

SOUTH HAVEN CHARTER TOWNSHIP
ORDINANCE NO. 153

ORDINANCE REGULATING
ADULT-USE MARIHUANA RETAILER ESTABLISHMENTS

SOUTH HAVEN CHARTER TOWNSHIP ORDAINS:

Section 1. Purpose.

In November 2022, the voters of South Haven Charter Township approved an initiated ordinance to authorize a minimum of three adult-use marihuana retailer establishments pursuant to the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018 (“MRTMA”). This Ordinance regulates the adult-use marihuana retailer establishments authorized under the voter-initiated ordinance.

Section 2. Definitions.

The following words and phrases have the meanings ascribed to them when used in this Ordinance:

- (a) *Co-location or co-located* means the siting and operation of a combination of multiple establishments or establishment types at a single location.
- (b) *Designated consumption establishment* means a commercial space that is licensed by LARA and authorized to permit adults 21 years of age and older to consume marihuana products at the location indicated on the state license.
- (c) *Equivalent licenses* means any of the following held by a single licensee:
 - 1. A marihuana grower license, of any class, issued under the act and a grower license, of any class, issued under the MMFLA.
 - 2. A marihuana processor license issued under the act and a processor license issued under the MMFLA.
 - 3. A marihuana retailer license issued under the act and a provisioning center license issued under the MMFLA.
 - 4. A marihuana secure transporter license issued under the act and a secure transporter license issued under the MMFLA.
 - 5. A marihuana safety compliance facility license issued under the act and a safety compliance facility license issued under the MMFLA.

- (d) *Excess marihuana grower* means a license issued by LARA to a person holding five class C marihuana grower licenses and licensed to cultivate marihuana and sell or otherwise transfer marihuana to marihuana establishments.
- (e) *LARA* means the Department of Licensing and Regulatory Affairs and any successor department or agency within the department, including the Cannabis Regulatory Agency.
- (f) *Licensee* means a person holding a state operating license for a marihuana establishment.
- (g) *Marihuana* means all parts of the plant genus cannabis, growing or not; the seeds of that 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. Marihuana does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted from those stalks, fiber, oil, or cake, or any sterilized seed of the plant that is incapable of germination. Marihuana does not include industrial hemp. Marihuana is also commonly known as “cannabis.”
- (h) *Marihuana establishment* means a marihuana grower, marihuana safety compliance establishment, marihuana processor, marihuana microbusiness, marihuana retailer, marihuana secure transporter, or any other type of marihuana-related business licensed by LARA under the MRTMA.
- (i) *Marihuana event organizer* means a person licensed to apply for a temporary marihuana event license under the Rules.
- (j) *Marihuana grower* means a person licensed by LARA to cultivate marihuana and sell or otherwise transfer marihuana to marihuana establishments.
- (k) *Marihuana microbusiness* means a person licensed by LARA 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 establishment, but not to other marihuana establishments.
- (l) *Marihuana processor* means a person licensed by LARA to obtain marihuana from marihuana establishments; process and package marihuana; and sell or otherwise transfer marihuana to marihuana establishments.
- (m) *Marihuana retailer* means a person licensed by LARA 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.
- (n) *Marihuana secure transporter* means a person licensed by LARA to obtain marihuana from marihuana establishments in order to transport marihuana to marihuana establishments.

- (o) *Marihuana safety compliance establishment* means a person licensed by LARA to test marihuana, including certification for potency and the presence of contaminants.
- (p) *MRTMA* means the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, MCL 333.27951 *et seq.*
- (q) *Prequalification step* or *prequalified* means the portion of the application for a state operating license pertaining to the applicant's financial background and the criminal history of the applicant and other associated persons.
- (r) *Rules* means the administrative rules for adult-use marihuana establishments promulgated by LARA, as amended from time to time.
- (s) *Stacked grower license* means more than 1 state operating license issued to a single licensee to operate as a grower of class C (2,000 marihuana plants) as specified in each license at an establishment.
- (t) *State operating license* or, unless the context requires a different meaning, "*license*" means a license that is issued by LARA under the MRTMA that allows the licensee to operate a marihuana establishment.

Section 2. Authorized Establishments.

- (a) *Authorization and special use permit required.* No person shall operate an adult-use marihuana establishment in the Township without an authorization issued by the Township pursuant to the provisions of this Ordinance and a special use permit pursuant to this Ordinance and the Township Zoning Ordinance.
- (b) *Number of and types of adult-use marihuana establishments eligible for authorization.* The following adult-use marihuana establishments may be authorized to operate in the Township, subject to this Ordinance and the Township Zoning Ordinance:
 - (1) Retailers (unlimited number)
- (c) *Prohibited license types.* The following establishment types are prohibited in the Township:
 - (1) Growers operating under Class A licenses, up to 100 plants;
 - (2) Growers operating under Class B licenses, up to 500 plants;
 - (3) Growers operating under Class C licenses, up to 2,000 plants;
 - (4) Processors;
 - (5) Secure transporters;

- (6) Safety compliance facilities;
 - (7) Microbusinesses;
 - (8) Class A microbusinesses;
 - (9) Excess marihuana growers;
 - (10) Temporary adult-use marihuana events.
 - (11) Designated consumption establishments.
 - (12) Any other adult-use marihuana license type not specifically authorized by this Ordinance.
- (d) *Co-location and stacked licenses.* Co-location and stacked grower licenses are prohibited in the Township.
 - (e) *Equivalent licenses.* Equivalent licenses are prohibited in the Township because medical marihuana facilities are prohibited in the Township.
 - (f) *Final authorization from Township required.* The authorization process described in this Ordinance and the Township Zoning Ordinance determines the locations in the Township at which establishments may operate. A proposed establishment is not eligible to operate until the Clerk grants final authorization and until the applicant receives a special use permit under the Township Zoning Ordinance and all required approvals and licenses from LARA.

Section 3. Application for Authorization.

- (a) *Required Application Materials.* A separate application is required for each proposed establishment. An applicant may submit applications for multiple properties, but only one application may be submitted per proposed property. An application is not considered complete until all of the following are received by the Township Clerk:
 - (1) A nonrefundable application fee in an amount established by resolution of the Township Board.
 - (2) An advance of the annual administrative fee established in Section 5(d).
 - (3) A photocopy of a valid, unexpired driver's license or state issued identification card for all owners, directors, and officers of the proposed establishment.
 - (4) A signed application (available in the Clerk's office), which must include all of the following information and documents:

- (A) 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; and one or more phone numbers, including emergency contact information;
- (B) If the applicant is not an individual:
 - i. the names; dates of birth; physical addresses, including residential and any business address; copy of government-issued photo identifications; 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;
 - ii. contact information for the emergency contact person;
 - iii. articles of incorporation or organization; assumed name registration (if applicable); Internal Revenue Service EIN confirmation letter; copy of the operating agreement of the applicant, if a limited liability company; copy of the partnership agreement, if a partnership; names and addresses of the beneficiaries, if a trust; or a copy of the bylaws or shareholder agreement, if a corporation;
- (C) The name, address, tax identification number, and current zoning designations of the property on which the proposed marihuana establishment will be located;
- (D) The name and address of the current property owner of record of the property on which the proposed marihuana establishment will be located;
- (E) If the current property owner is different than the applicant (e.g. where the applicant has a lease, option, land contract, or other future interest in the property), the property owner's signature is required in addition to the applicant's signature.
- (F) The proposed establishment type;
- (G) A complete list of all marihuana permits and licenses held by the applicant;
- (H) Written consent for the Township or its designee to inspect the establishment at any time during normal business hours to ensure compliance with applicable laws and regulations;
- (I) A location area map of the marihuana establishment and surrounding area that identifies the relative locations and the distances (closest property line to the subject marihuana establishment's building) to the closest real

property comprising a public or private elementary, vocational or secondary school;

- (J) A copy of all documents submitted by the applicant to LARA in connection with the application for a state operating license under MRTMA (including documents submitted for prequalification);
 - (K) A copy of all documents issued by LARA indicating that the applicant has been prequalified for a state operating license under MRTMA;
 - (L) Any other information reasonably requested by the Township relevant to the processing or consideration of the application.
- (b) *Clerk action upon receipt.* The Clerk will accept and receive any complete application that includes the information and documents required by Section 3(a). Upon receiving a complete application, the Clerk will time- and date-stamp the application. If the Clerk subsequently determines that a submitted application is incomplete, the Clerk may return the application to the applicant without further processing, even if the application was previously time- and date-stamped.
- (c) *Final authorization.* The Clerk will grant final authorization for the establishment if the applicant:
- (1) Obtains special use authorization from the Township Planning Commission within 12 months after submitting a complete license application under this Ordinance; and
 - (2) Receives all required operating licenses and approvals from LARA within 18 months of submitting the application; and
 - (3) Otherwise complies with all Township rules, regulations, and codes.

The Township Board may extend any of the deadlines by resolution upon a showing of good cause.

Section 4. Relocation of Establishments and Transfers of Licenses

- (a) An existing establishment may be moved to a new location in the Township, so long as it complies with this Ordinance, the Township Zoning Ordinance, and other Township rules, regulations, and codes, and subject to approval by LARA.
- (b) A license for an existing establishment may be transferred to a new licensee that intends to continue operating at the same location, subject to approval by the Township Board and LARA. The new licensee must submit the application materials set forth in this Ordinance.

Section 5. General Regulations.

- (a) *Submission of supplementary information to the Township.* Applicants for Township authorization and persons operating existing establishments in the Township must provide the Township Clerk with copies of all documents submitted to LARA in connection with the initial license application, subsequent renewal applications, or investigations conducted by LARA. The documents must be provided to the Clerk within 14 days of submission to LARA and may be submitted electronically to the Township unless otherwise requested by the Clerk.
- (b) *Compliance with applicable laws and regulations.* Adult-use marihuana establishments must be operated in compliance with MRTMA, LARA Rules, all conditions of the establishment's state operating licenses, and all applicable Township ordinances, rules, regulations, and codes. Compliance with the foregoing does not create immunity from prosecution by federal authorities or other authorities of competent jurisdiction.
- (c) *No consumption on premises.* No smoking, inhalation, or other consumption of marihuana shall take place on or within the premises of any establishment. It shall be a violation of this Ordinance to engage in such behavior or for a person to knowingly allow such behavior to occur. Evidence of all of the following gives rise to a rebuttable presumption that a person allowed the consumption of marihuana on or within a premises in violation of this section:
 - (1) the person had control over the premises or the portion of the premises where the marihuana was consumed;
 - (2) the person knew or reasonably should have known that the marihuana was consumed; and
 - (3) the person failed to take corrective action.
- (d) *Annual fee.* A licensee must pay an annual fee for each license used within the Township to help defray administrative and enforcement costs. The initial annual fee must be paid to the Township Clerk when the application for Township approval is submitted. In each subsequent year, fees are due on the date on which the licensee submits an application to LARA for renewal of the state operating license. The amount of the annual fee is to be established by resolution of the Township Board.

Section 6. Violations.

- (a) *Request for revocation of state operating license.* If at any time an authorized establishment violates this Ordinance or any other applicable Township ordinance, the Township Board

may request that LARA revoke or refrain from renewing the establishment's state operating license.

- (b) *Civil infraction.* It is unlawful to disobey, neglect, or refuse to comply with any provision of this Ordinance. A violation of this Ordinance is a municipal civil infraction. Each day the violation continues is a separate offense. Notwithstanding any other provision of this ordinance to the contrary, violators are subject to the following fines:

- (1) First violation = \$500
- (2) Second offense = \$2,500
- (3) Each subsequent offense = \$5,000

- (c) *Other remedies.* The foregoing sanctions are in addition to the Township's right to seek other appropriate and proper remedies, including actions in law or equity.

Section 7. Effective Date.

This Ordinance is effective 30 days after publication.

Section 8. Repeal.

Any ordinance inconsistent with this Ordinance shall be repealed but only to the extent necessary to give this Ordinance full force and effect.

YEAS: Board Member(s) 6

NAYS: Board Member(s) 0

ABSTAIN: Board Member(s) 0

ABSENT: Board Member(s) 1

CERTIFICATION

As the Township Clerk of South Haven Charter Township, Van Buren County, Michigan, I certify this is a true and complete copy of an ordinance adopted by the Township Board at a regular meeting held on April 12, 2023.

Date: 4/12, 2023

Brenda Bertorelli
Township Clerk

Introduced: 3/8, 2023

Adopted: 4/12, 2023

Published: 4/21, 2023

Effective: 4/28, 2023