

**WEST BRANCH TOWNSHIP, OGEMAW COUNTY**

**MARIJUANA ESTABLISHMENTS ORDINANCE**

**ORDINANCE NO. 53**

At a Special Meeting and public input session of the Township Board of West Branch Township, Ogemaw County, Michigan, held at the Township Hall on September 22nd, 2021, at 6:00 p.m., Township Board Member James Morris moved to adopt the following ordinance, which motion was seconded by Township Board Member Mike Selinski :

*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 MARIJUANA ESTABLISHMENTS; AND TO REGULATE THE SAME BY REQUIRING A LICENSE 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 WEST BRANCH, COUNTY OF OGEMAW, ORDAINS THAT:

**SECTION 1: LEGISLATIVE INTENT AND PURPOSE.** The Township of West Branch intends to issue licenses for and regulate Marijuana Establishments to the extent they are allowed under the Michigan Regulation and Taxation of Marihuana Act. The Township does not intend that permitting and regulation under this ordinance be construed as a finding that such establishments comply with any law. By requiring a license and compliance with the requirements of this Ordinance, the Township intends to protect the public health, safety, and welfare.

**SECTION 2: DEFINITIONS.** Words and phrases contained in the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951 *et seq.* (hereafter, “MRTMA” or “Act”), and the rules promulgated pursuant to the Act, shall have the same meanings in this Ordinance as in the Act or rules.

“Applicant” shall mean the person who files an Application for a Marijuana Establishment License in West Branch Township.

“Application” means the forms, documents, materials, statements, submissions, and any other thing provided in support of a request for a License under this Ordinance and includes all supplemental documentation attached or required to be attached thereto.

“Co-location” means the operation of separate Establishments at the same location, premises, or property.

“Designated Consumption Establishment” means a commercial space licensed by the state to permit adults 21 years of age and older to consume marijuana products at the location indicated in the license.

“Marijuana Establishment” or “Establishment” means a Marijuana Establishment as that term is defined in the MRTMA being a marijuana grower, marijuana safety compliance facility, marijuana processor, marijuana microbusiness, marijuana retailer, marijuana secure transporter, designated consumption establishment, excess marijuana grower, marijuana event organizer, temporary marijuana event license, or any other type of marijuana-related business Licensed by the Marijuana Regulatory Agency.

“Excess Marijuana Grower” as that term is defined in the MRTMA being a person holding five (5) stacked Class C Marijuana Grower Licenses and licensed to cultivate marijuana and sell or otherwise transfer marijuana to Marijuana Establishments.

“Marijuana Grower” or “Grower” means a Marijuana Grower as that term is defined in the MRTMA being a person who cultivates and sells marijuana to other facilities, as permitted by the MRTMA, which includes all of the following:

Class A Marijuana Grower, which is a maximum of 100 plants under the MRTMA.

Class B Marijuana Grower, which is a maximum of 500 plants under the MRTMA.

Class C Marijuana Grower, which is a maximum of 2,000 plants under the MRTMA.

“LARA” shall mean the Michigan Department of Licensing and Regulatory Affairs.

“License” means a provisional or final approval issued by the Township pursuant to the MRTMA that allows a person to operate an Establishment in the Township under this Ordinance, which License may be granted to a Licensee only for and limited to a specific premises and a specific property.

“Licensee” means a person holding a current and valid License issued under this Ordinance.

“Marijuana” means marijuana as defined in the MRTMA.

“Marijuana Event Organizer” as that term is defined in the MRTMA being a person licensed to apply for a temporary marijuana event license under the Act or rules.

“Michigan Regulation and Taxation of Marihuana Act” or “MRTMA” means the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951 *et seq.*, and the rules promulgated pursuant to the MRTMA.

“Marijuana Microbusiness” as that term is defined in the MRTMA being a person that cultivates not more than 150 plants; processes and packages it; and sells it to individuals who are 21 years of age or older or to a marijuana safety compliance facility but not to other businesses.

“MRA” or “Department” means the Marijuana Regulatory Agency or its successor agency or any designated Michigan agency authorized to regulate, issue or administer a Michigan License for a Marijuana Establishment.

“Marijuana Processor” or “Processor” as that term is defined in the MRTMA being a person licensed to obtain marijuana from Marijuana Establishments; process and package marijuana; and sell or otherwise transfer marijuana to Marijuana Establishments.

“Marijuana Retailer” as that term is defined in the MRTMA being a person licensed to obtain marijuana from Marijuana Establishments and to sell or otherwise transfer marijuana to Marijuana Establishments and to individuals who are 21 years of age or older.

“Marijuana Safety Compliance Facility” as that term is defined in the MRTMA being a person licensed to test marijuana, including certification for potency and the presence of contaminants.

“Marijuana Secure Transporter” as that term is defined in the MRTMA being a person licensed to obtain marijuana from Marijuana Establishments in order to transport marijuana to Marijuana Establishments.

“Person” means a natural person, individual, company, partnership, trust, profit or non-profit corporation, limited liability company, or any joint venture for a common purpose and any other entities included in the definition of “person” in MRTMA.

“Planning Commission” means the planning commission of West Branch Township as appointed by the West Branch Township board.

“State License” means a valid state operating license issued by the MRA or LARA under the MRTMA.

“Temporary Marijuana Event” as that term is defined in the MRTMA being an event where the onsite sale or consumption of marijuana products, or both, are authorized at the location indicated on the license during the dates indicated on the state license.

“Township Board” shall mean the West Branch Township Board.

“Township Clerk” shall mean the West Branch Township Clerk or his or her designee.

“Zoning Administrator” shall mean the West Branch Township Zoning Administrator or his or her designee.

“Zoning Ordinance” means the West Branch Township Zoning Ordinance, as amended.

**SECTION 3: AUTHORIZATION OF MARIJUANA ESTABLISHMENTS, LICENSE REQUIRED, NUMBER OF LICENSES AVAILABLE, FEE, GENERAL PROVISIONS.**

- A. The Township hereby authorizes the operation of the following types of Marijuana Establishments, subject to the number of available Licenses issued in this Section:
1. Marijuana Safety Compliance Facilities; and
  2. Marijuana Retailer.
- B. The number of Marijuana Establishment Licenses in effect at any time shall not exceed the following maximums within the Township:
1. Class A Grower – Zero
  2. Class B Grower – Zero
  3. Class C Grower – Zero
  4. Excess Marijuana Grower – Zero
  5. Marijuana Processor – Zero
  6. Marijuana Secure Transporter – Zero
  7. Marijuana Retailer – **TWO (2)**
  8. Marijuana Safety Compliance Facility – **ONE (1)**
  9. Marijuana Microbusiness – Zero
  10. Designated Consumption Establishment – Zero
  11. Marijuana Event Organizer – Zero
  12. Temporary Marijuana Event – Zero

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

- C. It shall be unlawful for any person to engage in, or be issued a License for, the operation of the following Marijuana Establishment:
1. Class A Grower
  2. Class B Grower
  3. Class C Grower
  4. Excess Marijuana Grower

5. Marijuana Processor
  6. Marijuana Secure Transporter
  7. Marijuana Microbusiness
  8. Designated Consumption Establishment
  9. Marijuana Event Organizer
  10. Temporary Marijuana Event
- D. A nonrefundable License application fee shall be paid by the Applicant for each License sought under this Ordinance in the amount of \$5,000.00. The License fees are to defray the application, administrative, and enforcement costs of the Township associated with the Marijuana Establishments.
- E. Additional fees as reflected on the Township Fee Schedule must be submitted for a special use permit, site plan review, or any other review or fee required in their normal course at the time any other application is submitted.
- F. Prior to the expiration of the License, and as provided in this Ordinance, the Licensee may apply for a renewal of the License for an additional one-year period at a nonrefundable application fee of \$5,000.00.
- G. After an Applicant has held a License for an initial three (3) year period, the Applicant may apply to transfer the License to another person. The person the License is being transferred to shall pay a \$5,000.00 transfer application fee. The Township may adjust the amount of the application and License fees by resolution of the Township Board.
- H. A License or Renewal License shall not confer any vested rights or reasonable expectation of subsequent renewal on the Applicant or Licensee, and shall remain valid only for one (1) year immediately following its approval.
- I. Each year, any pending Applications for renewal or amendment of existing Licenses shall be reviewed and granted or denied before Applications for new Licenses are considered.

**SECTION 4: REQUIREMENTS AND PROCEDURE FOR ACCEPTING APPLICATIONS AND ISSUING MUNICIPAL LICENSES.**

- A. Time to Accept Applications. Except for the Initial Application Period, the Township Clerk shall only accept applications for Licenses when designated by the Township Board. No applications for Licenses shall be accepted by the Township Clerk unless the Township Board has specifically approved an application window to accept applications. The dates, times, duration, and places to accept Applications shall be determined by the Township Board and made available publicly prior to the receipt of Applications.

- B. Initial Application Period. Initial applications shall be accepted on the 60th day following the effective date of this Ordinance and shall continue for a period of 14 days (the “Initial Application Period”). At the expiration of the Initial Application Period, the Township Clerk shall compile a list of each Applicant for each available License type.
- C. Application Numbers. Upon an Applicant’s completion of the described form and furnishing of required information, documentation, and fees, the Township Clerk shall file the Applications and assign each a sequential application number by establishment type based on the date and time of acceptance.
- D. Cure Period. After receipt of the Application after the close of an application window, if the Township Clerk identifies or is informed of a deficiency in an Application, the Applicant shall have seven (7) days to correct the deficiency after notification by the Township Clerk. Notification shall be provided by the Township Clerk via e-mail at the address provided on the Application and the seven (7) days to correct the deficiency will automatically start the day after the notification is sent. Competitive Review will only occur after all applicants who submitted an Application in an Application window have been given seven (7) days to correct any deficiency after notification by the Township Clerk.
- E. Non-Renewed Licenses. Should a License become subsequently available by reason of a previously licensed Marijuana Establishment not renewing, having their License revoked, or the Township Board voting to expand the number of Licenses available, the Township Clerk shall only accept applications for these available Licenses at a time specifically approved by the Township Board.
- F. No Township Interest. No person who is employed by the Township, acts as a consultant for the Township or a Township organization or acts as an advisor to the Township, and is involved in the implementation, administration, or enforcement of this Ordinance, shall have an interest, directly or indirectly, in a Marijuana Establishment.
- G. Application Documents. Every Applicant for a License to operate a Marijuana Establishment shall file an application in the Township Clerk’s office upon a form provided by the Township. The application shall include:
1. The appropriate nonrefundable License application fee in the amount determined by the Township.
  2. If the Applicant is an individual, the Applicant’s name; date of birth; social security number (upon request for background review or other appropriate reason); physical address, including residential and any business address; copy of government-issued photo identification; email address; one or more phone numbers, including emergency contact information.
  3. If the Applicant is not an individual:
    - i. The name and physical addresses, including residential and any business address of the Applicant;

- ii. A copy of government-issued photo identifications for its individual owners, members, or stockholders; email address; and one or more phone numbers of each stakeholder of the Applicant, including designation of the highest ranking representative as an emergency contact person;
  - iii. Contact information for the emergency contact person;
  - iv. Articles of incorporation or organization, bylaws, operating agreements, partnership agreements, any amendments to any formation documents, and any and all other formation documents;
  - v. Assumed name registration, if any;
  - vi. Proof of registration with the State of Michigan;
  - vii. A certificate of good standing;
  - viii. Internal Revenue Service EIN confirmation letter;
  - ix. Names and addresses of all owners and their percentage of ownership in the entity accounting for 100% of the ownership interest in the Applicant or, if a trust, the beneficiaries of the trust; and
  - x. If any owner or beneficiary of the Applicant is not an individual, then the Township may require the same information for any entity with ownership or control of the Applicant.
4. The name, address, and parcel identification numbers or numbers for the real property of the proposed Marijuana Establishment.
  5. All documentation showing the Applicant's valid tenancy, ownership or other legal interest in the proposed establishment property and premises. If the Applicant is not the owner of the proposed property, a notarized statement from the owner of such property authorizing the use of the property for the Marijuana Establishment.
  6. A copy of the Special Use Permit and site plan review issued by the West Branch Township Planning Commission, if any.
  7. A location area map of the Marijuana Establishment and surrounding area that identifies the relative locations and the distances (closest property line to the subject Marijuana Establishment's building) to the closest real property comprising a public or private elementary, vocational or secondary school.
  8. An estimate of the number and types of jobs that the Marijuana Establishment is expected to create and the amount and type of compensation expected to be paid for such jobs.
  9. A business plan which contains, but is not limited to, the following:
    - i. The Applicant's experience in operating other similarly permitted or licensed businesses and the Applicant's general business management experience;

- ii. A current organizational chart that includes position descriptions and the names of each person holding each position;
  - iii. Planned tangible capital investment in the township, including if multiple Licenses are proposed, an explanation of the economic benefits to the township to be achieved through the award of such multiple Licenses, with supporting factual data;
  - iv. If a Marijuana Grower Establishment is proposed, the number of plants anticipated;
  - v. Financial structure and financing of the proposed Marijuana Establishment(s); and
  - vi. Community outreach/education plans and strategies.
10. A written description of the training and education that the Applicant will provide to all employees, including planned continuing education for existing employees. Further, a written description of the method(s) for record retention of all training provided to existing and former employees.
  11. A Marijuana Establishment sanitation plan to protect against any marijuana being ingested by any person or animal, indicating how the waste will be stored and disposed of, and how any marijuana will be rendered unusable upon disposal. Disposal by on-site burning or introduction into the sewerage system is prohibited.
  12. A detailed description of the anticipated area impact including the proximity of the establishment(s) to properties zoned or used residential; and plans for litter control, loitering, noise mitigation, resident safety, and traffic mitigation.
  13. 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 establishment.
  14. A detailed plan how the Applicant shall comply with the Township's Blight and Noxious Weeds and Ordinance.
  15. Information regarding any other Marijuana Establishment or Commercial Medical Marijuana Facility, similar permit or license, or any other marijuana 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.
  16. A signed acknowledgment that the Applicant is aware and understands that all matters related to marijuana growing, cultivation, possession, testing, safety compliance, and transporting are currently subject to state and federal laws, rules and regulations, and that the approval or granting of a License hereunder does not exonerate or exculpate the Applicant from abiding by the provisions and requirements and penalties associated with those laws, rules, and regulations, or



exposure to any penalties associated therewith; and further, the Applicant waives and forever releases any claim, demand, action, legal redress, or recourse against the Township, its elected and appointed officials, and its employees and agents for any claims, damages, liabilities, causes of action, damages, or attorney fees that the Applicant may incur as a result of the violation by the Applicant, its stakeholders, owners, partners, directors, officers, managers, or agents of the Applicant of those laws, rules, and regulations.

17. Any other information which may be required by the Township Board, Planning Commission, or Zoning Administrator.

H. Obligation to Supplement. It is always the exclusive responsibility of each Licensee, 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 license or permit.

I. Competitive Review. MCL 333.27959(4) requires that the Township establish a competitive process to select Applicants who are best suited to operate in compliance with the Act and this Ordinance. When the Township receives applications for more than the number of available Licenses then all Applicants are required to be scored using the applicable scoring rubrics. Applicants will be selected by the Township Board on who is best suited to operate in compliance with the Act within West Branch Township. Such factors to be considered include:

1. The sufficiency of the Applicant's application and business plan including consideration of, but not limited to, the following:

- i. The Applicant's experience in operating other similarly permitted or licensed businesses and the Applicant's general business management experience;
- ii. A current organizational chart that includes position descriptions and the names of each person holding each position;
- iii. Planned tangible capital investment in the township;
- iv. Expected job creation from the proposed Marijuana Establishment(s) (e.g., the estimate of the number and types of jobs that the Marijuana Establishment is expected to create);
- v. The number and the type of deficiencies in an Applicant's initial Application;
- vi. The amount of an Application that is still contingent on other factors (e.g., has the Applicant identified all other businesses that will be directly or indirectly involved in the growing, processing, testing, transporting or sale of marijuana for the Establishment); and



- iii. The Applicant's sanitation plan to protect against any marijuana, chemical, or nutrient being ingested by any person or animal, indicating how the waste will be stored and disposed of, and how any marijuana will be rendered unusable upon disposal.
  - 7. The Applicant's experience using inventory tracking systems, including seed to sale systems, as well as any recordkeeping experience. Relevant factors to be considered by Township Board Members include but are not limited to: years of experience operating a tracking system; types of tracking systems operated; and whether the Applicant has past experience with the State of Michigan's seed to sale tracking system.
  - 8. Whether the Applicant has secured zoning approval to operate a Marijuana Establishment on real property located within the Township.
  - 9. Sufficiency of Applicant's odor abatement strategy. Elements to be considered for this factor will include whether the Applicant will have a newly constructed building, engaged in subsequent remedial efforts to contain odor in an existing building, the age of the HVAC system to be used at the Marijuana Establishment, the capacity rating of the odor control technology the Applicant will use in their Marijuana Establishment, and whether the proposed Marijuana Establishment will be located within a building sharing a common HVAC system or walls with other businesses.
  - 10. Sufficiency of Applicant's security plan. Elements to be considered for this factor will include the type and location of security cameras; the security value of interior and exterior lighting; whether the establishment will use a safe or vault secured on the premises; whether the establishment will be the only business on the property and able to control all customers, visitors, and traffic to the property; and the establishment's ability and commitment to preventing loitering and littering.
  - 11. Whether the Applicant has a history of non-compliance with the Township's ordinances or with other local, state, or federal laws. In assessing this factor Township Board Members may consider charges an Applicant or Identified Party has been convicted of, and may consider factors such as, but not limited to: the contents of the criminal background checks received by the Township in connection with the Application; the date of the most recent conviction; and the nature of the offense.
- J. Township Board Application Review. All of the applications shall be submitted to the Township Board for review and completion of scoring rubric(s). Each application shall be independently scored by each Township Board member. The Township Clerk shall prepare a list that identifies each application, the corresponding average score of the individual scoring rubrics, and a ranked list of each Marijuana Establishment based on total average score. The scoring rubrics, average scores, and ranked list shall be provided to all applicants and shall be provided upon request.

- K. Consideration by the Township Board. The Township Clerk shall forward the completed scoring rubrics, average scores, and ranked list to the Township Board. The Township Board shall make a determination based upon satisfactory compliance with this Ordinance, Application requirements, and all other permits, certificates, rules or regulations and do one of the following:
1. Grant final approval to the Application and issue the License. If the Application is approved, then the License shall be issued to the Applicant as the Licensee.
  2. Grant final approval to the Application with conditions and issue the License subject to the identified conditions. If the Application is approved, then the License shall be issued to the Applicant as the Licensee.
  3. Reject the Application stating the reasons for such rejection.
- L. Provisional and Final License. The Township Clerk shall issue the Applicant or Applicants approved by the Township Board a provisional License and subsequently a final License after issuance by the State of Michigan for a State License. A provisional License does not authorize operations until a final License is issued, which will only occur upon issuance of the appropriate State License by the State of Michigan and the issuance of a Certificate of Occupancy. Renewal of the License under this Ordinance shall be calculated from the date the Township Board issues the provisional License.
- M. State License Required. Maintaining a valid State License is a condition for the maintenance of a License under this Ordinance and continued operation of a Marijuana Establishment.
- N. Non-Transferable. A License issued under this Ordinance is not transferable without the prior approval of the Township Board, per the requirements of this Ordinance.
- O. Operation Timeline.
1. Marijuana Establishments issued Licenses by the Township shall be fully operational within 365 days following the date the provisional License is issued.
  2. Failure to be fully operational within 365 days following the date the provisional License is issued may be grounds for non-renewal of the License.
  3. If a Licensee is unable to be fully operational within 365 days following the date the License is issued, the Licensee must provide good reason why the Licensee was unable to commence operations as part of its renewal application. The renewal application under this subsection must be received two months prior to the expiration date.

## **SECTION 5: RENEWAL AND TRANSFER APPLICATIONS.**

- A. Subsequent Applications Incorporate by Reference. A Renewal Application or Co-location Application may expressly incorporate by reference information or

documentation contained in the original Application or prior renewal application, making it clear where such information or documentation can be found, provided that the information or documentation has not changed.

B. Competitive Review. Any pending Applications for renewal or amendment of existing Licenses shall be reviewed and granted or denied before Applications for new Licenses are considered. Renewal applications are not subject to competitive review.

C. Renewal Application.

1. *Same Requirements*. The application contents for Renewal Applications are the same as new Applications.
2. *Time to Renew*. Renewal Applications shall be submitted to and received by the Township not less than 90 days prior to the annual expiration of the License. A Licensee whose License expires and for which a complete Renewal Application has not been received by the expiration date shall be presumed to have determined not to seek renewal.
3. *Change in Location*. An Application requesting a change in the location of the establishment to a different parcel or real property shall be submitted and received not less than 120 days prior to the expiration of the License.
4. *Delayed Renewal*. A Licensee whose Application has not been received 90 days prior to the expiration date may rebut the presumption and apply for the right to file a delayed Renewal Application, which shall be granted by the Township unless the Applicant has been found to have defrauded the Township, lost its State License, or committed a material violation of this Ordinance. The application for the right to file a delayed Renewal Application must be filed by the expiration of the License, and the applicable fees shall be paid at the time of the delayed application, and the pre-existing License shall thereupon be extended until action is taken on the delayed Renewal Application, but no longer than 12 months after the expiration date.
5. *Renewal of Provisional License*. A Renewal Application is required from any Applicant who received a provisional License even if a final License has not yet issued. A Renewal Application shall be submitted to and received by the Township not less than 90 days prior to the anniversary of the Board's decision granting a provisional License.

D. Transfer Application. Any unauthorized transfer or attempted transfer of a License or ownership interest in a Licensee constitutes a violation of this Ordinance. Only after the transferee has applied for and obtained approval for the transfer, including without limitation the payment of the same fees for a new License, may a License or Licensee be transferred.

1. *Transfer Application Required*. No Licensee shall transfer, sell, or otherwise convey more than 1% of the ownership interest in the entity holding the License,

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 Licensee must submit a transfer Application to the Township prior to any sale or transfer of stock or membership interest.

2. *Partial Transfer.* Transfers of less than a majority interest may be approved by the Township Board at any time after the License has been issued upon submission of a Transfer Application with the required fee.
3. *Substitution Prior to Approval.* If, prior to the final 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 Clerk to amend the Application. Upon approval by the Township Clerk, 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 License under this Ordinance. The Township Board may set a fee by resolution for such a change.
4. *Same Requirements.* The same application contents required of new Applications apply to all Applications to transfer, sell, or otherwise convey an existing License to a new legal entity or individual(s).
5. *Additional Requirements.* Each transfer application shall also include:
  - i. A certified copy of the meeting minutes of the board of directors or members authorizing the transfer, sale, or conveyance of the Licensee or License;
  - ii. If the Licensee is a natural person, a notarized statement or other proof satisfactory to the Township authorizing the transfer;
  - iii. Any purchase agreement for stock or membership interest;
  - iv. Any documents required to reflect that the establishment will be operated and managed consistent with the current filings provided to the Township; and
  - v. Any other information reasonably requested by the Township relevant to the processing or consideration of the Application.

E. Transfer Actions. 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 Licensee 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 License 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 License 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 License constitutes a transfer of ownership.
  5. *Assets.* Any transfer of more than 1% of the assets held by an Applicant or Licensee within the Township constitutes a transfer of ownership.
- F. Effect of Transfer. 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 Licensee. Once a Licensee has transferred his or her ownership interest, any privileges enjoyed by that Licensee under this Ordinance are terminated.

**SECTION 6: MINIMUM OPERATIONAL STANDARDS FOR ALL MARIJUANA ESTABLISHMENTS.** The following minimum standards shall apply to all Marijuana Establishments within the Township:

- A. License Required. No person shall operate a Marijuana Establishment in the township without a valid License issued by the Township pursuant to the provisions of this Ordinance.
- B. Compliance with Codes and Rules. The Marijuana Establishment shall be maintained and operated so as to comply with all state and local rules, regulations and ordinances. All necessary building, electrical, plumbing, and mechanical permits shall be obtained for any portion of the structure required under applicable codes. Establishments shall comply with all respective applicable codes of the local zoning, building, and health departments, except to the extent and manner that they are inconsistent with the MRTMA or this Ordinance.
- C. Specific Rules. Marijuana Establishments shall comply at all times and in all circumstances with the Act, and applicable Michigan law, and the general rules of the MRA, as they may be amended from time to time. It is the responsibility of the Licensee to be aware of changes in the Act. The Township bears no responsibility for failure of the Licensee to be aware of changes in the Act.
- D. Fixed Location. Each Marijuana Establishment shall be operated from the property and premises in the Application. No Marijuana Establishment shall be permitted to operate from a moveable, mobile or transitory location, except for a Secure Transporter when engaged in the lawful transport of marijuana.

- E. No Consumption. Consumption or use of marijuana, tobacco products, or alcohol shall be prohibited at the establishment and on the establishment property.
- F. Inspections. The establishment shall be open during the regular business hours to any representative of LARA, State Police officer, County Sheriff Deputy or Local Police Officer, or other official of the Township and said individual(s) may enter the premises, offices, or other place of business of the Licensee, for the following purposes:
1. To inspect and examine all premises of the Marijuana Establishments;
  2. To inspect, examine, and audit relevant records of the Licensee and, if the Licensee or any employee fails to cooperate with an investigation, impound, seize, assume physical control of, or summarily remove from the premises all books, ledgers, documents, writings, photocopies, correspondence, records, and videotapes, including electronically stored records, money receptacles, or equipment in which the records are stored; and
  3. To investigate alleged violations of the Act, this Ordinance and applicable Michigan law.
- G. Security & Surveillance.
1. The Marijuana Establishment and grounds shall be continuously monitored with a surveillance system that includes security cameras. Security surveillance cameras shall be installed to monitor all entrances, along with the interior and exterior of the premises.
  2. The video recordings shall be maintained in a secure, offsite location for a period of 45 days and be available upon request of the Township, State Police, Ogemaw County Sheriff's Office and Local Police Department.
  3. The Marijuana Establishment shall secure every entrance to the establishment and only permit those individuals authorized or described in this Ordinance or the Act access to the premises.
- H. Hours of Operation. No Retailer shall operate between the hours of 9:00 p.m. and 8:00 a.m.
- I. Distance from Certain Uses. No Marijuana Establishment shall be located within 1,000 feet from any school teaching grades K-12 or Township playground properties or within 500 feet from any church, house of worship or other religious facility if such uses are in existence at the time the Marijuana Establishment is established, with the minimum distance between uses measured horizontally between the nearest property lines.
- J. Co-location. Marijuana Establishments may be located at the same premises as other Marijuana Establishments, provided that a License is issued for each individual Establishment and they are operated consistent with any other rule, regulation, or state law.



- K. Stacked License. An Applicant for a Grower may apply to stack another Class C Grower License at the Establishment premises. The applicant shall be subject to the same requirements as a renewal License application, including payment of a separate application fee for each stacked License. Licenses may only be stacked consistent with state law and the rules and regulations promulgated by the MRA.
- L. Amount and Security of Marijuana. The amount of marijuana on the premises and under the control of the Licensee, owner, or operator of the Marijuana Establishment shall not exceed that amount permitted by the License. All marijuana shall be contained within an enclosed, locked, and secured area.
- M. Indoor Operation. All activities of Marijuana Establishments, including without limitation, distribution, growth, cultivation, or the sale of marijuana, and all other related activity permitted under the License must occur indoors.
- N. No Unauthorized Persons. No person operating a Marijuana Establishment shall provide or otherwise make available marijuana to any person who is not legally authorized to receive marijuana under state law.
- O. Waste and Hazardous Substances. Licensees and owners and operators of Marijuana Establishments shall use lawful methods to dispose of waste or by-products from any activities allowed under the License according to all applicable local, state, and federal laws and regulations. Licensees and owners and operators of Marijuana Establishments must dispose of waste from marijuana products in secure waste receptacles and shall render marijuana product waste into an unusable and recognizable form by incorporating the marijuana product waste with other non-consumable solid waste. Licensees and owners and operators of Marijuana Establishments shall manage all hazardous waste subject to Part 111 of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.11101 *et seq.*
- P. Health & Hygiene. All persons working in direct contact with marijuana shall conform to acceptable hygienic practices while on duty, including, but not limited to:
1. Maintaining adequate personal cleanliness;
  2. Washing hands thoroughly in adequate hand-washing areas before starting work and at any other time when their hands may have become soiled or contaminated; and
  3. Refraining from having direct contact with marijuana if the person has or may have a transmittable illness; open lesion, including boils, sores or infected wounds; or any other abnormal source of microbial or viral contamination, until the condition is corrected.
- Q. Litter. Litter and waste shall be properly removed and the operating systems for waste disposal shall not constitute a source of contamination. Rubbish shall be disposed of into

a locked trash contained to eliminate the development of odor and eliminate the potential for waste becoming an attractant, harborage, or breeding place for pests. All building fixtures and other Establishments shall be maintained in a sanitary condition.

- R. Odor Control. The Marijuana Establishment's design and operation shall minimize any impact to adjacent uses, including the control of any odor by maintaining and operating an air filtration system. Odor from operations shall be controlled so as to not provide a nuisance to the surrounding area property owners and odors shall be eliminated. Failure to contain odor or odor nuisance are grounds for revoking the License.
- S. Books and Records. Establishments shall maintain log books, databases, and other records of the operations of the Establishment, including but not limited to, all transactions, inventory, and the number of marijuana plants in the Establishment.
- T. Operational Requirements for Retailers.
1. The Marijuana Establishment shall not sell edible marijuana-infused candy in shapes or packages that are attractive to children or that are easily confused with commercially sold candy that does not contain marijuana.
  2. The Marijuana Establishment shall not sell or otherwise transfer marijuana unless it is in opaque, child-resistant packages or containers that meet the effectiveness specifications of the rules and the specifications outlined in 16 CFR 1700.15. Marijuana or marijuana products containing more than one serving must be in a resealable package or container that meets the effectiveness specifications outlined in 16 CFR 1700.15.
  3. Marijuana Retailers and their agents shall ensure that all purchasers of marijuana are 21 years of age or older.
  4. Marijuana Retailers are prohibited from selling, soliciting or receiving orders for marijuana or marijuana products over the internet, except as provided below.
  5. A Marijuana Retailer operating pursuant to the MRTMA may accept online orders for marijuana and marijuana products only for delivery to the physical home address of a person over 21 years of age, and in a manner consistent with all applicable state laws and rules, as amended. The individual making the home delivery shall be an employee of the Marijuana Retailer. Any Marijuana Retailer that performs home deliveries shall submit its home delivery procedure to the Township and shall provide the Township with proof the MRA has authorized the Marijuana Retailer's home delivery procedure. All order and delivery methods, including procedures, records, tracking records, logs, and other documents, are subject to inspection and examination by the State and the Township. The Marijuana Retailer shall notify the Township of any theft or loss of marijuana product in connection with a home delivery.
- U. Zoning Compliance. Any Establishment shall only operate and be located within the permitted areas as provided for in this Ordinance and the West Branch Township Zoning Ordinance. All Marijuana Establishments shall comply with applicable requirements of

the Zoning Ordinance, including obtaining and maintaining a Special Use Permit and Site Plan Review by the Planning Commission.

- V. Other Restrictions. The Township Board may impose such reasonable terms and conditions on a Marijuana Establishment 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:

- A. Any person who violates any of the provisions of this Ordinance shall be subject to and found responsible for a municipal civil infraction and subject to the payment of a civil fine of \$500.00, plus court costs, attorney fees and abatement costs of each violation, together with all other remedies pursuant to MCL 600.8701.
- B. Each day a violation of this Ordinance continues to exist constitutes a separate violation.
- C. A violation of consuming marijuana in a public place is a civil infraction and subject to the payment of a civil fine of up to \$100.00.
- D. A violation of this Ordinance is deemed to be a nuisance *per se*. In addition to any other remedy available at law, the Township may bring an action for an injunction, mandamus, abatement, or other process against a Licensee to restrain, prevent, or abate any violation of this Ordinance.
- E. This Ordinance may be enforced and administered by the zoning administrator, Ogemaw County Sheriff's office, any local police officer, or such other Township official as may be designated from time to time by resolution of the Township Board.

**SECTION 8: REVOCATION.**

- A. Determination of Grounds. A License issued under this Ordinance may be revoked following an evidentiary hearing if the Zoning Administrator determines that grounds for revocation under this Ordinance exist and notifies the Licensee stating the revocation, limitation, or restriction including the reason for the action.
- B. Notice & Evidentiary Hearing. The Zoning Administrator shall provide notice of the time and place of an evidentiary hearing before the Township Board and the grounds for revocation to the Licensee at least 10 days prior to the date of the hearing, by first class mail to the address given on the Application. A Licensee whose License is the subject of such hearing may present evidence and/or call witnesses at the hearing.
- C. Basis for Revocation. A License applied for or issued under this Ordinance may be denied, limited, revoked, or restricted on any of the following basis:

1. 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;
2. Any conviction of delivery of a controlled substance to a minor;
3. Fraud, misrepresentation, or the making of a false statement by the Applicant or any stakeholder of the Applicant while engaging in any activity for which this Ordinance requires a License or in connection with the Application for a License or request to renew a License;
4. The Licensee, its agent, manager, or employee failed to timely submit any document or failed to timely make any material disclosure as required by this Ordinance;
5. The Marijuana Establishment is determined by the Township to have become a public nuisance; or
6. LARA has denied, revoked or suspended the Licensee’s State License.

D. Reconsideration. Should the Township revoke a License, the Licensee shall have 14 days from the mailing of the written notice of revocation to request reconsideration of the decision to the Township Board. Should the Township Board reverse their decision, the Township Clerk shall reinstate the License. Should the Township affirm their decision, the Township Clerk shall mail by first class mail a written notice affirming the decision to the address given on the License application.

**SECTION 9: UNLAWFUL ACTIVITIES AND RELATION TO OTHER LAWS.** Any act which is a violation of the MRTMA, or any amendment thereto, shall also be considered a violation of this Ordinance. It shall be unlawful to consume marijuana in any public place in the Township of West Branch.

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 marijuana in any form, that is not in strict compliance with the MRTMA, the Marijuana Tracking Act, and all applicable rules promulgated by the State of Michigan regarding marijuana. Strict compliance with any applicable state law or regulation shall be deemed a requirement for the issuance or renewal of any License issued under this Ordinance, and noncompliance with any applicable state law or regulation shall be grounds for revocation or nonrenewal of any License issued under the terms of this Ordinance.

**SECTION 10: SEVERABILITY.** In the event that any one or more sections, provisions, phrases or words of this Ordinance shall be found to be invalid by a court of competent jurisdiction, such holding shall not affect the validity or the enforceability of the remaining sections, provisions, phrase or words of this Ordinance.

**SECTION 11: REPEAL.** Ordinance 49, the West Branch Township Prohibition of Marijuana Establishments Ordinance and all ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.

**SECTION 12: 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 13: EFFECTIVE DATE.** This Ordinance shall take effect thirty (30) days after notice of its adoption is published in a local newspaper.

YEAS: MORRIS, HICKMOTT, PHILBRICK, SELINKI, AND DURFEE

NAYS: NONE

ABSENT/ABSTAIN: NONE

ORDINANCE DECLARED ADOPTED.

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James Morris, Township Supervisor