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MANAGER  
Andrew Dymczyk

TO: Township Board

FROM: Andrew Dymczyk, Township Manager *AD*

SUBJECT: Marihuana Operations Ordinance No. 2021-02-01 – 2<sup>nd</sup> Reading

DATE: March 18, 2021

In September of 2020, the Board directed the Manager's Office to explore possible outcomes and best practices on medical and recreational marihuana facilities in a business capacity for grower, processor, safety compliance and secure transport. Since that time staff has been working diligently with the Planning Commission towards best practice for implementation of those outlined business capacities. A component of this implementation is a general law ordinance.

The proposed general law ordinance is inclusive as it regulates all aspects of marihuana operations within the Township: activities and land use. Since enactment of Medical Marihuana Facilities Licenses Act (2016) and Michigan Regulation and Taxation of Marihuana Act (2018), there has been some debate to whether a municipality may simply only need to adopt a general law ordinance, and not amend its zoning ordinance. A consensus among municipal attorneys is that the general law ordinances must be enacted to regulate activities, and the zoning ordinance must be amended if a municipality significantly regulates marihuana operations land use.

First reading of the proposed ordinance occurred at our February 22, 2021 regular board meeting.

**STRATEGIC PLAN:**

Strategic: Fiscal and Organizational Excellence

Strategies: Maintain sound fiscal policies and budgets that allow the Township to address service needs and maintain community quality.

**SUGGESTED ACTION:**

Adoption of Ordinance No. 2021-02-01 Marijuana Operations on second reading.

**CHARTER TOWNSHIP OF DEWITT  
CLINTON COUNTY, MICHIGAN**

**MARIHUANA OPERATIONS  
ORDINANCE NO. 2021-02-01**

**PREAMBLE**

AN ORDINANCE TO ADD CHAPTER 44 TO THE CODE OF ORDINANCES TO ESTABLISH THE “DEWITT TOWNSHIP MARIHUANA OPERATIONS ORDINANCE” PROVIDED UNDER THE MICHIGAN REGULATION AND TAXATION OF MARIHUANA ACT AND THE MICHIGAN MEDICAL MARIHUANA FACILITIES LICENSING ACT AND APPLICABLE RULES PROMULGATED UNDER LARA; TO ESTABLISH PENALTIES FOR VIOLATION; TO REPEAL ORDINANCES IN CONFLICT HEREWITH; AND TO ESTABLISH AN EFFECTIVE DATE HEREOF.

THE CHARTER TOWNSHIP OF DEWITT, CLINTON COUNTY, MICHIGAN, ORDAINS:

**§ 1. LEGISLATIVE FINDINGS.**

WHEREAS, the Charter Township of DeWitt (“Township”) through its elected Township Board, recognizes that on November 6, 2018, Michigan voters approved Proposal 18-1, creating the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, (“MRTMA” being M.C.L. §§ 333. 27951 *et seq.*) and provided for the licensing and regulation of recreational marihuana establishments under the MRTMA.

WHEREAS, the Medical Marihuana Facilities Licensing Act (“MMFLA”), PA 281 of 2016, provides the structure for medical marihuana facilities and the Michigan Regulation and Taxation of Marihuana Act provides the structure for adult-use (“recreational”) marihuana establishments (collectively, “marihuana operations”).

WHEREAS, the Marihuana Regulatory Agency (“MRA”) has issued administrative rules for the purpose of implementing the MMFLA and MRTMA.

WHEREAS, the administrative rules define *Equivalent Licenses* between the MMFLA (medical) and the MRTMA (adult-use) as follows: MMFLA (medical) Any Class Grower (A, B, C), Processor, Provisioning Center, Secure Transporter, Safety Compliance Facility and the MRTMA (adult-use) Any Class Grower (A, B, C), Processor, Retailer, Secure Transporter, Safety Compliance Facility.

WHEREAS, the MRTMA provides that a municipal ordinance may completely prohibit or limit the number of marihuana establishments within its boundaries.

WHEREAS, the Township desires to protect the public health, safety, and welfare of the residents of the Township by permitting specific MMFLA and MRTMA state-licensed marihuana operations as: Grower, Excess

Grower, Processor, safety compliance facilities and secure transporters within the jurisdiction of the Township as permitted under this Ordinance.

WHEREAS, the Township of DeWitt desires to prohibit all other marihuana operations under the Medical Marihuana Facilities Licensing Act and LARA Rules and the Michigan Regulation and Taxation of Marihuana Act, and LARA Rules, including: Microbusinesses, Marihuana Provisioning Centers, Marihuana Retailers, Temporary Marihuana Event licenses, and Designated Consumption Establishment licenses within the jurisdiction of the Township.

## **GENERAL PROVISIONS**

### **§ 2. TITLE.**

This Ordinance shall hereby be known as the “*DeWitt Township Marihuana Operations Ordinance.*”

### **§ 3. PURPOSES AND INTENT.**

The purpose of this Ordinance is to exercise the police, regulatory, and land use powers of the Township by licensing and regulating marihuana operations to the extent permissible under state law and regulations and to protect the public health, safety, and welfare of the residents of the Township.

The Township finds that the activities described in this Ordinance are significantly connected to the public health, safety, security, and welfare of its residents and therefore necessary to regulate and enforce safety, security, fire, police, health and sanitation practices related to such activities and also to provide a method to defray administrative costs incurred by such regulation and enforcement.

The Township further finds and declares that economic development, including job creation and training, increase and productive land use, and the protection of the public health, safety, and welfare of Township neighborhoods and residents are public purposes.

It is not the intent of this Ordinance, except as may be required or permitted by law or regulation, to diminish, abrogate, or restrict the protections for medical use of marihuana found in the Michigan Medical Marihuana Act.

The Charter Township of DeWitt adopts this Ordinance:

- A. To implement certain provisions of the Medical Marihuana Facilities Licensing Act, PA 281 of 2016, and certain provisions of the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, so as to protect the public health, safety, and welfare of the residents of the Township by setting forth the manner in which specific marihuana operations may be operated within the jurisdiction of the Township.
- B. To establish the Charter Township of DeWitt Marihuana Operations Ordinance pertaining to the regulation of marihuana operations consistent with state law and regulations. Nothing

in this Ordinance purports to permit activities that are otherwise illegal under state or local law or expressly prohibited by this Ordinance.

C. Further, this Ordinance:

- (1) Prohibits Marihuana Provisioning Center and Retail Establishment licenses and similar marihuana operations under the MMFLA and MRTMA within the boundaries and jurisdiction of the Township.
- (2) Prohibits Marihuana Microbusinesses, Temporary Marihuana Event licenses, and Designated Consumption Establishment licenses and similar marihuana operations under the MRTMA within the jurisdiction of the Township.
- (3) Provides for and limits the location, type, and number of marihuana operations licensed under the MMFLA and MRTMA and Department licensees within the jurisdiction of the Township.
- (4) Provides for and regulates and controls marihuana operations, Department licensees, the commercial grow and process, and the lawful production of related products as set forth herein, and for purposes of implementing the Medical Marihuana Facilities Licensing Act and Michigan Regulation and Taxation of Marihuana Act, where such activities will have minimal detrimental impact.
- (5) To protect public health and safety through reasonable limitations on marihuana operations, Department licensees, and commercial operations, and limitations upon other marihuana related activities provided under the MMFLA and MRTMA, as they relate to noise, air and water quality, neighborhood safety, security for the marihuana operation and its personnel, and other health and safety concerns.
- (6) To provide fees to defray and recover the costs to the Township of the administrative, fire, and police costs associated with marihuana operations, and permitted marihuana activities as provided under the MMFLA and MRTMA, as permitted under this Ordinance.

D. This Ordinance authorizes the establishment of specific marihuana operations within the Charter Township of DeWitt, Michigan, consistent with the provisions of the MMFLA and MRTMA, and with regulations enacted by the Department, and subject to the following:

- (1) Nothing in this Ordinance is intended to promote or condone the commercial marihuana cultivation and grow, processing, transportation, testing, production, distribution, sale, or possession of marihuana in violation of any applicable law.
- (2) This Ordinance is to be construed to protect the public over marihuana operations and licensee interests. Operation of marihuana operations is a revocable privilege

and not a right in the Township. There is no property right for a person or establishment to engage in or obtain a license to engage in marihuana as a marihuana facility, establishment, or marihuana operation or enterprise within the jurisdiction of the Township.

- (3) All licensees and their employees and agents are assumed to be fully aware of the law; the Township shall not therefore be required to issue warnings before issuing citations or other enforcement measures for violations of this Ordinance or any applicable Township ordinance, regulation, or state law or regulation.

#### § 4. DEFINITIONS.

Terms contained in the Michigan Medical Marihuana Facilities Licensing Act (MMFLA), Public Act 281 of 2016, MCL 333.27101 et seq., and the Michigan Regulation and Taxation of Marijuana Act, Initiated Law 1 of 2018, MCL 333.27951 et seq., as amended (MRTMA), and Department regulations apply to the terms found herein. This Ordinance contains some words and phrases that are defined in the MMFLA and the MRTMA. As used in this Ordinance, they have the same meaning as provided in the MMFLA and the MRTMA, unless the term is otherwise defined in this Ordinance or the context requires a different meaning.

**APPLICANT** a person who applies for a municipal marihuana operator’s license under this Ordinance.

**CHURCH** means an entire space set apart primarily for purposes of public worship, and which is tax exempt under the laws of this state, and in which religious services are held, and the entire building structure of which is kept for that use and not put to any other use inconsistent with that use.

**CLERK** means the Township Clerk of the Charter Township of DeWitt, Michigan.

**DEPARTMENT** means the Michigan Department of Licensing and Regulatory Affairs (LARA).

**EMPLOYEE** means any individual who is employed by an employer in return for the payment of direct or indirect monetary wages or profit, under contract, and any individual who volunteers his or her services to an employer for no monetary compensation, or any individual who performs work or renders services, for any period of time, at the direction of an owner, lessee, or other person in charge of a place.

**“ESTABLISHMENTS”** and **“FACILITIES”** are used interchangeably and refer to any marihuana-related location at which a licensee is licensed to operate under either MMFLA, MRTMA, or both.

**EQUIVALENT LICENSES** means any of the following held by a single licensee:

- a. A Marihuana Grower license, of any class, issued under the MRTMA and a grower license, of any class, issued under the MMFLA.
- b. A Marihuana Processor license issued under the MRTMA and a processor license issued under the MMFLA.
- c. A Marihuana Secure Transporter license issued under the MRTMA and a secure transporter license issued under the MMFLA.
- d. A Marihuana Safety Compliance Facility license issued under the MRTMA and a safety license issued under the MMFLA.

**INDUSTRIAL HEMP** means a plant of the genus cannabis and any part of that plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration that does not exceed 0.3% on a dry-weight basis, or per volume or weight of marihuana-infused product, or the combined percent of delta-9-tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant of the genus cannabis regardless of moisture content.

**LICENSEE** means a person or entity issued a marihuana operation (establishment or facility) license under this Ordinance or by the State.

**MUNICIPAL LICENSE** means a required marihuana related municipal license issued by the Township pursuant to this Ordinance that allows the licensee to operate within the Township as one (1) of the following, as specified in the license:

- a. Marihuana Grower, including Class A Grower, Class B Grower, Class C Grower, and Excess Grower,
- b. Marihuana Processor,
- c. Marihuana Safety Compliance Facility, and
- d. Marihuana Secure Transporter.

**MICHIGAN MEDICAL MARIHUANA ACT** (MMMA) means Initiated Law 1 of 2008, MCL 333.26421 *et seq.*, as may be amended.

**MARIHUANA OPERATION** means a licensee under the MMFLA and the MRTMA.

**MARIHUANA FACILITIES LICENSING ACT** (MMFLA) means Public Act 281 of 2016, MCL 333.27101 *et seq.*, as may be amended.

**MARIHUANA TRACKING ACT** means Public Act 282 of 2016, MCL 333.27901 *et seq.*, as may be amended.

**MICHIGAN REGULATION AND TAXATION OF MARIHUANA ACT** means Initiated Law 1 of 2018, MCL 333.27951 *et seq.*, as may be amended.

**MUNICIPALITY** means the Charter Township of DeWitt, Michigan.

**PERSON** means an individual, corporation, limited liability company, partnership of any type, trust, or other legal entity.

**PLANT** means that term as defined in section 102 of the MMFLA, MCL 333.27102.

**SECURITY PLAN** means a plan for preventing unauthorized access to, or theft and pilferage from, a marihuana operation, approved for operation in the Township. A security plan must be approved by the Township Police Department. The plan shall be subject to review and reasonable approval by the Township, but shall include, at a minimum, the following components.

- a. Perimeter security fence.
- b. An exterior lighting system.
- c. A building security system.
- d. An on-site security program.
- e. An off-site official contact list.
- f. Established hours of operation.
- g. Appropriate signage.
- h. A plan for facility inspection by the Township, which shall include no less than an annual comprehensive fire and security inspection.
- i. Such other conditions required by this Ordinance, the MMFLA, MRTMA, and LARA rules, and as may be suitable for the particular license to be operated by the marihuana operations (MMFLA or MRTMA) licensee.

The Township reserves the right to require additional security measures based upon the uniqueness of the property and marihuana operations.

**SCHOOL** means any building, playing field, or property used for school purposes to impart instruction to children in grades kindergarten through 12, when provided by a public, private, denominational, or parochial school, except those buildings used primarily for adult education or college extension courses.

## **§ 5. FEDERAL AND STATE LAW.**

A. Nothing in this Ordinance, Township ordinance or codes, is intended to grant, nor shall they be construed as granting, immunity from criminal prosecution for growing, sale, consumption, use, distribution, or possession of marihuana not in strict compliance with federal law and applicable rules.

B. Relationship to State Law.

- (1) Nothing in this Ordinance is intended to grant immunity from criminal or civil prosecution, penalty or sanction for the cultivation, manufacture, possession, use, sale, distribution or transport of marihuana or hemp in any form, that is not in strict

compliance with the MRTMA, the Michigan Medical Marihuana Act, the Medical Marihuana Facilities Licensing Act, the Marihuana Tracking Act, and all applicable rules promulgated by the State of Michigan regarding marihuana. Strict compliance with any applicable State law or regulation and this Ordinance shall be a requirement for the issuance or renewal of any license issued under this Ordinance. Noncompliance with any applicable State law or regulation or this Ordinance shall be grounds for revocation or nonrenewal of any license issued under the terms of this Ordinance.

- (2) Except as otherwise provided by the MMFLA, MRTMA and this Ordinance, a person who owns or leases real property upon which a marihuana facility or establishment is located and who has no knowledge that the licensee is violating or violated the MMFLA, MRTMA or a provision of this Ordinance, is not subject to criminal or civil prosecution under any applicable Township ordinance regulating marihuana.

#### **§ 6. MUNICIPAL LICENSE REQUIRED.**

- A. No person shall establish or operate a marihuana operation in the Township without a valid municipal license issued by the Township and a State license for each such facility to be operated. License certificates shall be kept current and publicly displayed within the marihuana operations facility.
- B. Township licenses are required as follows:
  - (1) *Annual fee.* A licensee must pay a non-refundable registration fee of five thousand dollars (\$5,000.00), for each license used within the Township to help defray administrative, compliance monitoring, enforcement costs, and professional services, as necessary. The holder of stacked or co-located licenses must pay a separate fee in the amount of five thousand dollars (\$5,000.00) for each license. The initial annual registration fee(s) must be paid when the application for Township approval is submitted. In each subsequent year, license fees are due on the date of the Township license approval. Fees assessed for marihuana land use approvals or licensing in addition to, not in lieu of, any licensing, land use or other permitting requirements of any law, state regulatory agency, or by Township ordinance.
  - (2) The application fee requirement set forth in this section shall be in addition to, and not in lieu of, any other licensing and permitting requirements imposed by any other

federal, state, or Township law or ordinance, including, by way of example, any applicable zoning or building permits.

- (3) The issuance of any license pursuant to this section does not create an exception, defense, or immunity to any person in regard to any potential criminal liability the person may have for the production, distribution, or possession of marihuana under federal law.
- (4) Licenses may be allowed to be stacked for multiple uses per premise, subject to the Township's determination that such uses are compatible together at that location, are consistent on a shared basis with all the provisions of the MRTMA, the MMFLA, and applicable LARA rules, and each use is consistent with provisions of Township Ordinances. If those conditions are met, more than one different marihuana operations licensee may be located on one parcel, as permitted under this Ordinance.

## **§ 7. GENERAL LICENSE APPLICATION REQUIREMENTS.**

- A. *Marihuana Operations License Application.* A person seeking a municipal license pursuant to the MRTMA or the MMFLA, and the provisions of this Ordinance, shall submit a License Application (in addition to the *Zoning Application*), to the Township on Township-approved forms. At the time of License Application, each applicant shall pay a nonrefundable license application fee as provided in this Ordinance to defray the costs incurred by the Township for background investigations, inspection of the proposed premises, as well as any other costs associated with the processing and review of the application. In addition, the applicant shall present a suitable form of government-issued identification.
- B. The License Application shall also provide the following information in this subsection, under the penalty of perjury, on the Township-approved forms. Such information is required for the applicant, the proposed manager of the marihuana operations, and all persons involved in the marihuana operations that is the subject of the application:
  - (1) If the applicant is an individual, the applicant's name, date of birth, Social Security number, physical address, including residential and any business address; copy of government-issued photo identification, email address, one or more phone numbers, including emergency contact information; and, if applicable, federal tax identification number of the applicant.
  - (2) If the applicant is a business entity, information regarding the entity, including, without limitation, the name and address of the entity, its legal status, and proof of

registration with, or a certificate of good standing from, the State of Michigan, as applicable.

- (3) The identity of every applicant and person having any ownership interest in the marihuana operation with respect to which the municipal license is sought.
- (4) If the applicant is not the owner of the proposed licensed premises, a notarized statement from the owner of such property authorizing the use of the property for a marihuana operation.
- (5) A copy of any deed reflecting the applicant's ownership of, or lease reflecting the right of the applicant to possess, or an option reflecting the applicant's right to purchase or lease, the proposed licensed premises.
- (6) In addition to the site plan, three (3) stamped or sealed 24 inch by 36 inch drawings of the proposed licensed premises showing, without limitation, building layout, all entryways and exits, ingress and egress to the proposed licensed premises, loading zones and all areas in which marihuana will be grown, manufactured, processed, stored, or dispensed.
- (7) A comprehensive operation plan incorporating the requirements of the Zoning Application to include the Security Plan.
- (8) 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. Prior criminal history will be addressed/considered consistent with the provisions of the MRTMA, including but not limited to MCL 333.27958(1)(c) and/or the MMFLA, including but not limited to MCL 333.27401(1)(d).
- (9) Whether an 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.

- (10) Whether an applicant has filed, or been served with, a complaint or other notice filed with any public body, regarding the delinquency in the payment of, or a dispute over the filings concerning the payment of, any tax required under federal, state, or local law, including the amount, type of tax, taxing agency, and time periods involved.
  - (11) A description of the type of marihuana operations; and the anticipated or actual number of employees.
  - (12) An acknowledgment and consent that the Township may conduct a background investigation, including a criminal history check, and that the Township will be entitled to full and complete disclosure of all financial records of the marihuana commercial entity, including records of deposit, withdrawals, balances and loans; and
  - (16) Any additional information that the Township reasonably determines to be necessary in connection with the investigation and review of the application.
- C. Consistent with the MRTMA, including but not limited to MCL 333.27959(7), the MMFLA, including but not limited to MCL 333.27205(4), and the Freedom of Information Act, PA 442 of 1976, MCL 15.231 *et seq.*, the information provided to the Township Clerk pursuant to this section relative to licensure is exempt from disclosure.
- D. All marihuana operations shall obtain all other required permits or licenses related to the operation of the marihuana commercial entity, including, without limitation, any development approvals or building permits required by any applicable code or ordinance.
- E. If a deficiency is identified in an application, the applicant shall have ten (10) business days to correct the deficiency after notification.
- F. Upon an applicant's completion of the above-provided form and furnishing of all required information and documentation, the Township Clerk shall accept the application and assign it an application number by marihuana operations type.
- G. Upon receipt of a completed application, the Township Clerk shall circulate the application to the Township's Community Development, Fire and Police Departments, Assessing and legal review (as well as any other Township department that the Township may determine is pertinent to review of such applications) to determine whether the application is in full compliance with all applicable laws, rules and regulations.
- H. License Evaluation Criteria. Section 9 of the MRTMA requires that the Township establish a competitive process to select applicants who are best suited to operate in compliance with the MRTMA and this Ordinance when a municipality limits the number of marihuana

establishments that may be licensed in the municipality. In the event that the Township receives more applications for a marihuana establishment than available and permitted by this Ordinance, the Township requires that applicants submit a business plan including:

- (1) The applicant's experience in operating other licensed marihuana businesses in Michigan.
- (2) The applicant's general business management experience.
- (3) An estimate of the number and type of jobs that the marihuana operation is expected to create and the amount and type of compensation expected to be paid for such jobs.
- (4) A current organizational chart that includes position descriptions.
- (5) Planned tangible capital investment in the Township, including if multiple licenses are proposed, an explanation of the economic benefits to the Township with supporting factual data.
- (6) If a Marihuana Grower operations facility is proposed, the number of plants anticipated.
- (7) Financial structure and financing of the proposed marihuana facilities and/or establishment(s).

**§ 8. DENIAL OF APPLICATION.**

- A. The Township Clerk, following recommendations from the above-referenced departments, shall reject any application that does not meet the requirements of the MRTMA, the MMFLA, the rules promulgated by LARA, this Ordinance, applicable Township Ordinances, or other applicable law or regulations. The Township Clerk shall reject any application that contains any false, misleading or incomplete information.
- B. Subject to the provisions of the MRTMA, and/or the MMFLA, an applicant is ineligible to receive a license under this Ordinance if any of the following circumstances exist regarding the applicant:
  - (1) Conviction that involved distribution of a controlled substance to a minor.
  - (2) The applicant knowingly submitted an application for a license that contains false, misleading or fraudulent information, or has intentionally omitted pertinent information on the application for a license.
  - (3) The applicant is an employee, advisor, or consultant of the agency involved in the implementation, administration, or enforcement of the act or these rules pursuant to section 7 of the MRTMA, MCL 333.27957, and MCL 333.27402(2)(f) of the MMFLA.

- (4) The applicant holds an elective office of a governmental unit of this state, another state, or the federal government; is a member of or employed by a regulatory body of a governmental unit in this state, another state, or the federal government; or is employed by a governmental unit of this state. This subdivision does not apply to an elected officer of or employee of a federally recognized Native American tribe or to an elected precinct delegate.
- (5) Conviction of or release from incarceration for a felony under the laws of this state, any other state, or the United States within the past 10 years, except that, consistent with MCL 333.27958(1)(c), a prior conviction solely for a marihuana-related offense does not disqualify an individual or otherwise affect eligibility for licensure, unless the offense involved distribution of marihuana to a minor.
- (6) Other than as set forth in MCL 333.27958(1)(c), within the past 5 years, conviction of a misdemeanor involving a controlled substance, theft, dishonesty, or fraud in any state or having been found responsible for violating a local ordinance in any state involving a controlled substance, dishonesty, theft, or fraud that substantially corresponds to a misdemeanor in that state.
- (7) The applicant fails to provide and maintain adequate premises liability and casualty insurance for its proposed marihuana operations.
- (8) The applicant does not meet the MRTMA, or the rules provisions concerning eligible license applicants, including but not limited to the provisions of subsections (6) - (7), and MCL 333.27959, and/or Part IV, Licensing, of the MMFLA, which set forth time periods within which only certain applicants may obtain licenses.
- (9) The applicant is an owner of, or has an interest in, such business or entity which, pursuant to the provisions of MCL 333.27959(3)(d), would make the applicant ineligible for the license for which the applicant has applied, or the applicant otherwise fails to meet other criteria established by state law.

**§ 9. ISSUANCE OF MUNICIPAL MARIHUANA OPERATING LICENSE.**

A. *Inspection.* An inspection of the proposed marihuana operations facility by the Township shall be required prior to issuance of the Township operating license. Such inspection shall occur after the premises are ready for operation, but prior to the stocking of the business with any marihuana, and prior to the opening of the business to the public. The inspection is to verify that the facilities are constructed and can be operated in accordance with the application submitted and the applicable requirements of this Ordinance and any other applicable law, rule, or regulation.

- B. After verification that the marihuana operations facility is constructed and can be operated in accordance with the application submitted and the applicable requirements of this Ordinance and any other applicable law, rule, or regulation, the Township Clerk shall issue a Township operating license whose term shall run concurrent with the State operating license for the facility or establishment.
- C. Maintaining a valid marihuana facility or establishment license issued by the State is a condition for the issuance and maintenance of the Township operating license issued under this Ordinance and the continued operation of any marihuana facility and establishment.

**§ 10. LICENSE FORFEITURE.**

In the event that a marihuana operations facility does not commence operations within one year of issuance of a Township marihuana operation license, the license shall be deemed forfeited; the business may not commence operations; notwithstanding, the license may be reviewed by the Township Board for renewal.

**§ 11. LICENSE RENEWAL.**

- A. A marihuana operation license shall run concurrently with the State operating marihuana license issued for the marihuana operation, unless revoked as provided by law.
- B. An annual nonrefundable marihuana operating license fee must be paid to defray the administrative and enforcement costs associated with the operating license for a marihuana operation located in the Township. A nonrefundable operating license fee will be in an amount as permitted by the MRTMA, the MMFLA, and subsequent regulations, as established by Township Resolution. An application to renew a marihuana operations facility or establishment operating license shall be filed at least thirty (30) days prior to the date of its expiration.
- C. Prior to the issuance of a renewed marihuana facility or establishment license by the Township, the premises shall be inspected to assure that it and its systems are in compliance with the requirements of this Ordinance and any other Township Ordinances.

**§ 12. TRANSFER, SALE OR PURCHASE OF LICENSE.**

- A. A marihuana operation license is valid only for the owner named thereon, the type of business disclosed on the application for the license, and the location for which the license is issued. The licensees of a marihuana operation license are only those persons disclosed in the application or subsequently disclosed to the Township in accordance with this Ordinance.
- B. A marihuana operating license is exclusive to the licensee. Licensees shall report material changes to the Department and the Township Clerk before making material changes that

may require prior authorization by the Department. Material changes include, but are not limited to, the following:

- (1) Change in owners, officers, members, or managers.
- (2) Change of location. Upon notification of a change in location the Department may determine that a new license and new inspection are required for the change of location.
- (3) The addition or removal of persons disclosed in the application or disclosed.
- (4) Change in entity name.
- (5) Any attempted transfer, sale, or other conveyance of an interest in a license.

**§ 13. LICENSE AS REVOCABLE PRIVILEGE.**

An operation license granted by this Ordinance is a revocable privilege granted by the Township and is not a property right. Granting a license does not create or vest any right, title, franchise, or other property interest. Each license is exclusive to the licensee, and a licensee or any other person must apply for and receive the Township's approval before a license is transferred, sold, or purchased. A licensee or any other person shall not lease, pledge, or borrow or loan money against a license. The attempted transfer, sale, or other conveyance of an interest in a license without prior agency approval is grounds for suspension or revocation of the license or for other sanction considered appropriate by the Township.

**§ 14. NONRENEWAL, SUSPENSION OR REVOCATION OF LICENSE.**

A. The Township may, after notice and hearing, suspend, revoke or refuse to renew a license or Special Land Use permit for any of the following reasons:

- (1) The applicant or licensee, or his or her agent, manager, or employee, has violated, does not meet, or has failed to comply with, any of the terms, requirements, conditions or provisions of this Ordinance or with any applicable state or local law or regulation;
- (2) The applicant or licensee, or his or her agent, manager, or employee, has failed to comply with any special terms or conditions of its license pursuant to an order of the state or local licensing authority, including those terms and conditions that were established at the time of issuance of the license and those imposed as a result of any disciplinary proceedings held subsequent to the date of issuance of the license;  
or
- (3) The marihuana operations facility has been operated in a manner that adversely affects the public health, safety or welfare.

B. Evidence to support a finding under this section is based upon the preponderance of the evidence and may include, without limitation, a continuing pattern of conduct, a continuing

pattern of drug-related criminal conduct within the premises of the marihuana operations or in the immediate area surrounding such business, a continuing pattern of criminal conduct directly related to or arising from the operation of the marihuana facility, establishment or marihuana commercial entity, or an ongoing nuisance condition emanating from or caused by the marihuana facility. Criminal conduct shall be limited to the violation of a state law or regulation or Township ordinance.

- C. Questions that arise in the administration of this Ordinance, including appeals of suspension and revocations of Township operating licenses, shall be determined by the Township Board or appointed body.

**§ 15. COMPLIANCE WITH RULES; INSPECTIONS.**

- A. A licensee shall strictly comply with the rules and emergency rules related to marihuana that may from time to time be promulgated by the Department.
- B. If it is determined that the Marihuana Tracking Act applies, or LARA promulgates rules or regulations which require such, a licensee shall adopt and use the statewide monitoring system of inventory control and tracking authorized by the Marihuana Tracking Act so as to provide the capability for the licensee to comply with the State requirements applicable to the type of license held by the licensee.
- C. Marihuana operations facilities and all articles of property within the licensed premises are subject to inspection, search and examination at any time by a member of the DeWitt Police Department, the Michigan State Police, or other law enforcement agency having jurisdiction.
- D. Any failure by a licensee to comply with Department rules or the provisions of this Ordinance and any infraction or violation, however slight, is sufficient grounds for suspension and revocation of licensure under this Ordinance.

**§ 16. SIGNAGE AND ADVERTISING.**

- A. It shall be unlawful for any licensee to:
  - (1) Use advertising material that is misleading, deceptive or false or that, as evidenced by the content of the advertising material or by the medium or the manner in which the advertising material is disseminated, is designed to appeal to minors; and
  - (2) Advertise in a manner that is inconsistent with the provisions of this Ordinance, the MRTMA, the MMFLA, LARA rules, or is profane.

**§ 17. MARIHUANA OPERATIONS SECURITY REQUIREMENTS.**

- A. Security measures at all licensed premises shall comply with the requirements of this Ordinance, its definitions, and the MMFLA and MRTMA, and including but not limited to

MRTMA Marihuana establishments, requirements, and limitations. MCL 333.27961, and all applicable rules and regulations promulgated by the department.

- B. A description of the Security Plan shall be submitted with the License Application. The security system shall be maintained in good working order and provide twenty-four hour per day coverage. A separate security system is required for each operations location.
- C. The Security Plan must include, in addition to the Security Plan definition, at a minimum, the following security measures:
  - (1) *Cameras.* The marihuana operations facility shall install and use security cameras to monitor and record all areas of the premises (except in restrooms and locker rooms) where persons may gain or attempt to gain access to marihuana or cash maintained by the marihuana operations. Cameras shall record operations of the business to an off-site location, as well as all potential areas of ingress or egress to the business with sufficient detail to identify facial features and clothing. Recordings from security cameras shall be maintained for a minimum of thirty (30) days in a secure off-site location in the Township or through a service over a network that provides on-demand access, commonly referred to as a "cloud." The off-site location shall be included in the security plan submitted to the Township and video provided to the Police Department upon request and updated within seventy-two hours of any change of such location.
  - (2) *Use of a safe or secure room for storage.* The marihuana operations facility shall install and use a safe or secure room for safe storage of any processed marihuana and cash on the premises when the business is closed to the public. The safe or secure room shall be incorporated into the building structure or securely attached thereto. For marihuana-infused products that must be kept refrigerated or frozen, the business may lock the refrigerated container or freezer in a manner authorized by the Township in place of the use of a safe or secure room so long as the container is affixed to the building structure.
  - (3) *Alarm system.* The marihuana operations facility shall install and use an alarm system that is monitored by a company that is staffed twenty-four hours a day, seven days a week. The Security Plan submitted to the Township shall identify the company monitoring the alarm, including contact information, and updated within seventy-two hours of any change of monitoring company.
  - (4) *Security fencing.* The marihuana operations facility shall install and maintain metal security fences around the perimeter of the property.

**§ 18. LIMITS ON MARIHUANA OPERATIONS LICENSES AND LOCATIONS; OTHER REQUIREMENTS.**

(See also ZONING ORDINANCE AMENDMENT No. \_\_\_\_\_).

- A. *Purpose.* The concentration of any specific use within a smaller geographic area can be burdensome for reasons of noise, odor, vehicle traffic congestion, excessive parking needs, security, fire and police response. It the intent of these provisions to ensure that quality of life is not impaired, neighborhood character is preserved, commercial activities developed and increased, employment opportunities expanded, and positive planned land use developed.
- B. The Township Board and Planning Commission are prohibited from waiving any portion of this section, except as specifically authorized by subsection I(3).
- C. The maximum number of each type of marihuana operation under the MMFLA and MRTMA permitted in the Township is governed by type of marihuana operations, applicable location, and zoning regulations or as set forth in the table below and the Zoning Ordinance. Marihuana operations not specifically authorized in the table are prohibited. Provisions of this Section do not apply to the medical use of marihuana in compliance with the Michigan Medical Marihuana Act (MMMA).

D. Table of Marihuana Operation:

| <u>Type of Marihuana Operation</u>   | <u>Number of Permitted License within Districts</u>                       |
|--------------------------------------|---|
| Marihuana Retailer                   | 0   |
| Provisioning Center                  | 0   |
| Marihuana Microbusiness              | 0   |
| Temporary Marihuana Event            | 0   |
| Designated Consumption Establishment | 0   |
| Marihuana Safety Compliance Facility | Restricted to Districts: I-L, I-H, I-P.                                   |
| Marihuana Secure Transporter         | Restricted to Districts: I-L, I-H, I-P, BC.                               |
| Marihuana Processor                  | Restricted to Districts: I-L, I-H, I-P.                                   |
| Marihuana Grower                     | Restricted to Districts: I-L, I-H, I-P.                                   |
| Excess Marihuana Grower License      | Restricted to Districts: I-L, I-H, I-P, and as permitted under LARA Rules |

E. Marihuana Operations licensees permitted under this Ordinance are governed by type and additional requirements, as follows:

(1) *Marihuana Grower License.*

- i. Marihuana Grower shall comply with all of the provisions of the MMFLA and MRTMA and applicable LARA rules and regulations. Only one (1) Marihuana Grower licensed under the MRTMA and one (1) Marihuana Grower licensed under the MMFLA may be permitted on one continuous property. (Each Grower Licensee may hold a combination of Class A, B, C licenses and Excess Grower License, as permitted under applicable LARA rules.)
- ii. A Grower must be in-door operations within an enclosed secured structure.
- iii. A Grower may occupy the same premises if holding a Grower and Processor license for the premises, and otherwise consistent with the MMFLA and MRTMA and any rules promulgated by LARA as permitted under this Ordinance.
- iv. A Grower may hold more than one class of grower license and excess marihuana grower license.
- v. Consistent with the provisions of the MMFLA and MRTMA, an applicant and each investor in a Grower license cannot have an interest in a secure transporter, safety compliance establishment, or microbusiness.

(2) *Marihuana Processor License.* Marihuana Processor shall comply with all of the provisions of the MMFLA and MRTMA and applicable LARA rules and regulations. The Township will restrict locations and only one Marihuana Processor licensee under the MMFLA and MRTMA shall be permitted on one continuous property.

- i. All Processor operations must be within an enclosed, secured structure.
- ii. A Processor licensee may occupy the same premises if holding a Grower and Processor license for the premises, and otherwise consistent with the MMFLA and MRTMA, and any LARA rules.
- iii. A Processor license authorizes the purchase of marihuana only from a Grower and sale of marihuana-infused products or marihuana only to a marihuana retailer/provisioning center, unless otherwise provided for under LARA rules.

- iv. An applicant and each investor in a processor license shall not have an interest in a secure transporter, safety compliance establishment or microbusiness.
- (3) *Marihuana Secure Transporter License.* Marihuana Secure Transporter shall comply with all of the provisions of the MMFLA, MRTMA, and applicable LARA rules and regulations. Secure Transporter must meet the following requirements:
- i. Secure Transporter license is limited to the storage and transport of marihuana, marihuana-infused products and money associated with the purchase or sale of marihuana and marihuana-infused products between marihuana establishments at the request of a person with legal custody of the marihuana, marihuana-infused products, or money.
  - ii. An applicant and each investor with an interest in a secure transporter license cannot have an interest in a grower, processor, marihuana retailer, marihuana microbusiness or safety compliance facility.
- (4) *Marihuana Safety Compliance Facility License.* Marihuana Safety Compliance Facility shall comply with all of the provisions of the MMFLA and MRTMA and applicable LARA rules and regulations and must meet the following requirements:
- i. All testing must be conducted within an enclosed, secured structure.
  - ii. A safety compliance facility must be accredited by an entity approved by the Marihuana Regulatory Agency by 1 year after the date the license is issued or have previously provided drug testing services to this state or this state's court system and be a vendor in good standing in regard to those services. The Agency may grant a variance from this requirement upon a finding that the variance is necessary to protect and preserve the public health, safety, or welfare.
  - iii. An applicant and each investor with any interest in a safety compliance facility cannot have an interest in a grower, secure transporter, processor, marihuana retailer or marihuana microbusiness.
- F. *Geographic Boundaries.* Special regulations of marihuana operations have been deemed necessary to limit the intensity and density of this use. All marihuana operations shall be restricted to and only permitted within the following Township geographic boundaries:
- (1) South of State Road,
  - (2) East of Old U.S. 27,
  - (3) West of U.S. 27, and

(4) North of Sheridan.

G. *Zoning Districts Permitted for Marihuana Operations.* Grower, including Excess Grower, Processor, Safety Compliance Facility, and Secure Transporter, shall be a permitted use but restricted to and only permitted within the following Township Zoning Districts within the permitted geographic boundaries\*:

- (1) Light Industrial (IL),
- (2) Heavy Industrial (IH),
- (3) Industrial Park (IP),
- (4) Agricultural (A), and
- (5) Secure Transporter (also permitted in Business Community (BC) subject to a Special Land Use permit).

(\*see, Cannabis Campus Map.)

H. *Separation Distance Measurements.* The distances described in this subsection shall be computed by measuring a straight line from the nearest property line of the parcel used for the purposes stated in this subsection to the nearest property line of the parcel used as a marihuana operations facility.

I. *Applicability.* The location and co-location of authorized marihuana operations shall be determined as follows:

- (1) The following minimum-distancing regulations shall apply to marihuana operations. A Grower or Processor shall not be located within:
  - a. One thousand (1,000) feet of a childcare center, or a school,
  - b. One thousand (1,000) feet of a public park,
  - c. One thousand (1,000) feet of a religious institution,
  - d. One thousand (1,000) feet of a Substance Abuse Program licensed by the State of Michigan, and
  - e. One thousand (1,000) feet of a Residential Zone District, as defined in the Zoning Ordinance, as measured along the primary street frontage on which the use is located.
- (2) Minimum-distancing regulations do not include Secure Transporters or Safety Compliance Facilities.
- (3) *Waiver.* The required separation distances between a proposed marihuana grower and processor location cannot be waived except as allowed in this subsection by Special Land Use permit. Waivers of required separation distances as allowed by this subsection are

limited to the following marihuana uses: Grower of any class (medical or recreational) and Processor (medical or recreational).

- a. Uses that may be considered eligible for a separation distance waiver are only as follows: publicly owned park or playground, religious institution, or a licensed Substance Abuse Program.
  - b. The application shall provide evidence that all eligible uses within one thousand (1,000) feet of the proposed marihuana operation location have been notified by the applicant of the intent to seek a waiver from the separation distance requirements. Failure to satisfy this requirement may be grounds to deny a proposed separation distance waiver.
  - c. If an eligible land use files a written objection with the Planning Department, the Planning Commission may waive the required separation distance, but shall consider the objection at a public hearing.
  - d. If an objection is not filed by an eligible land use, the Planning Commission may waive the required separation distance.
  - e. The Planning Commission shall consider whether the proposed distance waiver, if granted, will impair the quality of life, neighborhood character, commercial growth, employment opportunities, positive planned land use, and recommendations from the Fire and Police Departments.
- (4) A marihuana operations licensee shall not operate at any place in the Township other than the address provided in the application on file with the Township Clerk.
  - (5) *Co-Location and Stacked Licenses.* There may be only one (1) state operating license per parcel, except co-location and stacked Grower licenses and one (1) Processor license are permitted per parcel. A marihuana operations facility with a stacked grower license counts as a single grower for the purposes of facility separation distance requirements.
  - (6) *Zoning Application Requirements.* Each Zoning Application shall be accompanied by a detailed site plan and any information necessary to describe the proposed use or change of use. Each request shall be considered a new application, including those for class change, stacking, expansion, transfers or other modifications that require Planning Department review or Special Land Use approval. If more than one (1) use is being requested for a parcel at the same time (e.g., co-location) only one (1) application shall be processed. Only one (1) application shall be processed per parcel at a time; once a Zoning Application is submitted, any other Zoning Applications for the same parcel will

be rejected until the first Zoning Application is decided. All items must be satisfactorily completed for a Zoning Application to be considered eligible for review.

- a. *Verification.* A signed statement by the applicant indicating the proposed marijuana operations type, including if the proposed type involves stacked licenses or co-location and the number of licenses.
- b. *Consent.* A notarized statement by the property owner that acknowledges use of the property for a marijuana operations facility and agreement to indemnify, defend and hold harmless the Township, its officers, elected officials, employees, and insurers, against all liability, claims or demands arising out of, or in connection to, the operation of a marijuana operations facility. Written consent shall also include approval of the owner and operator for the Township to inspect the facility at any time during normal business hours to ensure compliance with applicable laws and regulations.
- c. *LARA.* A copy of official paperwork issued by LARA indicating that the applicant has successfully completed the prequalification step of the application for the state operating license associated with the proposed land use, or proof that the applicant has filed such application for the prequalification step with LARA, including all necessary application fees.
- d. Required LARA marijuana facility plans and security plans shall be submitted. Copies of all documents submitted to LARA in connection with the initial license application, subsequent renewal applications, or investigations conducted by LARA shall be made available upon request when such information is necessary and reasonably related to the application review.
- e. *Proof of Insurance.* Evidence of a valid and effective policy for general liability insurance within minimum limits of one million dollars (\$1,000,000.00) per occurrence and a two million dollar (\$2,000,000.00) aggregate limit issued from a company licensed to do business in Michigan having an AM Best rating of at least B++ shall be produced that includes the name(s) of the insured, effective and expiration dates, and policy number. The DeWitt Township Board, and its officials and employees shall be named as additional insureds. The Township shall be notified of any cancellation, expiration, reduction in coverage, or other policy changes within five (5) business days of the event.
- f. *Site Plan.* Existing and proposed site changes must be submitted that demonstrate compliance with this Ordinance and Township ordinances and codes.

- g. *Sign and Lighting Plan.* A sign and lighting plan for the exterior of the building and any interior signs that will be visible to the public from the public right-of-way shall be submitted with sizes, lighting, and locations. All lighting fixtures visible to the public shall be identified by location, type, and intensity.
  - h. *Radius.* A map, drawn to scale, containing all childcare centers, schools, publicly owned parks or playgrounds, religious institutions, Substance Abuse Programs, and Residential Districts.
- (7) *Operations and Management Plan.* An operations and management plan shall be submitted.
- (8) *Marihuana Operations.* Marihuana operation facilities must be operated in compliance with all applicable state laws, LARA rules, all conditions of the marihuana operations state operating licenses, and all applicable Township ordinances.
- a. *Security Plan.* A marihuana operator must have a Township Police Department approved security plan prior to operation.
  - b. *Facility Exterior.* The exterior appearance of a facility must be compatible with surrounding businesses and any descriptions of desired future character, as described in the Master Plan.
  - c. No marihuana or equipment used in the growing, production, processing, or transport of marihuana can be placed or stored outside of an enclosed building. This Section does not prohibit the placement or storage of motor vehicles outside of an enclosed building so long as money or marihuana is not left in an unattended vehicle.
  - d. Site and building lighting shall be sufficient for safety and security, but not cause excessive glare or be designed so as to be construed as advertising with the intent to attract attention.
  - e. Neither marihuana nor marihuana-infused products may be directly visible from the exterior of the marihuana operations facility/building(s).
  - f. Interior lighting shall not be so bright so as to create a nuisance to neighboring property owners or passersby.
  - g. *Odor Control.*
    - i. No person, tenant, occupant, or property owner shall permit the emission of unreasonable marihuana odors from any source to result in detectable unreasonable odors that leave the premises upon which they originated and

interfere with the reasonable and comfortable use and enjoyment of another's property.

- ii. Whether or not marihuana odor emissions interfere with the reasonable and comfortable use and enjoyment of a property shall be measured against the objective standards of a reasonable person of normal sensitivity.
- iii. A grower or a processor shall install and maintain in operable condition a system which precludes the emission of marihuana unreasonable odors from the premises.
- iv. No marihuana cultivation activity shall result in the emission of any gas, vapors, unreasonable odors, smoke, dust, heat or glare that is noticeable at or beyond the property line of the location at which the cultivation occurs. Sufficient measures and means of preventing the escape of such substances from a dwelling must be provided at all times. In the event that any gas, vapors, unreasonable odors, smoke, dust, heat or glare, or other substances exit a dwelling, the owner of the subject premises shall be liable for such conditions and shall be responsible for immediate, full clean-up and correction of such condition. The owner shall properly dispose of all such materials, items and other substances in a safe, sanitary and secure manner and in accordance with all applicable federal, state and local laws and regulations. In the event there is a lessee of the subject premises, the owner and the lessee shall be jointly and severally liable for such conditions.
- h. Ventilation, by-product and waste disposal, and water management (supply and disposal) for the facility will not produce contamination of air, water, or soil; or reduce the expected life of the building due to heat and mold; or create other hazards that may negatively impact the structure and/or surrounding properties.
- i. Air contaminants must be controlled and eliminated by the following methods:
  - i. The building must be equipped with an activated air scrubbing and carbon filtration system that eliminates all air contaminants prior to leaving the building.

- ii. Fan(s) must be sized for cubic feet per minute (CFM) equivalent to the volume of the building (length multiplied by width multiplied by height) divided by three (3).
- iii. The filter(s) shall be rated for the applicable CFM.
- iv. An air scrubbing and filtration system must be maintained in working order and must be in use at all times. Filters must be changed per manufacturers' recommendation to ensure optimal performance.
- v. Negative air pressure must be maintained inside the building.
- vi. Doors and windows must remain closed, except for the minimum time length needed to allow people to ingress or egress the building.
- j. A variance may be granted for an alternative odor control system, in accordance with the Michigan Mechanical Code, if a mechanical engineer licensed in the State of Michigan submits a report that sufficiently demonstrates the alternative system will be equal to or better than the air scrubbing and carbon filtration system otherwise required.
- k. For purposes of this section, “air contaminants” means stationary local sources producing air-borne particulates, heat, odors, fumes, spray, vapors, smoke or gases in such quantities as to be irritating or injurious to health.
- l. A marihuana operation shall not be granted a state operating license until the findings and approvals of this Section are completed.

**§ 19. PROHIBITED ACTS.**

- A. It shall be unlawful for a marihuana provisioning center, marihuana retailer, or similar type of entity, or a marihuana microbusiness, or similar entity, to locate and operate within the boundaries and jurisdiction of the Township.
- B. It shall be unlawful for a temporary marihuana event, or similar marihuana event, and designated consumption establishment, or similar entity, to locate and operate within the boundaries and jurisdiction of the Township.
- C. It shall be unlawful for any licensee to permit the consumption of alcohol beverages on the marihuana licensed premises.
- D. It shall be unlawful for any licensee to permit the consumption of retail marihuana or retail marihuana products on the licensed premises.

**§ 20. REPORTS OF CRIME.**

Reports of all criminal activities or attempts of violation of any law at the marihuana establishment or related thereto shall be reported to the DeWitt Township Police Department within twelve (12) hours of occurrence, or its discovery, whichever is sooner.

**§ 21. OTHER LAWS REMAIN APPLICABLE.**

To the extent the State of Michigan adopts in the future recodification of the MMFLA and MRTMA, any additional or stricter law or regulation governing the sale or distribution of marihuana, the recodification, additional or stricter regulation shall control the marihuana operation of any marihuana commercial entity in the Township. Compliance with any applicable state law or regulation shall be deemed an additional requirement for issuance or denial of any license under this Ordinance, and noncompliance with any applicable state law or regulation shall be grounds for revocation or suspension of any license issued hereunder.

**§ 22. GRANT OF ADMINISTRATIVE AUTHORITY.**

The Township is granted the power and duty to fully and effectively implement and administer the license application process and issuance of licenses issued by the Township under this Ordinance.

**§ 23. VIOLATIONS AND PENALTIES.**

- A. In addition to the possible denial, suspension, revocation or nonrenewal of a license under the provisions of this Ordinance, any person or marihuana operation, including, but not limited to, any licensee, manager or employee of a marihuana commercial entity, who violates any of the provisions of this Ordinance, shall be responsible for a municipal civil infraction and a fine of \$500, or as permitted by law, as established by Resolution.
- B. In addition, any person, including any person, customer or member of the public, who violates the provisions of section 4 of the MRTMA, MCL 333.27954, and who acts in a manner contrary to the acts prohibited therein, except as may be otherwise provided in MCL 333.27965, shall be guilty of a misdemeanor.
- C. Notwithstanding the above, to the extent any violation or penalty set forth herein may be deemed inconsistent with any State law, or inconsistent with any rule or penalty which is promulgated by the Department, now or hereafter, including but not limited to those promulgated pursuant to MCL 333.27958, then the State law or Department rule or penalty shall govern over the provisions of this Ordinance, as determined by state preemption.
- D. A violation of this Ordinance is deemed to be a nuisance, per se. In addition to any remedies available at law, the Township may bring an action for an injunction or other process against any person to restrain, prevent or abate any violation of this Ordinance and such other relief as may be provided by law.

- E. Each day on which any violation of this Ordinance occurs or continues constitutes a separate offense, subject to separate sanctions. The paying of a fine or sanctions under this Ordinance shall not exempt the offender from meeting the requirements of this Ordinance.
- F. This Ordinance shall be administered and enforced by the Township or by such other person(s) as designated by the Township.

**§ 24. ADDITIONAL PROVISIONS.**

- A. Notwithstanding any provision herein, to the extent it may be determined that any provision in this Ordinance is in conflict with either the MRTMA, the MMFLA, the MMMA, or the rules and regulations of LARA, or other provisions of law, then such provision of this Ordinance as is in conflict shall be subject to and preempted by the rule or provision of law of this State.
- B. Consistent with the provisions of the MRTMA, the MMFLA, and the MMMA, nothing herein shall prevent any employer from disciplining any employee for violation of a workplace drug policy or for working while under the influence of marihuana, nor does anything in this Ordinance prevent an employer from developing workplace policies, or from refusing to hire a person because of that person's violation of a workplace drug policy.
- C. Consistent with the MRTMA and the MMMA, nothing in this Ordinance prevents a landlord from prohibiting or otherwise regulating the consumption, cultivation, distribution, processing, sale or display of marihuana and marihuana accessories on leased property except that a lease agreement may not prohibit a tenant from lawfully possessing and consuming marihuana by means other than smoking as set forth in the MRTMA, the MMMA, and the LARA rules.

**§ 25. SEVERABILITY.**

The provisions of this Ordinance are hereby declared to be severable. If any clause, sentence, word, section or provision is hereafter declared void or unenforceable for any reason by a court of competent jurisdiction, it shall not affect the remainder of such ordinance which shall continue in full force and effect. The provisions herein shall be construed as not interfering or conflicting with the statutory regulations for licensing recreational (adult use) marihuana establishments pursuant to Initiated Law 1 of 2018, as amended, licensing medical marihuana establishments pursuant to Public Act 281 of 2016, as amended, nor provisions contained within Initiated Law 1 of 2008, as amended.

**§ 26. OTHER ORDINANCE PROVISIONS; REPEAL.**

All ordinances or parts of ordinances in conflict or inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such conflict or inconsistency. Except as provided in this Ordinance, all other

provisions of the DeWitt Charter Township Zoning Ordinance shall remain in full force and effect. Ordinance No. 2018-12-01 is hereby repealed.

**§ 27. SAVINGS.**

All proceedings pending and all rights and liabilities existing, acquired or incurred at the time this Ordinance takes effect are saved and may be consummated according to the law in force when they were commenced.

**§ 28. EFFECTIVE DATE.**

This Ordinance shall become effective immediately upon its passage, publication and recording by the DeWitt Charter Township Clerk as required by law.

|                     |                          |
|---------------------|--------------------------|
| First Reading:      | <u>February 22, 2021</u> |
| First Publication:  | <u>February 28, 2021</u> |
| Second Reading:     | _____                    |
| Second Publication: | _____                    |
| Effective Date:     | _____                    |

\_\_\_\_\_  
Rick Galardi, Supervisor

\_\_\_\_\_  
Adam Cramton, Clerk

I, Adam Cramton, Clerk of the Charter Township of DeWitt, hereby certify that the foregoing constitutes a true and complete copy of Ordinance No. \_\_\_\_, duly adopted by the Township Board of the Charter Township of DeWitt, Clinton County, Michigan, on the \_\_\_\_ day of \_\_\_\_\_, 2021, and that the same was posted and published as required by law on the \_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Adam Cramton, Clerk