Marihuana Cultivation Operation shall not be owned or operated by, or employ, a person that has been convicted of a felony involving controlled substances.~~
- g. ~~No use by way of smoking, ingestion, consumption, or any other method of taking Medical Marihuana into the body shall occur at a Medical Marihuana Cultivation Operation.~~
- h. ~~No more than one (1) Primary Caregiver shall operate a Medical Marihuana Cultivation Operation on any one (1) parcel.~~
- i. ~~The cultivation of Medical Marihuana shall only be permitted inside a structure not visible from the outside that shall be at all times secured and locked, and shall be accessible only by the Primary Caregiver and Owner or the Property.~~

- j. ~~Lighting utilized for cultivating Medical Marihuana shall not be visible from the exterior of the building.~~
- k. ~~No equipment or process shall be used in which creates noise, dust, vibration, glare, fumes, odors or electrical interference detectable to the normal senses beyond the parcel boundary.~~
- l. ~~A waste disposal plan shall be included with all applications for an operation detailing plans for chemical disposal and plans for Medical Marihuana plant disposal. Under no instance shall the incineration of Medical Marihuana plant materials be allowed on the parcel.~~
- m. ~~A Medical Marihuana Cultivation Operation shall be considered an industrial or manufacturing use for purposes of determining Off Street Parking and Loading requirements under the Zoning Ordinance.~~
- n. ~~A Medical Marihuana Cultivation Operation shall not be located within a 500 foot radius of another existing Medical Marihuana Cultivation Operation or Medical Marihuana Dispensary.~~
  - 1. ~~For purposes of measuring the 500 foot radius in this section, the measurement shall be taken from the nearest point on the building where the existing Medical Marihuana Cultivation Operation or Medical Marihuana Dispensary exists to the nearest point on the building where the proposed Medical Marihuana Cultivation Operation is proposed.~~
  - 2. ~~Exception shall be made when the operator of a Medical Marihuana Cultivation Operation is also approved to operate a Medical Marihuana Dispensary on the same parcel as granted through a Special Use Permit.~~
- o. ~~A Medical Marihuana Cultivation Operation shall not be located within a 1,000 foot radius of any existing public or private elementary, vocational, or secondary school, or a public or private college, junior college, or university, or a library, or a playground or park, or a public or private youth recreational facility.~~
  - 1. ~~For purposes of this section the term "library" means a library that is established by the state; a county, city, township, village, school district, or other local unit of government or authority or combination of local units of government and authorities; a community college district; a college or university; or any private library open to the public.~~



2. For purposes of this section the term "playground" means any outdoor facility (including any parking lot appurtenant thereto) intended for recreation, open to the public, and with any portion thereof containing three or more separate apparatus intended for the recreation of children including, but not limited to, sliding boards, swing set, and teeterboards.

3. For purposes of this section the term "park" means any land or facility of any size or shape, including but not limited to linear ways, road ends, and submerged lands, that are open to the public and used for recreation or held for future recreational use.

4. For purposes of measuring the 1,000 foot radius in this section, the measurement shall be taken from the nearest property line of the existing public or private elementary, vocational, or secondary school, or public park or private college, junior college, or university, or a library or a playground or park, or a public or private youth recreational facility to the nearest point on the building where the proposed Medical Marihuana Cultivation Operation is proposed.

p. The acquisition, possession, delivery, or transfer of Medical Marihuana or paraphernalia shall not be allowed on the parcel unless approved through a Special Use Permit and pursuant to Section 9.1 and Section 9.26.

~~SECTION 9.27 ADDED BY AMENDMENT 036. ADOPTED 01/05/16. EFFECTIVE 01/24/16~~

SECTION 9.27 DELETED BY AMENDMENT 045. ADOPTED 10/03/17. EFFECTIVE 12/01/17.



Draft (from Attorney)

**WHITEWATER TOWNSHIP  
GRAND TRAVERSE COUNTY, MICHIGAN  
ZONING ORDINANCE AND ZONING ORDINANCE MAP AMENDMENT**

**ORDINANCE NO. \_\_\_\_\_**

At a duly scheduled meeting of the Township Board of Whitewater Township, Grand Traverse County, Michigan, held at the Whitewater Township Hall on \_\_\_\_\_, 2021 at \_\_\_\_\_ p.m., Township Board Member \_\_\_\_\_ moved to adopt the following ordinance, which motion was seconded by Township Board Member \_\_\_\_\_:

*An Ordinance to amend the Whitewater Township Zoning Ordinance, as amended, to provide for the zoning regulation of Commercial Medical Marihuana Facilities, Adult-Use Marihuana Establishments, and Primary Caregiver operations; and designate such Facilities, Establishments, and Operations as special uses; in order to maintain the public health, safety and welfare of the residents and visitors to Whitewater Township. The Ordinance further amends the Zoning Ordinance Map of the Whitewater Township Zoning Ordinance to establish a Marihuana Overlay District consistent with text amendments to the Whitewater Township Zoning Ordinance.*

THE TOWNSHIP OF WHITEWATER ORDAINS:

**Section 1. Amendment of Article III, Definitions:** The Whitewater Township Zoning Ordinance, Article III, Definitions, shall be amended to add the following definitions:

- A. "Commercial Medical Marihuana Facility" or "Facility" means one of the following:
1. "Provisioning Center," as that term is defined in the Medical Marihuana Facilities Licensing Act, MCL 333.27101 *et seq.* ("MMFLA");
  2. "Processor," as that term is defined in the MMFLA;
  3. "Secure Transporter," as that term in the MMFLA;
  4. "Grower," as that term is defined in the MMFLA;
  5. "Safety Compliance Facility," as that term is defined in the MMFLA.
- B. "Marihuana Establishment" or "Establishment" means one of the following, or any other type of marihuana-related business Licensed by the Department of Licensing and Regulatory Affairs or its authorized Michigan agency.
1. "Marihuana grower," as that term is defined in the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951 *et seq.* ("MRTMA"); and
  2. "Marihuana microbusiness," as that term is defined in the MRTMA; and



3. "*Marihuana processor*," as that term is defined in the MRTMA; and
4. "*Marihuana retailer*," as that term is defined in the MRTMA; and
5. "*Marihuana secure transporter*," as that term is defined in the MRTMA; and
6. "*Marihuana safety compliance facility*," as that term is defined in the MRTMA; and
7. "*Designated consumption establishment*," as that term is defined by the Department of Licensing and Regulatory Affairs or as may be defined in the MRTMA; and
8. "*Excess marihuana grower*," as that term is defined by the Department of Licensing and Regulatory Affairs or as may be defined in the MRTMA; and
9. "*Marihuana event organizer*," as that term is defined by the Department of Licensing and Regulatory Affairs or as may be defined in the MRTMA; and
10. "*Temporary marihuana event*" as that term is defined by the Department of Licensing and Regulatory Affairs or as may be defined in the MRTMA.

- C. "*Patient*" means a "registered qualifying patient" or a "visiting qualifying patient" as those terms are defined by MCL 333.26421, *et seq.*
- D. "*Primary Caregiver*" means a Person qualified under MCL 333.26423(g), and the rules promulgated therefore by the Department of Community Health, R 333.101 *et seq.*, including, but not limited to possession of a valid, unexpired registry identification card, to assist with a Patient's medical use of Marihuana, and authorized under the Michigan Medical Marihuana Act ("MMMA") to operate as a Primary Caregiver.

**Section 2. Amendment of Article 9, Section 9.11, Uses Permitted by Special Use Permit:** The Whitewater Township Zoning Ordinance, Article 9 Industrial District N, Section 9.11, Uses Permitted by Special Use Permit, shall be amended to read as follows:

#### **SECTION 9.11 USES PERMITTED BY SPECIAL USE PERMIT**

The following additional uses may be permitted subject to review and approval of the Planning Commission in accordance with procedures of Article 25.

- A. Industry or business, the operation of which uses any product or by-product or other thing which may cause contamination to the water, air, or land of the area unless adequate provision is made for the disposition of such product, by-product or waste which meets the approval of the Planning Commission and shall not be offensive, objectionable, or in any way endanger public health, safety, or welfare.

- B. Junk, scrap metal, or salvage yards.
- C. Stock yards, slaughterhouses, rendering plants, meat or pelt processing establishments.
- D. Establishments primarily engaged in heavy industry such as smelters, foundries, heavy industrial stamping operations.
- E. Growers Facilities and Marihuana Grower Establishments.
- F. Processor Facilities and Marihuana Processor Establishments.
- G. Primary Caregiver Operation
- H. Any similar business or operation offensive or objectionable to public health, safety, or welfare.
- I. All special uses permitted within the Commercial, Village, and Residential Districts.

**Section 3. Amendment of Article 5 to add Section 5.19 Marihuana Overlay District:** The Whitewater Township Zoning Ordinance, Article 5 shall be amended to add Section 5.19 Marihuana Overlay District, providing as follows:

#### **SECTION 5.19 MARIHUANA OVERLAY DISTRICT**

- A. This District shall comprise only property within either the Agricultural A-1 or the Industrial N zoning districts.
- B. The Official Zoning Map of Whitewater Township shall be amended to reflect the portion of the Township described as follows:

THAT PART OF THE SOUTHWEST 1/4 OF SECTION 9, TOWN 28 NORTH, RANGE 9 WEST, DESCRIBED AS: COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 9 FOR THE POINT OF BEGINNING; THENCE NORTH 00°05'55" EAST ALONG THE WEST LINE OF SAID SECTION AND THE CENTERLINE OF MUNRO ROAD 781.83 FEET; THENCE SOUTH 89°52' 41" EAST 315.87 FEET; THENCE SOUTH 00°09'53" WEST 116.82 FEET; THENCE SOUTH 89°52' 41" EAST 122.66 FEET; THENCE SOUTH 40°42' 34" EAST 88.66 FEET; THENCE SOUTH 00°05'55" WEST 597.90 FEET TO A POINT ON THE SOUTH LINE OF SAID SECTION AND THE CENTERLINE OF ANGELL ROAD; THENCE NORTH 89°56'50" WEST ALONG SAID SOUTH LINE AND SAID CENTERLINE 495.65 FEET TO THE POINT OF BEGINNING.

**Section 4. Amendment to add Article 11B: Marihuana Overlay District:** The Whitewater Township Zoning Ordinance, shall be amended to add Article 11B: Marihuana Overlay District, providing as follows:

#### **ARTICLE 11B – MARIHUANA OVERLAY DISTRICT.**

##### **SECTION 11B.01 – PURPOSE.**

The Marihuana Overlay District ("Marihuana Overlay District") is intended to provide opportunities for the development of certain Marihuana Facilities or Establishments permitted

under the MMFLA and MRTMA and to require compliance with this Ordinance, in order to maintain the public health, safety and welfare of the Township. This Article proposes to accomplish this through the implementation of regulations that promote the use of land within the Marihuana Overlay District for certain Commercial Marihuana Facilities and Establishments.

#### **SECTION 11B.02 – PARCEL REGULATIONS**

- A. Land located within such overlay district may be developed according to the provisions of the underlying zoning district or according to the provisions of this Article.
- B. All land in the overlay district shall be subject to the terms and conditions imposed by the zoning district where such parcel or lot may be located and any other applicable ordinances.
- C. The Facility or Establishment shall be the only principal use located on the Permitted Property, except that the co-location of facilities and establishments is permitted and the stacking of applicable Facility or Establishment licenses is permitted, subject to other applicable ordinances, laws, or regulations.
- D. Each Facility or Establishment shall comply with all Site Plan requirements of this Ordinance. The Site Plan shall include the surrounding area and identify any school, house of worship, park, or residential dwelling units within 500 feet of the proposed Permitted Premises at the time of Special Use Permit application.

#### **SECTION 11B.03 – USES PERMITTED BY SPECIAL USE PERMIT.**

The following uses are permitted in the Marihuana Overlay District with a Special Use Permit:

- A. Growers Facilities and Marihuana Grower Establishments.
- B. Processor Facilities and Marihuana Processor Establishments.

#### **SECTION 11B.04 – REVIEW PROCESS**

A complete application shall be reviewed and granted by the Planning Commission in accordance with the provisions of this Article and Article 25 – Site Plan Review and Special Land Uses, subject to all hearings and other provisions set forth therein, as applicable.

**Section 5. Amendment of Article 25 to add Section 25.23 Operational Requirements – Primary Caregiver Operations:** The Whitewater Township Zoning Ordinance, Article 5 shall be amended to add Section 25.23 Operational Requirements – Primary Caregiver Operations, providing as follows:



## **SECTION 25.23 OPERATIONAL REQUIREMENTS – PRIMARY CAREGIVER OPERATIONS**

- A. *Scope of Primary Caregiver Operation.* Only one (1) Primary Caregiver is permitted to operate within any Primary Caregiver Operation.
- B. *Awareness Permit.* A Primary Caregiver cultivating Medical Marihuana plants for distribution to Patients in compliance with the MMMA shall apply for an Awareness Permit on an application form provided by the Township. A copy of the Primary Caregiver's Registry Identification Card shall be provided with the Awareness Permit application.
- C. *Required spacing.* A Primary Caregiver Operation shall not be within five-hundred (500) feet from any school, church, house of worship or other religious facility, or public or private park, with the minimum distance between uses measured horizontally between the nearest points of each property line.
- D. *Amount of Marihuana.* The amount of Marihuana on the property and under the control of the Primary Caregiver operating the Primary Caregiver Operation may be no more than twelve (12) Marihuana plants and no more than 2.5 ounces of usable Marihuana per Patient to whom the Primary Caregiver is lawfully connected, up to a maximum of five (5) patients, sixty (60) Marihuana plants and 12.5 ounces of Usable Marihuana per Caregiver. A Primary Caregiver who is also registered as a Patient may grow an additional 12 Marihuana plants and maintain 2.5 ounces of Usable Marihuana for himself. The Primary Caregiver operating the Primary Caregiver Operation must specify the name and address of the place where all portions exceeding the amount permitted by law shall be disposed.
- E. *Storage of Marihuana.* All Marihuana must be contained within a separate enclosed, locked facility for each Patient to whom the Primary Caregiver is lawfully connected, in accordance with the MMMA, MCL 333.26421, et seq. The Primary Caregiver Operation shall have secure windows and doors and the Primary Caregiver shall implement security measures to prevent theft of stored Marihuana.
- F. *Use of Marihuana.* Smoking or consumption of controlled substances, including Marihuana, shall be prohibited on the site of the Primary Caregiver Operation.
- G. *Operation.* The Primary Caregiver Operation's operation and design shall minimize any impact to adjacent uses, including the control of any odor by maintaining and operating an air filtration system so that no odor is detectable outside the Primary Caregiver Operation.
- H. *Permits.* A Primary Caregiver Operation must obtain all necessary building, electrical, plumbing, and mechanical permits for any part of the structure in which electrical, wiring, lighting, or watering devices that support the cultivation, growing, or harvesting of Marihuana are located.

I. *Distribution of Marihuana.* No person operating a Primary Caregiver Operation shall provide or otherwise make available medical Marihuana to any person who is not a Patient legally connected to that Primary Caregiver.

J. *Inspections.* Primary Caregiver Facilities are subject to random and unannounced examinations of the Primary Caregiver Operation and all articles of property in that facility at any time to ensure compliance with this Ordinance, any other local regulations, and state law.

**Section 6. Severability:** The provisions of this Ordinance are declared severable. If any part of this Ordinance is declared invalid for any reason by a court of competent jurisdiction, that declaration does not affect or impair the validity of all other provisions that are not subject to that declaration.

**Section 7. Effective Date:** This Ordinance shall take effect seven (7) days after publication of a notice of adoption of this Ordinance, unless referendum procedures are initiated under MCL 125.3402. If referendum procedures are initiated, this Ordinance will take effect in accordance with MCL 125.3402.

YEAS: \_\_\_\_\_

NAYS: \_\_\_\_\_

ABSENT/ABSTAIN: \_\_\_\_\_

ORDINANCE DECLARED ADOPTED.

\_\_\_\_\_  
Ron Popp, Whitewater Township Supervisor

### CERTIFICATION

I hereby certify that:

1. The above is a true copy of an Ordinance adopted by the Whitewater Township Board at a duly scheduled and noticed meeting of that Township Board held on \_\_\_\_\_, pursuant to the required statutory procedures.
2. A summary of the above Ordinance was duly published in the \_\_\_\_\_ newspaper, a newspaper that circulates within Whitewater Township, on \_\_\_\_\_.
3. Within 1 week after such publication, I recorded the above Ordinance in a book of ordinances kept by me for that purpose, including the date of passage of the ordinance, the names of the members of the township board voting, and how each member voted.

ATTESTED:

\_\_\_\_\_  
Cheryl Goss, Whitewater Township Clerk

DRAFT





**WHITEWATER TOWNSHIP  
GRAND TRAVERSE COUNTY, MICHIGAN  
ORDINANCE AUTHORIZING AND PERMITTING  
COMMERCIAL MEDICAL MARIHUANA FACILITIES  
ORDINANCE NO. 59**

At a regular meeting of the Township Board of Whitewater Township, Grand Traverse County, Michigan, held at the Whitewater Township Hall on December 8, 2020, at 7:00 p.m., Township Board Member Benak moved to adopt the following Ordinance, which motion was seconded by Township Board Member Goss:

*An Ordinance to implement the provisions of the Medical Marihuana Facilities Licensing Act, Public Act 281 of 2016, which authorizes the licensing and regulation of Commercial Medical Marihuana Facilities and affords the Township the option whether or not to allow Commercial Medical Marihuana Facilities; to regulate Commercial Medical Marihuana Facilities by requiring a Permit and compliance with requirements as provided in this Ordinance, and provide for permit revocations and additional penalties for violations in order to maintain the public health, safety and welfare of the residents and visitors to the Township.*

**THE TOWNSHIP OF WHITEWATER ORDAINS:**

**SECTION 1. TITLE.** This ordinance shall be known as, and may be cited as, the Whitewater Township Medical Marihuana Facilities Licensing Ordinance.

**SECTION 2. DEFINITIONS.** The following words and phrases shall have the following definitions when used in this Ordinance:

1. “*Application*” means an Application for a Permit under this Ordinance and includes all supplemental documentation attached or required to be attached thereto; the Person filing the Application shall be known as the “*Applicant*.”
2. “*Co-location*” means the operation of separate Facilities or separate MRTMA Establishments at the same location, Permitted Premises, or Permitted Property.
3. “*Commercial Medical Marihuana Facility*” or “*Facility*” means one of the following:
  - a. “*Provisioning Center*,” as that term is defined in the MMFLA;
  - b. “*Processor*,” as that term is defined in the MMFLA;
  - c. “*Secure Transporter*,” as that term in the MMFLA;
  - d. “*Grower*,” as that term is defined in the MMFLA;
  - e. “*Safety Compliance Facility*,” as that term is defined in the MMFLA.

4. *"Department"* means the Michigan State Department of Licensing and Regulatory Affairs or any designated Michigan agency authorized to regulate, issue or administer a Michigan License for a Commercial Medical Marihuana Facility.
5. *"License"* means a current and valid License for a Commercial Medical Marihuana Facility issued by the State of Michigan.
6. *"Licensee"* means a Person holding a current and valid Michigan License for a Commercial Medical Marihuana Facility.
7. *"Marihuana"* means that term as defined in Section 7106 of the Michigan Public Health Code, 1978 PA 368, MCL 333.7106 and as defined in the MMFLA.
- 8.
9. *"Paraphernalia"* means drug paraphernalia as defined in section 7451 of the Michigan Public Health Code, 1978 PA 368, MCL 333.7451, that is or may be used in association with Medical Marihuana.
10. *"Patient"* means a registered "qualifying patient" or a "visiting qualifying patient" as those terms are defined by MCL 333.26421, et seq.
11. *"Permit"* means an approval issued by the Township pursuant to the MMFLA that allows a Person to operate a Facility in the Township under this Ordinance. Permit may be granted to a Permit Holder only for and limited to a specific Permitted Premises and a specific Permitted Property.
12. *"Permit Holder"* means the Person that holds a current and valid Permit issued under this Ordinance.
13. *"Permitted Premises"* means the particular building or buildings within which the Permit Holder will be authorized to conduct the Facility's activities pursuant to the Permit.
14. *"Permitted Property"* means the real property comprised of a lot, parcel or other designated unit of real property upon which the Permitted Premises is situated.
15. *"Person"* means a natural person, company, partnership, trust, profit or non-profit corporation, limited liability company, or any joint venture for a common purpose.
16. *"Process"* or *"Processing"* means to separate or otherwise prepare parts of the marihuana plant and to compound, blend, extract, infuse, or otherwise make or prepare marihuana concentrate or marihuana-infused products.



17. *"Public Place"* means any area to which the public is invited or generally permitted in the usual course of business.
18. *"Stacked license"* means more than one marihuana Permit issued to a single Permit Holder to operate as a Grower, Class C as specified in each Permit at a Permitted Premises consistent with the MMFLA and applicable regulations.
19. *"Township"* means Whitewater Township, a general law township located in Grand Traverse County, Michigan.
20. *"Township Zoning Administrator"* means the Whitewater Township Zoning Administrator or his/her designee. For the purposes of this Ordinance, if the Zoning Administrator is unable to act, the Supervisor or his/her designee may also undertake any action or duty of the Township Zoning Administrator.

### **SECTION 3. PERMIT REQUIRED; NUMBER OF PERMITS AVAILABLE; ELIGIBILITY; GENERAL PROVISIONS.**

1. The Township hereby authorizes the operation of the following types of Commercial Medical Marihuana Facilities, subject to the number of available Permits issued in this Section:
  - a. MMFLA Growers, Class A – cultivation of not more than 500 marihuana plants; and
  - b. MMFLA Growers, Class B – cultivation of not more than 1000 marihuana plants; and
  - c. MMFLA Growers, Class C – cultivation of not more than 1,500 marihuana plants; and
  - d. MMFLA Processors.
2. The number of Commercial Medical Marihuana Facility Permits in effect at any time shall not exceed the following maximums within the Township:
  - a. MMFLA Grower Permits, Class A: **50**
  - b. MMFLA Grower Permits, Class B: **50**
  - c. MMFLA Grower Permits, Class C: **50**
  - d. MMFLA Processor Permits: **5**
  - e. MMFLA Safety Compliance Facility Permits: **Zero**
  - f. MMFLA Secure Transporter Permits: **Zero**
  - g. MMFLA Provisioning Centers: **Zero**

The Township Board may review and amend the above maximums by resolution annually or as it determines to be advisable. Such revisions shall not be the basis for termination or non-renewal of a Permit previously issued.

3. It shall be unlawful for any person to engage in, or be issued a Permit for, the operation of the following Commercial Medical Marihuana Facilities:
  - a. MMFLA Safety Compliance Facilities
  - b. MMFLA Secure Transporters
  - c. MMFLA Provisioning Centers
4. No Person shall operate a Commercial Medical Marihuana Facility at any time and at any location within the Township unless an effective Permit for a Medical Marihuana Facility for that Person at that location has been issued under this Ordinance.
5. Commercial Medical Marihuana Facilities shall operate only as expressly allowed under this Ordinance.
6. The requirements set forth in this Ordinance shall be in addition to, and not in lieu of, any other licensing or permitting requirements imposed by applicable, state or local laws, regulations, codes or ordinances. All permit approvals under this Ordinance are contingent upon the issuance of a Special Use Permit under the Township Zoning Ordinance.
7. At the time of Application, each Applicant shall pay applicable fees, including non-refundable Application fees, annual fees, renewal fees, transfer fees, and inspection fees for Permits to the Township to defray the costs incurred by the Township for administration and enforcement of the local regulations regarding Commercial Medical Marihuana Facilities. The non-refundable application fee shall be \$5,000.00. The Township Board shall by resolution set all remaining fees in an amount not to exceed any limitations imposed by Michigan law.
8. All remaining application fees shall be held in the Township's Marihuana Fund and shall be used to help defray administrative and enforcement costs associated with the operation of a marihuana facilities as need.
9. A Permit or Renewal Permit shall not confer any vested rights or reasonable expectation of subsequent renewal on the Applicant or Permit Holder, and shall remain valid only until the June 1 immediately following its approval. A completed Application or Renewal Application must be received by the Township Zoning Administrator no later than March 31 of each year in order to grant or renew the Permit effective on June 1 of that year.
10. Each year, any pending Applications for renewal or amendment of existing Permits shall be reviewed and granted or denied before Applications for new Permits are considered.

11. It is always the exclusive responsibility of each Permit Holder, Applicant, owner, partner, director, officer, or manager at all times during the Application period and during its operation to immediately provide the Township with all material changes in any information submitted on an Application and any other changes that may materially affect any state License or Township Permit.
12. No Permit issued under this Ordinance may be assigned or transferred to any Person unless the assignee or transferee has submitted an Application and all required fees under this Ordinance and other applicable Ordinances and the transfer has been authorized under this Ordinance by the Township Board. No Permit issued under this Ordinance is transferrable to any other location except for the Permitted Premises on the Permitted Property, except for a change in location requested as part of a renewal application.
13. No change in control of a business organization or any attempted transfer, sale, or other conveyance of an interest of more than 1% in a Permit, whether through a single transaction or the combined sum of multiple transactions, is permitted unless the transferee has submitted an appropriate Application and all required fees under this Ordinance.
14. The Permit issued under this Ordinance shall at all times be prominently displayed at the Permitted Premises in a location where it can be easily viewed by the public, law enforcement and administrative authorities.
15. Acceptance by the Permit Holder of a Permit constitutes consent by the Permit Holder and its owners, officers, managers, agents and employees for any state, federal or local fire, emergency, law enforcement agency, or Township Zoning Administrator to perform background investigations and conduct random and unannounced examinations of the Facility and all records, materials, and property in that Facility at any time to ensure compliance with this Ordinance, state law, any other local regulations, and the Permit.
16. A Permit Holder may not engage in any other Commercial Medical Marihuana Facility in the Permitted Premises or on the Permitted Property, or in its name at any other location within the Township, without first obtaining a separate Permit.

**SECTION 4. OTHER LAWS AND ORDINANCES.** In addition to the terms of this Ordinance, any Marihuana Establishment shall comply with all state and local laws, regulations, and Ordinances, including without limitation the Township Zoning Ordinance and the MRTMA to the extent such ordinances do not create obligations in conflict with this Ordinance.

**SECTION 5. APPLICATION FOR, RENEWAL OF, AND TRANSFER OF PERMITS.**

1. **Application.** An Application must be submitted for each and every single Permit or Facility type which may be operated within the Township. An Application for a Permit for a Facility shall be submitted to the Township Zoning Administrator, and shall contain the following information:



- a. The name, address, phone number and e-mail address of the Applicant or Permit Holder and the proposed Commercial Medical Marihuana Facility;
- b. The names, home addresses and personal phone numbers for all owners, partners, directors, officers and managers of the Permit Holder and the Commercial Medical Marihuana Facility;
- c. One (1) copy of all the following:
  - 1) All documentation showing the Applicant's valid tenancy, ownership or other legal interest in the proposed Permitted Property and Permitted Premises. If the Applicant is not the owner of the proposed Permitted Property and Permitted Premises, a notarized statement from the owner of such property authorizing the use of the property for a Commercial Medical Marihuana Facility.
  - 2) If the Applicant is a corporation, non-profit organization, limited liability company or any other entity other than a natural person, it shall indicate its legal status, attach a copy of all company formation documents (including bylaws and amendments), identify all owners and their percentage of ownership in the entity accounting for 100% of the ownership interest in the Applicant, proof of registration with the State of Michigan, and a certificate of good standing.
  - 3) A valid, unexpired driver's license or state issued ID for all owners, directors, officers and managers of the proposed Facility.
  - 4) Evidence of a valid sales tax license for the Applicant if such a license is required by state law or local regulations.
  - 5) Application for Sign Permit, if any sign is proposed.
  - 6) Non-refundable Application fee.
  - 7) Business and Operations Plan, showing in detail the Commercial Medical Marihuana Facility's proposed plan of operation, including without limitation, the following:
    - i. A description of the type of Facility proposed and the anticipated or actual number of employees.
    - ii. A security plan meeting the requirements of this Ordinance, which shall include a general description of the security systems(s), current centrally alarmed and monitored security system service agreement for the proposed Permitted Premises, and confirmation that those systems will meet State requirements and be approved by the State prior to commencing operations.

- iii. A description by category of all products proposed to be grown, processed, or sold.
  - iv. All Material Safety Data Sheets for any nutrients, pesticides, and other chemicals proposed for use in the Commercial Medical Marihuana Facility.
  - v. A description and plan of all equipment and methods that will be employed to stop any impact to adjacent uses, including enforceable assurances that no nuisance odor will be detectable at the property line of the Permitted Property.
  - vi. A plan for the disposal of Marihuana and related byproducts that will be used at the Facility.
- 8) Site plan and interior floor plan of the Permitted Premises and the Permitted Property lawfully signed and sealed by a Michigan registered architect, surveyor or professional engineer.
  - 9) Identify any business that is directly or indirectly involved in the growing, processing, testing, transporting or sale of Marihuana for the Facility.
  - 10) Whether any Applicant, owner, partner, director, officer, or manager of the Applicant or any entity owned or controlled by any owner, partner, director, officer, or manager of the Applicant has ever applied for or been granted, denied, restricted, suspended, revoked, or not renewed any commercial license, permit, or certificate issued by a licensing authority in Michigan or any other jurisdiction and a statement describing the facts and circumstances concerning the application, denial, restriction, suspension, revocation, or nonrenewal, including the licensing authority, the date each action was taken, and the reason for each action.
  - 11) A complete list of all marihuana Permits and Licenses held by the Applicant (including permits or licenses from other states or countries), or any owner, partner, director, officer, or manager of the Applicant or any entity owned or controlled in whole or part by any owner, partner, director, officer, or manager of the Applicant whether Commercial Medical Marihuana Facilities or Marihuana Establishments, including complete copies of the issued Permits and Licenses.
  - 12) Information regarding any other Marihuana Establishment, Commercial Medical Marihuana Facility, similar Permit or License, or any other marihuana business or venture that the Applicant, or any owner, partner, director, officer, or manager of the Applicant or any entity owned or controlled in whole or part by any owner, partner, director, officer, or manager of the Applicant is authorized to operate in any other jurisdiction within the State, or another State, and their involvement in each.
- d. Any other information reasonably requested by the Township to be relevant to the processing or consideration of the Application.

- e. Information obtained from the Applicant or Permit Holder is exempt from public disclosure under state law.
  - f. Applicant and all related persons acknowledge and consent to a background check and investigation by the Township as a condition of the Township processing and reviewing the application for approval or denial of a permit, including providing their Social Security numbers or other personal identifying information to the Township or their agents for a background check or any other purpose permitted under this Ordinance. Such information is confidential and shall not be disclosed except as permitted or required under this Ordinance.
  - g. A Renewal Application or Co-location Application may expressly incorporate by reference information or documentation contained in the original Permit Application or prior Permit Renewal Application, making it clear where such information or documentation can be found, provided that the information or documentation has not changed.
  - h. Prior to the approval or renewal of an Application for a Grower Permit, an Applicant may amend the Class of the Grower Permit Application by submitting an application form and expressly incorporating by reference the information or documentation contained in the original Permit Application. The Township may impose a fee as established by resolution. The Applicant will be required to show proof of a valid state License allowing operation of the new class of the Grower Permit prior to operation.
2. **Renewal Application.** The same requirements that apply to all new Applications for a Permit apply to all Renewal Applications. Renewal Applications shall be submitted to and received by the Township Zoning Administrator not less than ninety (90) days prior to the expiration of the annual Permit, except that an Application requesting a change in the location of the Permitted Premises shall be submitted and received not less than one hundred twenty (120) days prior to the expiration of the Permit. A Permit Holder whose Permit expires and for which a complete Renewal Application has not been received by the expiration date shall be deemed to have forfeited the Permit under this Ordinance. The Township may not accept Renewal Applications after the expiration date of the Permit.
3. **Transfer Application.** Any unauthorized transfer or attempted transfer of a Permit or ownership interest in a Permit Holder constitutes a violation of this Ordinance.
- a. The same requirements that apply to all new Applications for a Permit apply to all Applications to transfer, sell, or otherwise convey an existing Permit to a new legal entity or individual(s), as well as a certified copy of the meeting minutes of the board of directors or members authorizing the transfer, sale, or conveyance of the Permit or, if the Permit Holder is a natural person, a notarized statement or other proof satisfactory to the Township authorizing the transfer. Only after the transferee has applied for and obtained approval for the transfer, including without limitation

the payment of the same fees for the transferred Permit as applies for a new Permit, may the Permit be transferred.

- b. No Permit Holder shall transfer, sell, or otherwise convey more than 1% of the ownership interest in the entity holding the Permit, whether in a single transaction or the sum of multiple transactions, without the express approval of the Township Zoning Administrator after submitting a transfer application under this Ordinance. The transferee applicant and Permit Holder must submit a change in control transfer Application to the Township Zoning Administrator prior to any sale or transfer of stock or membership interest. The Application shall include all of the following:
  - 1) The names, home addresses and personal phone numbers for all owners, directors, officers and managers of the Permit Holder, the Facility, and Applicant;
  - 2) If the Permit Holder is a corporation, non-profit organization, limited liability company or any other entity other than a natural person, attach a copy of all company formation documents (including bylaws and amendments), purchase agreement for stock or membership interest, and a certified copy of the meeting minutes of the board of directors or members authorizing the sale of stock or membership interest.
  - 3) If the Applicant is a corporation, non-profit organization, limited liability company or any other entity other than a natural person, it shall indicate its legal status, attach a copy of all company formation documents (including bylaws and amendments), identify all owners and their percentage of ownership in the entity accounting for 100% of the ownership interest in the Applicant, proof of registration with the State of Michigan, and a certificate of good standing.
  - 4) A valid, unexpired driver's license or state issued ID for all owners, directors, officers and managers of the Applicant.
  - 5) Whether any Applicant or any owner, partner, director, officer, or manager of the Applicant or any entity owned or controlled by any owner, partner, director, officer, or manager of the Applicant has ever applied for or has been granted any commercial License or certificate issued by a licensing authority in Michigan or any other jurisdiction that has been denied, restricted, suspended, revoked, or not renewed and a statement describing the facts and circumstances concerning the application, denial, restriction, suspension, revocation, or nonrenewal, including the licensing authority, the date each action was taken, and the reason for each action.
  - 6) Information regarding any other Marihuana Establishment or Commercial Medical Marihuana Facility, similar Permit or License, or any other marihuana business or venture that the Applicant, owner, partner, director,



officer, or manager of the Applicant, or any entity owned or controlled by any owner, partner, director, officer, or manager of the Applicant is authorized to operate in any other jurisdiction within the State, or another State, and their involvement in each.

- 7) A non-refundable Transfer Application fee, as set by resolution by the Board.
  - 8) Any documents required to reflect that the Facility will be operated and managed consistent with the current filings provided to the Township.
  - 9) Any other information reasonably requested by the Township to be relevant to the processing or consideration of the Transfer Application.
- c. If, prior to the approval of a Transfer Application, an individual Applicant wishes to substitute a different Person as Applicant; or an Applicant that is a corporation, non-profit organization, limited liability company or any other entity other than a natural person, seeks to undergo a change in ownership greater than 1%, the current Applicant may submit a written request to the Township Zoning Administrator to amend the Transfer Application. Upon approval by the Township Zoning Administrator, the current Applicant may amend the Transfer Application to reflect such a change in identity or ownership, provided that the substituted Applicant(s) submits any documents required for a new Permit under this Ordinance. The Township Board may set a fee by resolution for such a change.
- d. The following actions constitute transfer of ownership and require a transfer application, non-refundable application fee, and Township Board approval:
- 1) *Persons*. Any transfer of more than 1% of an ownership interest in an Applicant or Permit Holder between Persons constitutes a transfer of ownership.
  - 2) *Corporations*. Any transfer of more than 1% of stock or any change in principal officers or directors of any corporation holding a Permit constitutes a transfer of ownership.
  - 3) *Limited Liability Companies*. Any transfer of more than 1% of membership interest or any change in managing members or change in the interest held by any managing members(s) of any limited liability company holding a Permit constitutes a transfer of ownership.
  - 4) *Partnerships*. Any transfer of more than 1% of a partnership interest or any change in general or managing partners of any partnership holding a Permit constitutes a transfer of ownership.

- 5) *Assets*. Any transfer of more than 1% of the assets held by an Applicant or Permit Holder within the Township constitutes a transfer of ownership.

**4. Effect of Transfer.**

- a. Immediately following the approval of a transfer by the Township Board, the transferee(s) will obtain all the interests, rights, obligations, and responsibilities of the previous Permit Holder. Once a Permit Holder has transferred his or her ownership interest, any privileges enjoyed by that Permit Holder under this Ordinance are terminated.
- b. For transfers where no building is yet in existence, the deadline for construction shall be extended to one year immediately following the date the transfer is approved, but construction must commence within three years after the Township's initial approval of the Permit, regardless of any subsequent transfers.

**5. Approval, Issuance, Denial and Appeal.**

- a. All inspections, review and processing of the Application, including transfer Applications, shall be completed within ninety (90) days of receipt of a complete Application and all required fees. The Township Board shall approve or deny the Permit within one hundred twenty (120) days of receipt of the completed Application and fees, or within one hundred fifty (150) days if the location of the Permitted Premises is proposed to be amended. If the Application is approved, then the Permit shall be issued to the Applicant as the Permit Holder. All permit approvals under this Ordinance are contingent upon the issuance of a Special Use Permit under the township zoning ordinance.
- b. The processing time may be extended upon written notice by the Township for good cause, and any failure to meet the required processing time shall not result in the automatic grant of the Permit. Any denial must be in writing and must state the reason(s) for denial.
- c. The Township has no obligation to process or approve any incomplete Application, and any times provided under this Ordinance shall not begin to run until the Township receives a complete Application, as determined by the Zoning Administrator. A determination of a complete Application shall not prohibit the Township from requiring supplemental information.
- d. Any final denial of a Permit may be appealed to a court of competent jurisdiction; provided that: (1) with respect to a denial of a new Permit, an appeal shall not grant any rights to an Applicant, subject to an order of the court; and (2) with respect to denial of a Renewal Application, if the Applicant has paid all required fees (and any additional fees due during the pendency of the appeal), the Township may grant a temporary extension of the pre-existing Permit to allow continued operation during the pendency of the appeal, unless otherwise ordered by a court.

6. **No Building Currently Existing.** Any new Applicant for a Commercial Medical Marihuana Facility Permit whose building is not yet in existence at the time of the Township's initial approval shall have one year immediately following the date of the Township's initial approval to commence construction of the building, in accordance with applicable zoning ordinances, building codes, and any other applicable state or local laws, rules or regulations, and to thereafter complete construction and commence business operations without unreasonable delay.

**7. Duty to Supplement.**

- a. If, at any time before or after a Permit is issued pursuant to this Ordinance, any information required in the Permit Application, the MMFLA, or any rule or regulation promulgated thereunder, changes in any way from what is stated in the Application, the Applicant or Permit Holder shall supplement such information in writing within ten (10) days from the date upon which such change occurs by submitting the supplemental information to the Township Zoning Administrator.
- b. An Applicant or Permit Holder has a duty to notify the Township Board and the Zoning Administrator in writing of any pending criminal charge or indictment, and any criminal conviction of a felony or other offense involving a crime of moral turpitude by the Applicant, the Permit Holder, or any owner, officer, partner, director, manager, or employee within ten (10) days of the date when the Applicant, Permit Holder, owner, officer, partner, director, or manager has notice of the event.
- c. An Applicant or Permit Holder has a duty to notify the Township Board and the Zoning Administrator in writing of any pending criminal charge or indictment, and any criminal conviction, whether a felony, misdemeanor, or any violation of a local law or ordinance related to the cultivation, processing, manufacture, storage, sale, distribution, testing or consumption of any form of marihuana, the Michigan Medical Marihuana Act, the MMFLA, the MRTMA, any building, fire, health or zoning statute, code or ordinance related to the cultivation, processing, manufacture, storage, sale, distribution, testing or consumption of any form of marihuana by the Applicant, Permit Holder, any owner, officer, partner, director, manager, or employee within (10) ten days of the date when the Applicant, Permit Holder, any owner, principal officer, director, or manager has notice of the event.

**SECTION 6. OPERATIONAL REQUIREMENTS—COMMERCIAL MEDICAL**

**MARIHUANA FACILITIES.** A Commercial Medical Marihuana Facility issued a Permit under this Ordinance and operating in the Township shall at all times comply with the following operational requirements, which the Township Board may review and amend from time to time as it determines reasonable.

1. **Scope of Operation.** Commercial Medical Marihuana Facilities shall comply with all applicable codes including local zoning, building, and health departments, except to the extent that they are inconsistent with the MMFLA or this Ordinance. The Facility must

hold a valid local Permit and License for the type of Commercial Medical Marihuana Facility intended to be carried out on the Permitted Property. The Facility operator, owner, Licensee or Permit Holder must have documentation available that demonstrates full compliance with all local and State sales tax requirements, including holding any permits or licenses, if applicable.

2. **Required Documentation.** Each Commercial Medical Marihuana Facility shall be operated from the Permitted Premises on the Permitted Property. No Commercial Medical Marihuana Facility shall be permitted to operate from a moveable, mobile or transitory location, except for a Permitted and Licensed Secure Transporter when engaged in the lawful transport of Marihuana. No person under the age of eighteen (18) shall be allowed to enter the Permitted Premises without a parent or legal guardian.
3. **Security.** Permit Holders shall at all times maintain a security system that meets State law requirements, and shall also include the following:
  - a. Security surveillance cameras installed to monitor all entrances, along with the interior and exterior of the Permitted Premises; and
  - b. Robbery and burglary alarm systems that are professionally monitored and operated 24 hours a day, 7 days a week; and
  - c. A locking vault permanently affixed to the Permitted Premises that shall store all Marihuana and cash remaining in the Facility overnight, except for Marihuana actively grown in a Grower Facility; and
  - d. All Marihuana in whatever form stored at the Permitted Premises shall be kept in a secure manner, and it shall not be exchanged, displayed or dispensed outside the Permitted Premises; and
  - e. All security recordings and documentation shall be preserved for at least seven (7) days by the Permit Holder and made available to any law enforcement agency upon request for inspection.
4. **Required Spacing.** No Commercial Medical Marihuana Facility shall be located within five-hundred (500) feet from any licensed educational institution or school, college or university, church, house of worship or other religious facility, or public or private park, if such uses are in existence at the time the Facility is issued an initial permit, with the minimum distance between uses measured horizontally between the closest edge of any such building or use on the property.
5. **Operating Hours.** No Provisioning Center (if permitted under this Ordinance) shall operate between the hours of 8:00 p.m. and 8:00 a.m., or on any Sunday.



6. **Co-location with Certain Commercial Medical Marihuana Facilities and Adult-Use Establishments.** Subject to underlying zoning restrictions, the following co-location is permitted:
  - a. A Grower Facility or Processor Facility may operate from within a single facility also operating with a Marihuana Grower or Marihuana Processor operating pursuant to the MRTMA and applicable rules promulgated by the Department.
  - b. A Grower or a Processor, may operate within a single facility operating pursuant to the MMFLA and applicable rules promulgated by the Department.
  - c. Co-location of Facility Permits is permitted under applicable rules and regulations of the Department.
7. **Stacked License.** An Applicant for a grower facility may apply to stack another grower permit at the Facility or Permitted Premises. The Applicant shall be subject to the same requirements as a renewal permit application, including payment of a separate non-refundable application fee for each stacked permit. Permits or Licenses may only be stacked consistent with state law and the rules and regulations promulgated by the Department.
8. **Amount of Marihuana.** The amount of Marihuana on the Permitted Property and under the control of the Permit Holder, owner or operator of the Facility shall not exceed that amount permitted by the state License or the Township's Permit.
9. **Sale of Marihuana.** The Marihuana offered for sale and distribution must be packaged and labeled in accordance with state law.
10. **Sign Restrictions.** No pictures, photographs, drawings or other depictions of Marihuana or Marihuana paraphernalia shall appear on the outside of any Permitted Premises nor be visible outside of the Permitted Premises on the Permitted Property. The words "Marihuana," "cannabis," and any other words used or intended to convey the presence or availability of Marihuana shall not appear on the outside of the Permitted Premises nor be visible outside of the Permitted Premises on the Permitted Property.
11. **Use of Marihuana.** The sale, consumption or use of alcohol or tobacco products on the Permitted Premises is prohibited. Smoking or consumption of controlled substances, including Marihuana, on the Permitted Premises is prohibited unless otherwise permitted under a specific Township Permit for such use.
12. **Indoor Operation.** All activities of Commercial Medical Marihuana Facilities, including without limitation, distribution, growth, cultivation, or the sale of Marihuana, and all other related activity permitted under the Permit Holder's License or Permit must occur indoors. The Facility's operation and design shall minimize any impact to adjacent uses, including the control of any odor by maintaining and operating an air filtration system and odor control so that no nuisance odor will be detectable at the property line of the Permitted

Property. Indoor operation may utilize a greenhouse with sufficient operation and design to minimize any impact to adjacent uses, including odor.

13. **Unpermitted Growing.** A Patient may not grow his or her own Marihuana at a Commercial Medical Marihuana Facility.
14. **Distribution.** No person operating a Facility shall provide or otherwise make available Marihuana to any person who is not legally authorized to receive Marihuana under state law.
15. **Permits.** All necessary building, electrical, plumbing, and mechanical permits must be obtained for any part of the Permitted Premises, in which electrical, wiring, lighting or watering devices that support the cultivation, growing, harvesting or testing of Marihuana are located.
16. **Waste Disposal.** The Permit Holder, owner and operator of the Facility shall use lawful methods in controlling waste or by-products from any activities allowed under the License or Permit.
17. **Transportation.** Marihuana may be transported by a Secure Transporter within the Township under this Ordinance, and to effectuate its purpose, only:
  - a. By Persons who are otherwise authorized by state law to transport Marihuana for medical purposes.
  - b. In a manner consistent with all applicable state laws and rules, as amended.
  - c. In a secure manner designed to prevent the loss of the Marihuana.
  - d. No vehicle used for the transportation or delivery of Marihuana under this Ordinance shall have for markings the words "Marihuana", "cannabis" or any similar words; pictures or other renderings of the Marihuana plant; advertisements for Marihuana or for its sale, transfer, cultivation, delivery, transportation or manufacture, or any other word, phrase or symbol indicating or tending to indicate that the vehicle is transporting Marihuana.
  - e. No vehicle may be used for the ongoing or continuous storage of Marihuana, but may only be used incidental to, and in furtherance of, the transportation of Marihuana.
18. **Additional Conditions.** The Township Board may impose such reasonable terms and conditions on a Commercial Medical Marihuana Facility special use as may be necessary to protect the public health, safety and welfare, and to obtain compliance with the requirements of this Ordinance and applicable law.

**SECTION 7. PENALTIES AND CONSEQUENCES FOR VIOLATION.** In addition to any other penalties or legal consequences provided under applicable federal, state and local law, regulations, codes and ordinances:

1. The Zoning Administrator, Supervisor, or any law enforcement officer may enforce the provisions of this ordinance, including the issuance of a municipal civil infraction.
2. Violations of the provisions of this Ordinance or failure to comply with any of the requirements of this Ordinance shall constitute a misdemeanor. Any person who violates this Ordinance or fails to comply with any of the requirements of this Ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not more than \$500.00, or imprisoned for not more than 90 days, or both, and, in addition, shall pay all costs and expenses involved. Each day such violation continues shall be considered a separate offense.
3. Violations of the provisions of this Ordinance or failure to comply with any of the requirements of this Ordinance shall be subject to and found responsible for a municipal civil infraction. The penalty for any municipal civil infraction shall be five hundred dollars (\$500.00) plus court costs, attorney fees and abatement costs of each violation, together with all other remedies pursuant to MCL 600.8701, *et seq.* Each day a violation continues shall be deemed a separate municipal civil infraction.
4. A Permit issued under this Ordinance may be denied, limited, revoked, or restricted under any of the following conditions:
  - a. Any fraudulent, false, misleading, or material misrepresentation contained in the Application.
  - b. Repeat violations of any requirements of this Ordinance or other applicable law, rule, or regulation. As used in this subsection, the term "repeat offense" means a second (or any subsequent) misdemeanor violation or civil infraction of the same requirement or provision committed within any six-month period and upon conviction or responsibility thereof.
  - c. A valid License is not maintained as required by this Ordinance.
  - d. The Permit Holder, its officer, agent, manager, or employee failed to timely submit any document or failed to timely make any material disclosure as required by this Ordinance.
5. If a Permit is revoked or limited under this Ordinance, the Township or its designee shall issue a notice stating the revocation, limitation, or restriction including the reason for the action and providing a date and time for an evidentiary hearing before the Township Board.
6. The owner of record or tenant of any building, structure or premises, or part thereof, and any architect, builder, contractor, agent or person who commits, participates in, assists in

or maintains such violation may each be found guilty or responsible of a separate offense and suffer the penalties and forfeitures provided in this section, except as excluded from responsibility by state law.

7. In addition to any other remedies, the Township may institute proceedings for injunction, mandamus, abatement or other appropriate remedies to prevent, enjoin, abate or remove any violations of this Ordinance. The rights and remedies provided herein are both civil and criminal in nature. The imposition of any fine, jail sentence or forfeiture shall not exempt the violator from compliance with the provisions of this Ordinance.

**SECTION 8. SEVERABILITY.** The provisions of this Ordinance are hereby declared severable. If any part of this Ordinance is declared invalid for any reason by a court of competent jurisdiction, that declaration does not affect or impair the validity of all other provisions that are not subject to that declaration.

**SECTION 9. REPEAL.** All other Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

**SECTION 10. EFFECTIVE DATE.** This Ordinance shall take effect thirty (30) days following publication or posting after final adoption by the Township Board.

YEAS: BENAK, GOSS, HUBBELL

NAYS: POPP, VOLLMUTH

ABSENT/ABSTAIN: NONE

ORDINANCE DECLARED ADOPTED:



Ardella M. Benak, Whitewater Township Treasurer  
(in the absence of Ron Popp, Supervisor)

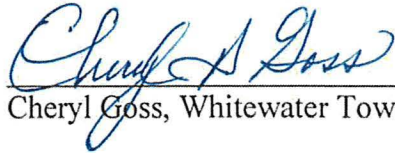


**AFFIDAVIT OF POSTING AND PUBLICATION**

I hereby certify that:

1. The above is a true copy of an Ordinance adopted by the Whitewater Township Board at a duly scheduled and noticed meeting of that Township Board held on December 8, 2020, pursuant to the required statutory procedures.
2. A summary of the above Ordinance was duly published in the Traverse City Record-Eagle, a newspaper that circulates within Whitewater Township, on December 20, 2020.
3. Within one (1) week after such publication, I recorded the above Ordinance in a book of ordinances kept by me for that purpose, including the date of passage of the ordinance, the names of the members of the township board voting, and how each member voted.

ATTESTED:



\_\_\_\_\_  
Cheryl Goss, Whitewater Township Clerk

**WHITEWATER TOWNSHIP  
GRAND TRAVERSE COUNTY, MICHIGAN  
ORDINANCE AUTHORIZING AND PERMITTING  
ADULT-USE MARIHUANA ESTABLISHMENTS**

**ORDINANCE NO. 60**

At a regular meeting of the Township Board of Whitewater Township, Grand Traverse County, Michigan, held at the Whitewater Township Hall on December 8, 2020, at 7:00 p.m., Township Board Member Benak moved to adopt the following Ordinance, which motion was seconded by Township Board Member Goss.

*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 Marihuana Establishments and affords the Township the option whether or not to allow Marihuana Establishments; to regulate Marihuana Establishments by requiring a Permit and compliance with requirements as provided in this Ordinance, in order to maintain the public health, safety and welfare of the residents and visitors to the Township.*

THE TOWNSHIP OF WHITEWATER ORDAINS:

**SECTION 1. TITLE.** This ordinance shall be known as, and may be cited as, the Whitewater Township Michigan Regulation and Taxation of Marihuana Ordinance.

**SECTION 2. DEFINITIONS.** The following words and phrases shall have the following definitions when used in this Ordinance:

1. “*Application*” means an Application for a Permit under this Ordinance and includes all supplemental documentation attached or required to be attached thereto; the Person filing the Application shall be known as the “*Applicant*.”
2. “*Co-location*” means the operation of separate Establishments or separate MMFLA Facilities at the same location, Permitted Premises, or Permitted Property.
3. “*Cultivate*” means as that term is defined in Initiated Act 1 of 2018, MCL 333.27951, et seq, Michigan Regulation and Taxation of Marihuana Act (“MRTMA”).
4. “*Marihuana Establishment*” or “*Establishment*” means a marihuana grower, marihuana safety compliance facility, marihuana processor, marihuana microbusiness, marihuana retailer, marihuana secure transporter, designated consumption establishment, excess marihuana grower, marihuana event organizer, temporary marihuana event license, or any other type of marihuana-related business Licensed by the department.
  - a. “*Marihuana grower*,” as that term is defined in the MRTMA; and
  - b. “*Marihuana microbusiness*,” as that term is defined in the MRTMA; and

- c. *"Marihuana processor,"* as that term is defined in the MRTMA; and
  - d. *"Marihuana retailer,"* as that term is defined in the MRTMA; and
  - e. *"Marihuana secure transporter,"* as that term is defined in the MRTMA; and
  - f. *"Marihuana safety compliance facility,"* as that term is defined in the MRTMA; and
  - g. *"Designated consumption establishment,"* as that term is defined by the Department or as may be defined in the MRTMA; and
  - h. *"Excess marihuana grower,"* as that term is defined by the Department or as may be defined in the MRTMA; and
  - i. *"Marihuana event organizer,"* as that term is defined by the Department or as may be defined in the MRTMA; and
  - j. *"Temporary marihuana event"* as that term is defined by the Department or as may be defined in the MRTMA.
5. *"Department"* means the Michigan State Department of Licensing and Regulatory Affairs or any designated Michigan agency authorized to regulate, issue or administer a Michigan License for a Marihuana Establishment.
  6. *"License"* means a current and valid License for a Marihuana Establishment issued by the State of Michigan.
  7. *"Licensee"* means a Person holding a current and valid Michigan License for a Marihuana Establishment.
  8. *"Marihuana"* means that term as defined Section 7106 of the Michigan Public Health Code, 1978 PA 368, MCL 333.7106 and as defined in the MRTMA.
  9. *"Permit"* means an approval issued by the Township pursuant to the MRTMA that allows a Person to operate an Establishment in the Township under this Ordinance, which Permit may be granted to a Permit Holder only for and limited to a specific Permitted Premises and a specific Permitted Property.
  10. *"Permit Holder"* means the Person that holds a current and valid Permit issued under this Ordinance.
  11. *"Permitted Premises"* means the particular building or buildings within which the Permit Holder will be authorized to conduct the Establishment's activities pursuant to the Permit.
  12. *"Permitted Property"* means the real property comprised of a lot, parcel or other designated unit of real property upon which the Permitted Premises is situated.

13. "*Person*" means a natural person, company, partnership, trust, profit or non-profit corporation, limited liability company, or any joint venture for a common purpose.
14. "*Process*" or "*Processing*" means to separate or otherwise prepare parts of the marihuana plant and to compound, blend, extract, infuse, or otherwise make or prepare marihuana concentrate or marihuana-infused products.
15. "*Public Place*" means any area to which the public is invited or generally permitted in the usual course of business.
16. "*Stacked license*" means more than one marihuana Permit issued to a single Permit Holder to operate as a Marihuana Grower, Class C as specified in each Permit at a Permitted Premises consistent with the MRTMA and applicable regulations.
17. "*Township*" means Whitewater Township, a general law township located in Grand Traverse County, Michigan.
18. "*Township Zoning Administrator*" means the Whitewater Township Zoning Administrator or his/her designee. For the purposes of this Ordinance, if the Zoning Administrator is unable to act, the Supervisor or his/her designee may also undertake any action or duty of the Township Zoning Administrator.

### **SECTION 3. PERMIT REQUIRED; NUMBER OF PERMITS AVAILABLE; ELIGIBILITY; GENERAL PROVISIONS.**

1. The Township hereby authorizes the operation of the following types of Marihuana Establishments, subject to the number of available Permits issued in this Section:
  - a. MRTMA Marihuana Growers, Class A - cultivation of not more than 100 marihuana plants; and
  - b. MRTMA Marihuana Growers, Class B - cultivation of not more than 500 marihuana plants; and
  - c. MRTMA Marihuana Growers, Class C - cultivation of not more than 2,000 marihuana plants; and
  - d. MRTMA Marihuana Processors.
2. The number of Marihuana Establishment Permits in effect at any time shall not exceed the following maximums within the Township:



- a. MRTMA Marihuana Grower Permits, Class A: **50**
- b. MRTMA Marihuana Grower Permits, Class B: **50**
- c. MRTMA Marihuana Grower Permits, Class C: **50**
- d. MRTMA Marihuana Processor Permits: **5**
- e. MRTMA Marihuana Safety Compliance Facility Permits: **Zero**
- f. MRTMA Marihuana Secure Transporter Permits: **Zero**
- g. MRTMA Marihuana Retailer Permits: **Zero**
- h. MRTMA Marihuana Microbusiness: **Zero**
- i. MRTMA Excess Marihuana Grower Permits: **Zero**
- j. MRTMA Designated Consumption Establishment: **Zero**
- k. MRTMA Marihuana Event Organizer: **Zero**
- l. MRTMA Temporary Marihuana Event: **Zero**

The Township Board may review and amend the above maximums by resolution annually or as it determines to be advisable. Such revisions shall not be the basis for termination or non-renewal of a Permit previously issued.

- 3. It shall be unlawful for any person to engage in, or be issued a Permit for, the operation of the following Marihuana Establishments:
  - a. MRTMA Marihuana Safety Compliance Facility Permits
  - b. MRTMA Marihuana Secure Transporter Permits
  - c. MRTMA Marihuana Retailer Permits
  - d. MRTMA Marihuana Microbusiness
  - e. MRTMA Excess Marihuana Grower Permits
  - f. MRTMA Designated Consumption Establishment
  - g. MRTMA Marihuana Event Organizer
  - h. MRTMA Temporary Marihuana Event

4. No Person shall operate a Marihuana Establishment at any time and at any location within the Township unless an effective Permit for a Marihuana Establishment for that Person at that location has been issued under this Ordinance.
5. Marihuana Establishments shall operate only as expressly allowed under this Ordinance.
6. The requirements set forth in this Ordinance shall be in addition to, and not in lieu of, any other licensing or permitting requirements imposed by applicable federal, state or local laws, regulations, codes or ordinances. All permit approvals under this Ordinance are contingent upon the issuance of a Special Use Permit under the township zoning ordinance.
7. At the time of Application, each Applicant shall pay applicable fees, including non-refundable Application fees, annual fees, renewal fees, transfer fees, and inspection fees for Permits to the Township to defray the costs incurred by the Township for inspection, administration, review, oversight, and enforcement of the local regulations regarding Marihuana Establishments. The non-refundable application fee shall be \$5,000.00. The Township Board shall by resolution set all remaining fees in an amount not to exceed any limitations imposed by Michigan law.
8. All remaining application fees shall be held in the Township's Marihuana Fund, and shall be used to help defray administrative and enforcement costs associated with the operation of a marihuana establishment as need.
9. A Permit or Renewal Permit shall not confer any vested rights or reasonable expectation of subsequent renewal on the Applicant or Permit Holder, and shall remain valid only until the June 1 immediately following its approval. A completed Application or Renewal Application must be received by the Township Zoning Administrator no later than March 31 of each year in order to grant or renew the Permit effective on June 1 of that year.
10. Each year, any pending Applications for renewal or amendment of existing Permits shall be reviewed and granted or denied before Applications for new Permits are considered.
11. It is always the exclusive responsibility of each Permit Holder, Applicant, owner, partner, director, officer, or manager at all times during the Application period and during its operation to immediately provide the Township with all material changes in any information submitted on an Application and any other changes that may materially affect any state License or Township Permit.
12. No Permit issued under this Ordinance may be assigned or transferred to any Person unless the assignee or transferee has submitted an Application and all required fees under this Ordinance and other applicable Ordinances and the transfer has been authorized under this Ordinance by the Township Board. No Permit issued under this Ordinance is transferrable to any other location except for the Permitted Premises on the Permitted Property, except for a change in location requested as part of a renewal application.
13. No change in control of a business organization or any attempted transfer, sale, or other conveyance of an interest of more than 1% in a Permit, whether through a single transaction

or the combined sum of multiple transactions, is permitted unless the transferee has submitted an appropriate Application and all required fees under this Ordinance.

14. The Permit issued under this Ordinance shall at all times be prominently displayed at the Permitted Premises in a location where it can be easily viewed by the public, law enforcement and administrative authorities.
15. Acceptance by the Permit Holder of a Permit constitutes consent by the Permit Holder and its owners, officers, managers, agents and, employees, for any state, federal or local fire, emergency, law enforcement agency, or Township Zoning Administrator to perform background investigations and conduct random and unannounced examinations of the Establishment and all records, materials, and property in that Establishment at any time to ensure compliance with this Ordinance, state law, any other local regulations, and the Permit.
16. A Permit Holder may not engage in any other Marihuana Establishment in the Permitted Premises or on the Permitted Property, or in its name at any other location within the Township, without first obtaining a separate Permit.

**SECTION 4. OTHER LAWS AND ORDINANCES.** In addition to the terms of this Ordinance, any Marihuana Establishment shall comply with all state and local laws, regulations, and Ordinances, including without limitation the Township Zoning Ordinance and the MRTMA to the extent such ordinances do not create obligations in conflict with this Ordinance.

#### **SECTION 5. APPLICATION FOR, RENEWAL OF, AND TRANSFER OF PERMITS.**

1. **Application.** An Application must be submitted for each and every single Permit or Establishment type which may be operated within the Township. An Application for a Permit for an Establishment shall be submitted to the Township Zoning Administrator, and shall contain the following information:
  - a. The name, address, phone number and e-mail address of the Applicant or Permit Holder and the proposed Marihuana Establishment;
  - b. The names, home addresses and personal phone numbers for all owners, partners, directors, officers and managers of the Permit Holder and the Marihuana Establishment;
  - c. One (1) copy of all the following:
    - 1) All documentation showing the Applicant's valid tenancy, ownership or other legal interest in the proposed Permitted Property and Permitted Premises. If the Applicant is not the owner of the proposed Permitted Property and Permitted Premises, a notarized statement from the owner of such property authorizing the use of the property for a Marihuana Establishment.

- 2) If the Applicant is a corporation, non-profit organization, limited liability company or any other entity other than a natural person, it shall indicate its legal status, attach a copy of all company formation documents (including bylaws and amendments), identify all owners and their percentage of ownership in the entity accounting for 100% of the ownership interest in the Applicant, proof of registration with the State of Michigan, and a certificate of good standing.
- 3) A valid, unexpired driver's license or state issued ID for all owners, directors, officers and managers of the proposed Establishment.
- 4) Evidence of a valid sales tax license for the Applicant if such a license is required by state law or local regulations.
- 5) Application for Sign Permit, if any sign is proposed.
- 6) Non-refundable Application fee.
- 7) Business and Operations Plan, showing in detail the Marihuana Establishment's proposed plan of operation, including without limitation, the following:
  - i. A description of the type of Establishment(s) proposed and the anticipated or actual number of employees.
  - ii. A security plan meeting the requirements of this Ordinance, which shall include a general description of the security systems(s), current centrally alarmed and monitored security system service agreement for the proposed Permitted Premises, and confirmation that those systems will meet State requirements and be approved by the State prior to commencing operations.
  - iii. A description by category of all products proposed to be grown, processed, or sold.
  - iv. All Material Safety Data Sheets for any nutrients, pesticides, and other chemicals proposed for use in the Marihuana Establishment.
  - v. A description and plan of all equipment and methods that will be employed to stop any impact to adjacent uses, including enforceable assurances that no nuisance odor will be detectable at the property line of the Permitted Property.
  - vi. A plan for the disposal of Marihuana and related byproducts that will be used at the Establishment.
- 8) Site plan and interior floor plan of the Permitted Premises and the Permitted Property lawfully signed and sealed by a Michigan registered architect, surveyor or professional engineer.



- 9) Identify any business that is directly or indirectly involved in the growing, processing, testing, transporting or sale of Marihuana for the Establishment.
  - 10) Whether any Applicant, owner, partner, director, officer, or manager of the Applicant or any entity owned or controlled by any owner, partner, director, officer, or manager of the Applicant has ever applied for or been granted, denied, restricted, suspended, revoked, or not renewed any commercial license, permit, or certificate issued by a licensing authority in Michigan or any other jurisdiction, and a statement describing the facts and circumstances concerning the application, denial, restriction, suspension, revocation, or nonrenewal, including the licensing authority, the date each action was taken, and the reason for each action.
  - 11) A complete list of all marihuana Permits and Licenses held by the Applicant (including permits or licenses from other states or countries), or any owner, partner, director, officer, or manager of the Applicant or any entity owned or controlled in whole or part by any owner, partner, director, officer, or manager of the Applicant whether Commercial Medical Marihuana Facilities or Marihuana Establishments, including complete copies of the issued Permits and Licenses.
  - 12) Information regarding any other Marihuana Establishment, Commercial Medical Marihuana Facility, similar Permit or License, or any other marihuana business or venture that the Applicant, or any owner, partner, director, officer, or manager of the Applicant or any entity owned or controlled in whole or part by any owner, partner, director, officer, or manager of the Applicant is authorized to operate in any other jurisdiction within the State, or another State, and their involvement in each.
- d. Any other information reasonably requested by the Township to be relevant to the processing or consideration of the Application.
  - e. Information obtained from the Applicant or Permit Holder is exempt from public disclosure under state law.
  - f. Applicant and all related persons acknowledge and consent to a background check and investigation by the Township as a condition of the Township processing and reviewing the application for approval or denial of a permit, including providing their Social Security numbers or other personal identifying information to the Township or their agents for a background check or any other purpose permitted under this Ordinance. Such information is confidential and shall not be disclosed except as permitted or required under this Ordinance.
  - g. A Renewal Application or Co-location Application may expressly incorporate by reference information or documentation contained in the original Permit Application or prior Permit Renewal Application, making it clear where such information or documentation can be found, provided that the information or documentation has not changed.

- h. Prior to the approval or renewal of an Application for a Marihuana Grower Permit, an Applicant may amend the Class of the Marihuana Grower Permit Application by submitting an application form and expressly incorporating by reference the information or documentation contained in the original Permit Application. The Township may impose a fee as established by resolution. The Applicant will be required to show proof of a valid state License allowing operation of the new class of Marihuana Grower Permit prior to operation.
- 2. **Renewal Application.** The same requirements that apply to all new Applications for a Permit apply to all Renewal Applications. Renewal Applications shall be submitted to and received by the Township Zoning Administrator not less than ninety (90) days prior to the expiration of the annual Permit, except that an Application requesting a change in the location of the Permitted Premises shall be submitted and received not less than one hundred twenty (120) days prior to the expiration of the Permit. A Permit Holder whose Permit expires and for which a complete Renewal Application has not been received by the expiration date shall be deemed to have forfeited the Permit under this Ordinance. The Township may not accept Renewal Applications after the expiration date of the Permit.
- 3. **Transfer Application.** Any unauthorized transfer or attempted transfer of a Permit or ownership interest in a Permit Holder constitutes a violation of this Ordinance.
  - a. The same requirements that apply to all new Applications for a Permit apply to all Applications to transfer, sell, or otherwise convey an existing Permit to a new legal entity or individual(s), as well as a certified copy of the meeting minutes of the board of directors or members authorizing the transfer, sale, or conveyance of the Permit or, if the Permit Holder is a natural person, a notarized statement or other proof satisfactory to the Township authorizing the transfer. Only after the transferee has applied for and obtained approval for the transfer, including without limitation the payment of the same fees for the transferred Permit as applies for a new Permit, may the Permit be transferred.
  - b. No Permit Holder shall transfer, sell, or otherwise convey more than 1% of the ownership interest in the entity holding the Permit, whether in a single transaction or the sum of multiple transactions, without the express approval of the Township Zoning Administrator after submitting a transfer application under this Ordinance. The transferee applicant and Permit Holder must submit a change in control transfer Application to the Township Zoning Administrator prior to any sale or transfer of stock or membership interest. The Application shall include all of the following:
    - 1) The names, home addresses and personal phone numbers for all owners, directors, officers and managers of the Permit Holder, the Marihuana Establishment, and Applicant;
    - 2) If the Permit Holder is a corporation, non-profit organization, limited liability company or any other entity other than a natural person, attach a copy of all company formation documents (including bylaws and amendments), purchase agreement for stock or

membership interest, and a certified copy of the meeting minutes of the board of directors or members authorizing the sale of stock or membership interest.

- 3) If the Applicant is a corporation, non-profit organization, limited liability company or any other entity other than a natural person, it shall indicate its legal status, attach a copy of all company formation documents (including bylaws and amendments), identify all owners and their percentage of ownership in the entity accounting for 100% of the ownership interest in the Applicant, proof of registration with the State of Michigan, and a certificate of good standing.
  - 4) A valid, unexpired driver's license or state issued ID for all owners, directors, officers and managers of the Applicant.
  - 5) Whether any Applicant, or any owner, partner, director, officer, or manager of the Applicant or any entity owned or controlled by any owner, partner, director, officer, or manager of the Applicant has ever applied for or has been granted any commercial License or certificate issued by a licensing authority in Michigan or any other jurisdiction that has been denied, restricted, suspended, revoked, or not renewed and a statement describing the facts and circumstances concerning the application, denial, restriction, suspension, revocation, or nonrenewal, including the licensing authority, the date each action was taken, and the reason for each action.
  - 6) Information regarding any other Marihuana Establishment or Commercial Medical Marihuana Facility, similar Permit or License, or any other marihuana business or venture that the Applicant, owner, partner, director, officer, or manager of the Applicant, or any entity owned or controlled by any owner, partner, director, officer, or manager of the Applicant is authorized to operate in any other jurisdiction within the State, or another State, and their involvement in each.
  - 7) A non-refundable Transfer Application fee, as set by resolution by the Board.
  - 8) Any documents required to reflect that the Marihuana Establishment will be operated and managed consistent with the current filings provided to the Township.
  - 9) Any other information reasonably requested by the Township to be relevant to the processing or consideration of the Transfer Application.
- c. If, prior to the approval of a Transfer Application, an individual Applicant wishes to substitute a different Person as Applicant; or an Applicant that is a corporation, non-profit organization, limited liability company or any other entity other than a natural person, seeks to undergo a change in ownership greater than 1%, the current Applicant may submit a written request to the Township Zoning Administrator to amend the Transfer Application. Upon approval by the Township Zoning Administrator, the current Applicant may amend the Transfer Application to reflect such a change in identity or ownership, provided that the substituted Applicant(s) submits any documents required for a new Permit under this Ordinance. The Township Board may set a fee by resolution for such a change.

d. The following actions constitute transfer of ownership and require a transfer application, non-refundable application fee, and Township Board approval:

- 1) *Persons*. Any transfer of more than 1% of an ownership interest in an Applicant or Permit Holder between Persons constitutes a transfer of ownership.
- 2) *Corporations*. Any transfer of more than 1% of stock or any change in principal officers or directors of any corporation holding a Permit constitutes a transfer of ownership.
- 3) *Limited Liability Companies*. Any transfer of more than 1% of membership interest or any change in managing members or change in the interest held by any managing members(s) of any limited liability company holding a Permit constitutes a transfer of ownership.
- 4) *Partnerships*. Any transfer of more than 1% of a partnership interest or any change in general or managing partners of any partnership holding a Permit constitutes a transfer of ownership.
- 5) *Assets*. Any transfer of more than 1% of the assets held by an Applicant or Permit Holder within the Township constitutes a transfer of ownership.

#### **4. Effect of Transfer.**

- a. Immediately following the approval of a transfer by the Township Board, the transferee(s) will obtain all the interests, rights, obligations, and responsibilities of the previous Permit Holder. Once a Permit Holder has transferred his or her ownership interest, any privileges enjoyed by that Permit Holder under this Ordinance are terminated.
- b. For transfers where no building is yet in existence, the deadline for construction shall be extended to one year immediately following the date the transfer is approved, but construction must commence within three years after the Township's initial approval of the Permit, regardless of any subsequent transfers.

#### **5. Approval, Issuance, Denial and Appeal.**

- a. All inspections, review and processing of the Application, including transfer Applications, shall be completed within ninety (90) days of receipt of a complete Application and all required fees. The Township Board shall approve or deny the Permit within one hundred twenty (120) days of receipt of the completed Application and fees, or within one hundred fifty (150) days if the location of the Permitted Premises is proposed to be amended. If the Application is approved, then the Permit shall be issued to the Applicant as the Permit Holder. All permit approvals under this Ordinance are contingent upon the issuance of a Special Use Permit under the township zoning ordinance.



- b. The processing time may be extended upon written notice by the Township for good cause, and any failure to meet the required processing time shall not result in the automatic grant of the Permit. Any denial must be in writing and must state the reason(s) for denial.
- c. The Township has no obligation to process or approve any incomplete Application, and any times provided under this Ordinance shall not begin to run until the Township receives a complete Application, as determined by the Township Zoning Administrator. A determination of a complete Application shall not prohibit the Township from requiring supplemental information.
- d. If more complete applications are submitted for an Establishment than available Permits (more than zero) under this Ordinance, the Township will decide among competing applications by a competitive review process intended to select applicants who are best suited to operate in compliance with MRTMA and this Ordinance within the Township. Factors considered in the competitive review process include, but are not limited to:

**1) Compliance Factors**

- i. The thoroughness of the Application, including compliance with all requirements established in this Ordinance, or any other regulation established by the Township.
- ii. Whether the Applicant holds a state operating license pursuant to the MMFLA or MRTMA. Current licensees shall generally be given a strong preference over new Applicants.
- iii. Whether the Applicant has a history of non-compliance with the Township's ordinances or with other local, state, or federal laws.
- iv. Whether the Applicant has previously failed to pay taxes, special assessments, or other payments due to the Township.

**2) Community Factors**

- i. Whether the proposed Establishment will negatively impact the character, aesthetics, safety, or welfare of surrounding businesses and neighborhoods.
- ii. The geographic location of the proposed Establishment, including its proximity to densely populated areas or to other proposed or approved, non-co-located Establishments.
- iii. The suitability of the architectural and engineering design of the proposed Establishment.

- iv. Whether the Applicant has appropriately identified potential environmental issues, including steps to prevent or mitigate those issues.
- v. The Applicant's knowledge and ties to the local community.

### **3) Business Factors**

- i. The ability of the Applicant to maintain effective control against diversion of Marihuana and Marihuana products.
  - ii. The capital available to the Applicant for compliance with the requirements of this Ordinance, including the need to install additional equipment, hire additional employees, or otherwise expend monies as unanticipated issues arise in connection with the proposed Establishment.
  - iii. The Applicant's general business history, including any history with a pharmaceutical or retail sales environment, or, in the case of an application for a Grower's Permit, experience with horticulture or agriculture. Experience in the Marihuana industry, including experience in the growth, manufacturing, or transportation of Marihuana or Marihuana products is particularly relevant, and will generally be viewed favorably.
  - iv. The Applicant's demonstrated preparedness to provide appropriate employee working conditions, benefits, and specialized training.
  - v. The Applicant's experience in agriculture.
  - vi. The Applicant's experience using inventory tracking systems, including seed to sale systems, as well as any recordkeeping experience.
  - vii. Other experience, training, or certification possessed or undertaken by the Applicant that may be relevant to the operation of the proposed Establishment.
  - viii. Whether the Applicant has already applied for or received a permit to operate a Commercial Medical Marihuana Facility within the Township.
  - ix. Whether the Applicant intends to colocate an Establishment with an existing Commercial Medical Marihuana Facility or Marihuana Establishment within the Township.
- e. Any final denial of a Permit may be appealed to a court of competent jurisdiction, provided that: (1) with respect to a denial of a new Permit, an appeal shall not grant any rights to an Applicant, subject to an order of the court; and (2) with respect to denial of a Renewal Application, if the Applicant has paid all required fees (and any additional fees due during the pendency of the appeal), the Township may grant a temporary extension of the pre-existing Permit to allow continued operation during the pendency of the appeal, unless otherwise ordered by a court.

6. **No Building Currently Existing.** Any new Applicant for a Marihuana Establishment Permit whose building is not yet in existence at the time of the Township's initial approval shall have one year immediately following the date of the Township's initial approval to commence construction of the building, in accordance with applicable zoning ordinances, building codes, and any other applicable state or local laws, rules or regulations, and to thereafter complete construction and commence business operations without unreasonable delay.

7. **Duty to Supplement.**

- a. If, at any time before or after a Permit is issued pursuant to this Ordinance, any information required in the Permit Application, the MRTMA, or any rule or regulation promulgated thereunder, changes in any way from what is stated in the Application, the Applicant or Permit Holder shall supplement such information in writing within ten (10) days from the date upon which such change occurs by submitting the supplemental information to the Township Zoning Administrator .
- b. An Applicant or Permit Holder has a duty to notify the Township Board and the Zoning Administrator in writing of any pending criminal charge or indictment, and any criminal conviction of a felony or other offense involving a crime of moral turpitude by the Applicant, the Permit Holder, or any owner, officer, partner, director, manager, or employee within ten (10) days of the date when the Applicant, Permit Holder, owner, officer, partner, director, or manager has notice of the event.
- c. An Applicant or Permit Holder has a duty to notify the Township Board and the Zoning Administrator in writing of any pending criminal charge or indictment, and any criminal conviction, whether a felony, misdemeanor, or any violation of a local law or ordinance related to the cultivation, processing, manufacture, storage, sale, distribution, testing or consumption of any form of marihuana, the Michigan Medical Marihuana Act, the MMFLA, the MRTMA, any building, fire, health, or zoning statute, code or ordinance related to the cultivation, processing, manufacture, storage, sale, distribution, testing, or consumption of any form of marihuana by the Applicant, Permit Holder, any owner, officer, partner, director, manager, or employee within (10) ten days of the date when the Applicant, Permit Holder, any owner, principal officer, director, or manager has notice of the event.

**SECTION 6. OPERATIONAL REQUIREMENTS—MARIHUANA ESTABLISHMENT.** A Marihuana Establishment issued a Permit under this Ordinance and operating in the Township shall at all times comply with the following operational requirements, which the Township Board may review and amend from time to time as it determines reasonable.

- 1. *Scope of Operation.* Marihuana Establishments shall comply with all applicable codes, including local zoning, building, and health departments, except to the extent that they are inconsistent with the MRTMA or this Ordinance. The Establishment must hold a valid local Permit and License for the type of Marihuana Establishment intended to be carried out on the Permitted Property. The Establishment operator, owner, Licensee or Permit Holder must have

documentation available that demonstrates full compliance with all local and State sales tax requirements, including holding any permits or licenses, if applicable.

2. *Required Documentation.* Each Marihuana Establishment shall be operated from the Permitted Premises on the Permitted Property. No Marihuana Establishment shall be permitted to operate from a moveable, mobile, or transitory location, except for a Permitted and Licensed Marihuana Secure Transporter when engaged in the lawful transport of Marihuana. No person under the age of eighteen (18) shall be allowed to enter the Permitted Premises without a parent or legal guardian.
3. *Security.* Permit Holders shall at all times maintain a security system that meets State law requirements, and shall also include the following:
  - a. Security surveillance cameras installed to monitor all entrances, along with the interior and exterior of the Permitted Premises; and
  - b. Robbery and burglary alarm systems that are professionally monitored and operated 24 hours a day, 7 days a week; and
  - c. A locking vault permanently affixed to the Permitted Premises that shall store all Marihuana and cash remaining in the Establishment overnight, except for Marihuana actively grown in a Grower Establishment; and
  - d. All Marihuana in whatever form stored at the Permitted Premises shall be kept in a secure manner, and it shall not be exchanged, displayed or dispensed outside the Permitted Premises; and
  - e. All security recordings and documentation shall be preserved for at least seven (7) days by the Permit Holder and made available to any law enforcement agency upon request for inspection.
4. *Required Spacing.* No Marihuana Establishment shall be located within five-hundred (500) feet from any licensed educational institution or school, college or university, church, or house of worship or other religious facility, or public or private park, if such uses are in existence at the time the Establishment is issued an initial permit, with the minimum distance between uses measured horizontally between the closest edge of any such building or use on the property.
5. *Operating Hours.* No Retailer or Microbusiness (if permitted under this Ordinance) shall operate between the hours of 8:00 p.m. and 8:00 a.m., or on any Sunday.
6. *Co-location with Certain Commercial Medical Marihuana Facilities and Adult-Use Establishments.* Subject to underlying zoning restrictions, the following co-location is permitted:

- a. A Grower Facility or Processor Facility may operate from within a single facility also operating with a Marihuana Grower or Marihuana Processor, operating pursuant to the MRTMA and applicable rules promulgated by the Department.
  - b. A Marihuana Grower or a Marihuana Processor, may operate from within a single facility operating pursuant to the MRTMA and applicable rules promulgated by the Department.
  - c. Co-location of Establishment Permits is permitted under applicable rules and regulations of the Department.
7. *Stacked License.* An Applicant for a grower establishment may apply to stack another grower permit at the Establishment or Permitted Premises. The Applicant shall be subject to the same requirements as a renewal permit application, including payment of a separate non-refundable application fee for each stacked permit. Permits or Licenses may only be stacked consistent with state law and the rules and regulations promulgated by the Department.
8. *Amount of Marihuana.* The amount of Marihuana on the Permitted Property and under the control of the Permit Holder, owner or operator of the Establishment shall not exceed that amount permitted by the state License or the Township's Permit.
9. *Sale of Marihuana.* The Marihuana offered for sale and distribution must be packaged and labeled in accordance with state law.
10. *Sign Restrictions.* No pictures, photographs, drawings or other depictions of Marihuana or Marihuana paraphernalia shall appear on the outside of any Permitted Premises nor be visible outside of the Permitted Premises on the Permitted Property. The words "Marihuana," "cannabis" and any other words used or intended to convey the presence or availability of Marihuana shall not appear on the outside of the Permitted Premises nor be visible outside of the Permitted Premises on the Permitted Property.
11. *Use of Marihuana.* The sale, consumption or use of alcohol or tobacco products on the Permitted Premises is prohibited. Smoking or consumption of controlled substances, including Marihuana, on the Permitted Premises is prohibited unless otherwise permitted under a specific Township Permit for such use.
12. *Indoor Operation.* All activities of Establishments, including without limitation, distribution, growth, cultivation, or the sale of Marihuana, and all other related activity permitted under the Permit Holder's License or Permit must occur indoors. The Establishment's operation and design shall minimize any impact to adjacent uses, including the control of any odor by maintaining and operating an air filtration system and odor control so that no nuisance odor will be detectable at the property line of the Permitted Property. Indoor operation may utilize a greenhouse with sufficient operation and design to minimize any impact to adjacent uses, including odor.
13. *Unpermitted Growing.* A person may not grow his or her own Marihuana at an Establishment.



14. *Distribution.* No person operating an Establishment shall provide or otherwise make available Marihuana to any person who is not legally authorized to receive Marihuana under state law.
15. *Permits.* All necessary building, electrical, plumbing, and mechanical permits must be obtained for any part of the Permitted Premises in which electrical, wiring, lighting or watering devices that support the cultivation, growing, harvesting or testing of Marihuana are located.
16. *Waste Disposal.* The Permit Holder, owner and operator of the Establishment shall use lawful methods in controlling waste or by-products from any activities allowed under the License or Permit.
17. *Transportation.* Marihuana may be transported by a Marihuana Secure Transporter within the Township under this Ordinance, and to effectuate its purpose, only:
  - a. By Persons who are otherwise authorized by state law to transport Marihuana;
  - b. In a manner consistent with all applicable state laws and rules, as amended;
  - c. In a secure manner designed to prevent the loss of the Marihuana;
  - d. No vehicle used for the transportation or delivery of Marihuana under this Ordinance shall have for markings the words "Marihuana," "cannabis" or any similar words; pictures or other renderings of the Marihuana plant; advertisements for Marihuana or for its sale, transfer, cultivation, delivery, transportation or manufacture, or any other word, phrase, or symbol indicating or tending to indicate that the vehicle is transporting Marihuana;
  - e. No vehicle may be used for the ongoing or continuous storage of Marihuana, but may only be used incidental to, and in furtherance of, the transportation of Marihuana.
18. *Additional Conditions.* The Township Board may impose such reasonable terms and conditions on a Marihuana Establishment special use as may be necessary to protect the public health, safety and welfare, and to obtain compliance with the requirements of this Ordinance and applicable law.

**SECTION 7. PENALTIES AND CONSEQUENCES FOR VIOLATION.** In addition to any other penalties or legal consequences provided under applicable federal, state and local law, regulations, codes and ordinances:

1. The Zoning Administrator, Supervisor, or any law enforcement officer may enforce the provisions of this ordinance, including the issuance of a municipal civil infraction.
2. Violations of the provisions of this Ordinance or failure to comply with any of the requirements of this Ordinance shall be subject to and found responsible for a municipal civil infraction. The penalty for any municipal civil infraction shall be five hundred dollars (\$500.00) plus court

costs, attorney fees and abatement costs of each violation, together with all other remedies pursuant to MCL 600.8701, *et seq.* Each day a violation continues shall be deemed a separate municipal civil infraction.

3. A Permit issued under this Ordinance may be denied, limited, revoked, or restricted under any of the following conditions:
  - a. Any fraudulent, false, misleading, or material misrepresentation contained in the Application.
  - b. Repeat violations of any requirements of this Ordinance or other applicable law, rule, or regulation. As used in this subsection, the term "repeat offense" means a second (or any subsequent) misdemeanor violation or civil infraction of the same requirement or provision committed within any six-month period and upon conviction or responsibility thereof.
  - c. A valid License is not maintained as required by this Ordinance.
  - d. The Permit Holder, its officer, agent, manager, or employee failed to timely submit any document or failed to timely make any material disclosure as required by this Ordinance.
4. If a Permit is revoked or limited under this Ordinance, the Township or its designee shall issue a notice stating the revocation, limitation, or restriction including the reason for the action and providing a date and time for an evidentiary hearing before the Township Board.
5. The owner of record or tenant of any building, structure or premises, or part thereof, and any architect, builder, contractor, agent or person who commits, participates in, assists in or maintains such violation may each be found guilty or responsible of a separate offense and suffer the penalties and forfeitures provided in this section, except as excluded from responsibility by state law.
6. In addition to any other remedies, the Township may institute proceedings for injunction, mandamus, abatement or other appropriate remedies to prevent, enjoin, abate or remove any violations of this Ordinance. The rights and remedies provided herein are both civil and criminal in nature. The imposition of any fine, jail sentence or forfeiture shall not exempt the violator from compliance with the provisions of this Ordinance.

**SECTION 8. SEVERABILITY.** The provisions of this Ordinance are hereby declared severable. If any part of this Ordinance is declared invalid for any reason by a court of competent jurisdiction, that declaration does not affect or impair the validity of all other provisions that are not subject to that declaration.

**SECTION 9. SAVINGS CLAUSE.** This Ordinance does not affect rights and duties matured, penalties that were incurred, and proceedings that were begun, before its effective date.

**SECTION 10. REPEAL.** The Whitewater Township Prohibition of Marihuana Establishments Ordinance, Ordinance No. 55 adopted May 29, 2019, and all other Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

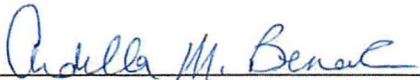
**SECTION 11. EFFECTIVE DATE.** This Ordinance shall take effect thirty (30) days following publication or posting after final adoption by the Township Board.

YEAS: BENAK, GOSS, HUBBELL

NAYS: VOLLMUTH, POPP

ABSENT/ABSTAIN: NONE

ORDINANCE DECLARED ADOPTED:


  
\_\_\_\_\_  
Ardella M. Benak, Whitewater Township Treasurer  
(in the absence of Ron Popp, Supervisor)

### AFFIDAVIT OF POSTING AND PUBLICATION

I hereby certify that:

1. The above is a true copy of an Ordinance adopted by the Whitewater Township Board at a duly scheduled and noticed meeting of that Township Board held on December 8, 2020, pursuant to the required statutory procedures.
2. A summary of the above Ordinance was duly published in the Traverse City Record-Eagle, a newspaper that circulates within Whitewater Township, on December 20, 2020.
3. Within one (1) week after such publication, I recorded the above Ordinance in a book of ordinances kept by me for that purpose, including the date of passage of the ordinance, the names of the members of the township board voting, and how each member voted.

ATTESTED:

  
\_\_\_\_\_  
Cheryl Goss, Whitewater Township Clerk