

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

**PROPOSED 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 \_\_\_\_\_, 2020, at \_\_\_\_ p.m., Township Board Member \_\_\_\_\_ moved to finally adopt the following Ordinance, which motion was seconded by Township Board Member \_\_\_\_\_:

*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. “*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”).
3. “*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.
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 Marihuana Establishment.
  5. “*License*” means a current and valid License for a Marihuana Establishment issued by the State of Michigan.
  6. “*Licensee*” means a Person holding a current and valid Michigan License for a Marihuana Establishment.
  7. “*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.
  8. “*Permit Holder*” means the Person that holds a current and valid Permit issued under this Ordinance.
  9. “*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.
  10. “*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.
  11. “*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.

12. “*Person*” means a natural person, company, partnership, trust, profit or non-profit corporation, limited liability company, or any joint venture for a common purpose.
13. “*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.
14. “*Public Place*” means any area to which the public is invited or generally permitted in the usual course of business.
15. “*Township*” means Whitewater Township, a general law township located in Grand Traverse County, Michigan.
16. “*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. Marihuana Processors; and
  - e. Marihuana Safety Compliance Facilities; and
  - f. Marihuana Secure Transporters.
2. The number of Marihuana Establishment Permits in effect at any time shall not exceed the following maximums within the Township:
  - a. Marihuana Grower Permits, Class A: [ ]
  - b. Marihuana Grower Permits, Class B: [ ]

- c. Marihuana Grower Permits, Class C: [ ]
- d. Marihuana Processor Permits: [ ]
- e. Marihuana Safety Compliance Facility Permits: **Zero**
- f. Marihuana Secure Transporter Permits: **Zero**
- g. Marihuana Retailer Permits: **Zero**
- h. Marihuana Microbusiness: **Zero**
- i. Excess Marihuana Grower Permits: **Zero**
- j. Designated Consumption Establishment: **Zero**
- k. Marihuana Event Organizer: **Zero**
- l. 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. Marihuana Safety Compliance Facility Permits
  - b. Marihuana Secure Transporter Permits
  - c. Marihuana Retailer Permits
  - d. Marihuana Microbusiness
  - e. Excess Marihuana Grower Permits
  - f. Designated Consumption Establishment
  - g. Marihuana Event Organizer
  - h. Temporary Marihuana Event
- 4. No Permit shall be issued to any Person under this Ordinance unless the Person has previously obtained and currently holds an equivalent permit under any ordinance adopted by Whitewater Township that authorizes and permits marihuana facilities under the Michigan Marihuana Facilities Licensing Act (MMFLA), Act 281 of 2016, except for any Person applying for a Marihuana Grower Class A Permit.

5. 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.
6. Marihuana Establishments shall operate only as expressly allowed under this Ordinance.
7. 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.
8. At the time of Application, each Applicant shall pay applicable fees, including 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 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.
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, or law enforcement agency 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 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 Board 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 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 Application.
- c. If, prior to the approval of an 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 Application. Upon approval by the Township Zoning Administrator, the current Applicant may amend the 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, 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. 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 Board. 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-colocated 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.

**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 using inventory tracking systems, including seed to sale systems, as well as any recordkeeping experience.
  - vi. Other experience, training, or certification, possessed or undertaken by the Applicant that may be relevant to the operation of the proposed Establishment.
  - vii. Whether the Applicant has already applied for or received a permit to operate a Commercial Medical Marihuana Facility within the Township.
  - viii. 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.

5. **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.

6. **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.

## 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.
- b. An Applicant or Permit Holder has a duty to notify the Township Board 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 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 Michigan Marihuana Establishment License for the type of Marihuana Establishment intended to be carried out on the Permitted Property. The Establishment must also hold both a valid state License under the MRTMA. 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 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. *Operations, Screening, and Adjacent Uses.* 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 may be conducted outdoors but must be appropriately screened and secured and be compliant with the Township Zoning Ordinance. The Township Board may require any Establishment activities to 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.
  13. *Unpermitted Growing.* A Patient may not grow his or her own Marihuana at a Commercial Medical Marihuana Facility.
  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. 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 forfeiture 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.
2. 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.
3. 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.
4. 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.
5. 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: \_\_\_\_\_

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

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

ORDINANCE DECLARED ADOPTED:

\_\_\_\_\_  
Ron Popp, Whitewater Township 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 \_\_\_\_\_, 2020, 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 \_\_\_\_\_, 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.
4. Filed as an attested copy with the Grand Traverse County Clerk on \_\_\_\_\_, 2020.

ATTESTED:

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