

CHESTERFIELD TOWNSHIP
MACOMB COUNTY, MICHIGAN
BOARD OF TRUSTEES
REGULATORY
Ordinance No. 199

**CHESTERFIELD TOWNSHIP MARIHUANA ESTABLISHMENTS
ORDINANCE**

TITLE

AN ORDINANCE to amend Chapter 18 (Businesses) of the Charter Township of Chesterfield Code of Ordinances to add Article VIII (Marihuana Establishments) to regulate the cultivation, production, distribution and sale of marihuana and to establish regulations for the operation of marihuana establishments pursuant to the Michigan Regulation and Taxation of Marihuana Act and to repeal any Ordinances or Resolutions in conflict therewith.

**THE TOWNSHIP BOARD OF THE CHARTER TOWNSHIP OF
CHESTERFIELD, MACOMB COUNTY, MICHIGAN, ORDAINS:**

SECTION 1. Short Title

This Ordinance shall be known and cited as the Chesterfield Township Marihuana Establishments Ordinance.

SECTION 2. Legislative Intent, Findings and Purpose

(a) Legislative Intent and Findings. The Township Board intends to regulate marihuana establishments to the extent they are permitted under the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951 *et seq.* ("MRTMA") and finds that the provisions of this Ordinance are directly and demonstrably related to the operation of

marihuana establishments in a manner to minimize negative impacts on the community.

- (1) This Ordinance applies to all marihuana establishments under the MRTMA and permitted by this Ordinance.
- (2) The use, distribution, cultivation, production, possession and transportation of marihuana remain illegal under federal law and marihuana remains classified as a "Level 1 Controlled Substance" by federal law.
- (3) The MRTMA provides for the personal possession and use of marihuana, the lawful cultivation and sale of marihuana and permits the taxation of revenue derived from commercial marihuana facilities but does not address the local impacts of marihuana establishments, making it appropriate for local regulation of marihuana establishments.
- (4) This Ordinance is intended to specify the time, place and manner restrictions for operating a marihuana establishment in the Township as specified by the MRTMA.
- (5) The operation of a marihuana establishment without a license from the Township as provided in this Ordinance is prohibited.
- (6) The Township Board has voted to allow marihuana establishments within the Township on the express condition that the establishments operate in compliance with this Ordinance rather than ban marihuana establishments as permitted by the MRTMA.

(b) Purpose. The purpose of this Ordinance is to protect the public health, safety and welfare of residents, businesses and property in the Township by prescribing the manner in which marihuana establishments can be operated within the Township.

Further, the purpose of this Ordinance is to:

- (1) Protect public health and safety through reasonable limitations on marihuana establishment operations as they relate to noise, air, neighborhood and public safety, security for the business and its personnel and other health and safety concerns.
- (2) Impose fees for licensing marihuana establishments in an amount sufficient for the Township to recover its costs of the licensing program.
- (3) Adopt a mechanism for monitoring compliance with the provisions of this Ordinance and the MRTMA.

- (4) Provide a means to regulate and control the commercial distribution of marihuana and implement the MRTMA.

SECTION 3. Definitions

As used in this Ordinance, the following definitions shall apply to marihuana establishments. To the extent applicable, the definitions are intended to comply with the definitions in the MRTMA, as amended.

Applicant shall mean any individual at least 21 years of age, organization, entity, or association, including any corporation, partnership, limited liability company, or other lawfully established business that applies for a license under this Ordinance.

Business Manager shall mean the individual, who is at least 21 years of age, designated by the owner of the marihuana establishment as the person responsible for all operations of the business in the absence of the owner from the business premises. Business managers shall include any person with managerial authority in the business and any person that has access to lock or unlock the safe, to lock or unlock the business or set or disarm the alarm.

Licensee shall mean an applicant that receives a marihuana establishment license from the Township pursuant to the terms of this Ordinance.

Marihuana means all parts of the plant of the genus *cannabis*, growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin, including marihuana concentrate and marihuana-infused products. Marihuana does not include any of the following.

- (i) The mature stalks of the plant, fiber produced from the mature stalks, oil or cake made from the seeds of the plant, or any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks.

(ii) Industrial hemp.

(iii) Any other ingredient combined with marihuana to prepare topical or oral administrations, food, drink, or other products.

Marihuana establishment means a marihuana grower, marihuana safety compliance facility, marihuana processor, marihuana microbusiness, marihuana retailer, marihuana secure transporter, or any other type of marihuana-related business licensed by the Cannabis Regulatory Agency.

Marihuana Grower means a person licensed to cultivate marihuana and sell or otherwise transfer marihuana to marihuana establishments.

Marihuana Microbusiness means a person licensed to cultivate not more than 150 marihuana plants; process and package marihuana; and sell or otherwise transfer marihuana to individuals who are 21 years of age or older or to a marihuana safety compliance facility, but not to other marihuana establishments.

Marihuana Processor means a person licensed to obtain marihuana from marihuana establishments; process and package marihuana; and sell or otherwise transfer marihuana to marihuana establishments.

Marihuana Retailer means a person licensed to obtain marihuana from marihuana establishments and to sell or otherwise transfer marihuana to marihuana establishments and to individuals who are 21 years of age or older.

Marihuana Secure Transporter means a person licensed to obtain marihuana from marihuana establishments in order to transport marihuana to marihuana establishments.

Marihuana Safety Compliance Facility means a person licensed to test marihuana, including certification for potency and the presence of contaminants.

State License means a license issued by the Cannabis Regulatory Agency that

allows a person to operate a marihuana establishment.

SECTION 4. License Required

- (a) It shall be unlawful for any person to operate a marihuana establishment without first obtaining a license pursuant to the requirements of this Ordinance and obtain a state operating license.
- (b) The license requirements set forth in this Ordinance shall be in addition to, and not in lieu of, any other licensing and permitting requirements imposed by federal or state law or applicable Township Zoning Ordinance, Building Code or Fire Code provisions.
- (c) The issuance of a license pursuant to this Ordinance does not create an exception, defense or grant immunity for any person with respect to any potential criminal liability the person may have in connection with the cultivation, production, distribution or sale of marihuana.
- (d) A separate license shall be required for each premises in which a marihuana establishment is operated. Except as specifically provided in this Ordinance, no two or more businesses, including marihuana establishments, may be treated as one premise for purpose of licensing.
- (e) A marihuana establishment license is not transferrable or assignable. In addition, the marihuana establishment license is valid only for the owner named on the license, the type of business disclosed on the application for the license and the location for which the license is issued.
- (f) The Township Board will establish the application fee and annual renewal fee for all marihuana establishment licenses to defray application, administrative and enforcement costs associated with the operation of the marihuana establishment in accordance with Section 6 of the MRTMA.
- (g) This Ordinance does not apply to or regulate any protected patient or caregiver conduct pursuant to the Michigan Medical Marihuana Act of 2008.

SECTION 5. Marihuana Facilities Authorized

Pursuant to the MRTMA, the Township authorizes the operation of the following facilities, provided they possess a state license or licenses and comply with the additional requirements of this Ordinance and all other applicable laws and Ordinances:

- (1) Marihuana grower
- (2) Marihuana processor

- (3) Marihuana retailer
- (4) Marihuana secure transporter
- (5) Marihuana safety compliance facility
- (6) Marihuana microbusiness
- (7) Marihuana designated consumption establishment

SECTION 6. Application Requirements

(1) Application for New License. A person shall apply for a marihuana license on the form created by the Township accompanied by a nonrefundable application fee as established by Resolution of the Township Board from time-to-time. Each question on the application must be answered by the applicant, under oath, in its entirety and all attestations, disclosures and information requested and required by the Township must be submitted in the application. Failure to comply with these requirements is grounds for denial of the application.

(2) Application Procedure and Requirements. Each applicant for a new marihuana license shall provide all of the information required on the form provided by the Clerk's Office and include the following:

- (a) The name and address of the proposed facility and any other contact information requested on the application form.
- (b) The name and address of all owners of the real property where the facility is proposed to be located.
- (c) The name and address of all business managers of the facility that will be responsible for the day-to-day operations of the marihuana establishment.
- (d) A statement of whether any of the named owners and/or business managers named on the application have been:
 - (i) Denied an application for a marihuana establishment by the state or other municipality or had a marihuana establishment license suspended or revoked based on a final determination by the state

or municipality.

- (ii) Convicted of any felony or misdemeanor under the laws of the State of Michigan, United States or other states, and, if so, the date of conviction and the law under which the person was convicted.
- (e) Proof of the applicant's ownership or legal right to possession of the premises, which proof may consist of a deed, lease, real estate contract contingent upon successful licensing, or letter of intent by the owner of the premises indicating an intent to lease the premises to the applicant contingent upon the applicant's successfully obtaining a state operating license and Township license.
- (f) The type of marihuana establishment for which a permit is requested at the location specified in the application.
- (g) A pre-approved license issued by the Michigan Cannabis Regulatory Agency pursuant to the MRTMA that allows a person to operate a marihuana establishment subject to local municipal approval.
- (h) If co-location is proposed, provide an explanation of the integration of such businesses, including a drawing depicting the relationship between the businesses being co-located, including square footages and the separation provided between such facilities, including identification of points of entry, ingress or egress and controls at each location.
- (i) An operating floorplan for the proposed marihuana establishment, including a dimensioned floorplan, clearly labeled, showing:
 - (1) The layout of the structure and the floorplan in which the marihuana establishment is to be located;
 - (2) The principal uses of the floor area depicting on the floorplan, including but not limited to, the areas where storage areas, retail areas, if applicable, and restricted areas will be located.
- (j) A security plan indicating how the applicant will comply with the requirements of this Ordinance and any other applicable law or regulation. A security plan shall comply with all of the requirements set forth in the Zoning Ordinance.
- (k) A lighting plan showing the lighting outside of the marihuana establishment for security purposes in compliance with applicable Township requirements. The lighting plan shall comply with all of the requirements set forth in the Zoning Ordinance.
- (l) A plan for ventilation of the marihuana establishment that describes the

ventilation system(s) that will be used to prevent any odor of marihuana off the premises of the business. The ventilation plan shall comply with all of the requirements set forth in the Zoning Ordinance.

SECTION 7. Certification and Zoning Compliance.

A Township certification or certificate of occupancy from the Township shall be required as a condition for the issuance of a license. The Township certification will confirm that the applicant has satisfied the terms and conditions of all applicable Township Ordinances.

SECTION 8. Pre-License Inspection.

An inspection of the proposed marihuana establishment by the Township shall be required prior to issuance of a license. Such inspection shall occur after the establishment is ready for operation but prior to issuance of a certificate of occupancy. The purpose of the inspection is to verify that the marihuana establishment is constructed and can be operated in accordance with the application submitted and the applicable requirements of this Ordinance and any other applicable law or regulation.

SECTION 9. Post-License Inspection.

Marihuana establishments shall be open for inspection upon request by Township-designated personnel for determination of compliance with all applicable laws, rules, and regulations during the stated hours of operation. Inspections may include inspection of the establishment premises, surveillance records, camera recordings, reports and other materials required as a condition of a license under this Ordinance or a state operating license. Acceptance of a marihuana establishment license pursuant to the terms of this Ordinance constitutes consent to such inspections as a condition of the license.

SECTION 10. Approval Requirements

The Township Clerk shall issue a marihuana establishment license if the inspection and all other information available to the Township verify that the applicant has submitted a full and complete application, has made improvements to the business location consistent with the application, is prepared to operate the business as set forth in the application, has submitted the licensing fee, and has obtained a certificate of occupancy or Township certification from the Township Building Department, all in compliance with this Ordinance and any other applicable law, rule or regulation. The Township Clerk shall deny any application that does not meet the requirements of this Ordinance or other applicable law, rule or regulation or that contains any false or incomplete information. The reason(s) for a denial shall be provided to the applicant within fourteen (14) days of denial.

SECTION 11. Term of License, Renewals and Amendments

(a) Term of license. A marihuana establishment license shall be valid for a period of one (1) year from the date of issuance. The license shall expire on the date stated on the license unless the applicant has submitted the necessary information for a license renewal in which case the license shall automatically renew for a one (1) year period.

(b) Renewal of License. The applicant shall apply for renewal of the marihuana establishment license at least forty five (45) days before the expiration date on the license. The applicant shall apply for a renewal using forms provided by the Township Clerk. In the event the applicant fails to apply for renewal at least forty five (45) days before expiration of the license, the license shall expire on the date stated on the license.

(1) The renewal license fee shall accompany the renewal application. The fee is nonrefundable.

(2) In the event there has been a change to any of the plans identified in the original license application or an earlier renewal, the renewal

application shall include specifics of the changes or proposed changes in any of the original or prior renewal plans.

- (3) A renewal application shall include: (i) verification that the establishment has a valid state license and the state license is in good standing; and (ii) a list from the applicant of the Township-approved owners and business managers at the licensed location to be renewed.
- (4) The Township shall not accept renewal applications after the expiration of a license but, instead, require the applicant to file a new license application.
- (5) Upon receipt of the required renewal application, the marihuana establishment license shall be automatically renewed for an additional one (1) year period.

(c) Amendments. Any application to amend an existing license shall be submitted under either or both of the following circumstances:

- (1) Where there is a change in any information the license applicant was required to provide in the most recent application on file with the Township, including but not limited to a proposed change in location or any proposed change of ownership; and/or
- (2) When there is a change in any information the license applicant was required to provide in the most recent application for a state operating license on file with the state of Michigan, including but not limited to a change in location or any change of ownership.

An application to amend an existing license to change any information on the most recent application on file with the Township shall follow the application procedure listed in this Ordinance. It shall be unlawful for any person to make any changes or to allow any changes to be made in the operation of the establishment as represented in the license application without first obtaining an amended license from the Township Clerk.

SECTION 12. Suspension or Revocation of License

(a) A marihuana establishment license may be suspended or revoked for any of the following violations:

- (1) Conviction of the business, applicant, business manager or any owner of any violation of this Ordinance or any other law, rule or regulation

applicable to marihuana establishments;

- (2) Misrepresentation or omission of any material fact, or false or misleading information, on the application or any amendment thereto or any other information provided to the Township related to the marihuana establishment;
- (3) Violation of any law by which, if occurring prior to submittal of the original application, could have been cause for denial of the license;
- (4) Operation of a marihuana establishment in violation of the specifications of the license application, any conditions of approval by the Township or any violation of this Ordinance or other law, rule or regulation applicable to the operation of a marihuana establishment;
- (5) Temporary or permanent closure, or other sanction of the establishment by the Cannabis Regulatory Agency, Township, County or other governmental entity with jurisdiction over the marihuana establishment, for failure to comply with health and safety provisions applicable to marihuana establishments.
- (6) The revocation of, suspension of, or placement of restrictions by the state on the state license.
- (7) Expiration of the state license that is the basis for the issuance of a license pursuant to this Ordinance.

(b) Prior to suspending a marihuana establishment license, the Township Clerk shall send notice to the applicant setting forth the reason(s) for the adverse license proceeding. The notice shall identify the proposed action and proposed conditions for reinstatement, if applicable.

The applicant shall have ten (10) business days from the date the notice was sent to respond to the Township Clerk and request a hearing. If the applicant does not reply within the ten-day period, then the proposed adverse action and any proposed conditions will be considered final and binding upon the applicant. The applicant may appeal a recommended adverse action issued under this Section to the Township Board of Trustees.

The Township Board of Trustees shall, as soon as practical, but not later than thirty

(30) days after receipt of an appeal, conduct a public hearing at which time the applicant will have an opportunity to show cause why the license should not be suspended or revoked. The Township Clerk shall provide the applicant with notice of the public hearing at least ten (10) days prior to the hearing. The decision of the Township Board of Trustees shall be final.

SECTION 13. General Use Requirements for Marihuana Establishments

(a) Hours of operation. Marihuana retailers shall only operate from 9:00 a.m. to 9:00 p.m. All other marihuana establishments may operate 24 hours per day, 7 days a week.

(b) Odor control. All marihuana establishments shall be equipped with an operable filtration, ventilation and exhaust system that, at all times, effectively confines any and all odors to the interior of the building from which the odor is generated. The marihuana establishment shall comply with all odor control requirements contained in the Zoning Ordinance.

(c) Security requirements. All marihuana establishments shall have an adequate security plan to prevent access to marihuana by non-authorized personnel, including unauthorized removal of any marihuana. All rooms that contain marihuana, in any form, shall be individually locked and accessible only to authorized personnel. The marihuana establishment shall comply with all security requirements set forth in the Zoning Ordinance.

(d) Enclosed structure only. All marihuana establishment activities including, but not limited to, operations, cultivation, processing, storage, and transactions, shall be conducted entirely within an enclosed structure. Outdoor operation and storage is prohibited.

(e) Inspections. All marihuana establishments shall be subject to inspection by the Township during hours of operation.

(f) Lighting. Any artificial lighting shall be shielded to prevent glare and light trespass and shall not be visible from neighboring properties, adjacent streets or public rights-of-way. All lighting plans shall comply with all the requirements of the Zoning Ordinance.

SECTION 15. Remedies and Penalties

If a person operates a marihuana establishment without a license or otherwise in violation of this Ordinance, the person shall be responsible for a civil infraction punishable by a civil fine of not more than \$500, plus costs and all other remedies available by statute. Each day of violation shall be a separate violation.

A marihuana establishment operated without a license or not in compliance with the requirements set forth in this Ordinance is a nuisance and may be abated as provided by law.

SECTION 16. Repeal of Conflicting Provisions

All resolutions, ordinances, or parts thereof in conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed.

SECTION 17. Severability

If any section, paragraph, clause or provision of this Ordinance is for any reason held to be invalid or unconstitutional, the invalidity or unconstitutionality of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

SECTION 18. Publication

This Ordinance shall be published twice in accordance with MCL 42.20. Publication shall be made by posting the Ordinance in the office of the Chesterfield Township Clerk and on the Chesterfield Township website. In addition, a notice of posting prescribing the purpose or nature of the Ordinance and location of the places where posted shall be published in a newspaper of general circulation within the Charter Township of Chesterfield within seven (7) days after posting pursuant to MCL 42.8(4).

SECTION 19. Effective Date

This Ordinance shall take effect August 1, 2023.

CERTIFICATE OF TOWNSHIP CLERK

I hereby certify that the foregoing constitutes a true and complete copy of an Ordinance duly adopted by the Township Board of the Charter Township of Chesterfield, Macomb County, Michigan, at a meeting held on the **27th day of June 2023**.

I hereby further certify that the following Township Board Members were present at the meeting: **Supervisor Kersten, Clerk Berry, Treasurer Elliott, Trustee Anderson, Trustee DeMuynck, Trustee Joseph and Trustee Vosburg** and the following Township Board members were absent: **None**

I further certify that **Clerk Berry** moved for the adoption of the Ordinance, and that motion was supported by **Supervisor Kersten**.

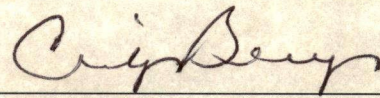
I further certify that the following Township Board Members voted for the adoption of the Ordinance: **Supervisor Kersten, Clerk Berry, Treasurer Elliott, Trustee Anderson, Trustee DeMuynck, Trustee Joseph and Trustee Vosburg** and that the following Township Board Members voted against adoption of the Ordinance: **None**.



Cindy Berry,
Chesterfield Township Clerk

CERTIFICATE OF POSTING AND PUBLICATION

I, Cindy Berry, the Township Clerk of the Charter Township of Chesterfield do hereby certify that on **May 24, 2023** and on **June 28, 2023**, the foregoing Ordinance was posted in the office of the Township Clerk and on the Charter Township of Chesterfield's website as authorized by MCL 42.8(3)(b). In addition, the Notice of Adoption was published in the Voice Newspaper on **July 5, 2023**.



Cindy Berry,
Chesterfield Township Clerk

For Office Use Only:

Regulatory Ordinance

Introduction Date: Regular Township Board 05/23/2023

First Publication Date: 05/30/2023

Adoption Date: 06/27/2023

Second Publication Date: 07/05/2023

Effective Date: 08/01/2023