

**TOWNSHIP OF LEAVITT**  
**COUNTY OF OCEANA, STATE OF MICHIGAN**

**ORDINANCE NO. 2021-03**

**ADOPTED:04/12/2021**

**EFFECTIVE: Upon publication after adoption**

**RECREATIONAL (ADULT USE) MARIHUANA ESTABLISHMENT ORDINANCE**

An ordinance to repeal and replace the Leavitt Township Recreational (Adult Use) Marihuana Establishment ordinance (Ordinance 2019-1) and any amendments thereto, regarding Recreational (Adult Use) Marihuana establishments; to authorize the operation of and provide regulations for recreational (adult use) marihuana establishments in Leavitt Township pursuant to the Michigan Regulation and Taxation of Marihuana Act; to provide for a license process; to provide for an annual fee; to provide penalties for violation of this ordinance; to provide for severability; and to repeal all ordinances or parts of ordinances in conflict therewith.

**THE TOWNSHIP OF LEAVITT**

**OCEANA COUNTY, MICHIGAN**

**ORDAINS:**

**SECTION I**  
**TITLE**

This ordinance shall be known as and may be cited as the Leavitt Township Recreational (Adult Use) Marihuana Establishment Ordinance.

**SECTION II**  
**PURPOSE**

The purpose of the ordinance is to regulate recreational (adult use) marihuana establishments in the Township in order to protect the public health, safety and general welfare of the Township's residents, to provide reasonable regulations regarding Township licensing of recreational (adult use) marihuana establishments, to provide a method to defray administrative costs of such establishments and to coordinate Township regulations and license approval with laws and regulations enacted by the State of Michigan. It is not the intent of this Ordinance to restrict or abrogate the protections for recreational (adult use) marihuana found in the Michigan Regulation and Taxation of Marihuana Act (MCL 333.27951, *et seq.*)

### **SECTION III** **DEFINITIONS**

Words used herein shall have the definitions as provided for in the Michigan Regulation and Taxation of Marihuana Act (MCL 333.27951, *et seq.*), and the administrative Rules promulgated under the Act (MRTMA).

### **SECTION IV** **RECREATIONAL (ADULT USE) MARIHUANA ESTABLISHMENTS**

The following recreational (adult use) marihuana establishments may be authorized to operate within the Township by the holder of a state operating license, and the Township may issue a Township license for the same, subject to compliance with the Michigan Regulation and Taxation of Marihuana Act, as may be amended, the Administrative Rules promulgated thereunder and this ordinance:

1. Not more than twenty-six (26) growers in total shall be authorized in the Township, which number may include no more than 10 Class A growers, no more than 10 Class B growers and/or no more than 6 Class C growers, in any combination, but not exceeding twenty-six (26) growers in total. Any Class C grower that is approved for a license by the Township on or after the effective date of this ordinance shall conduct its operations completely indoors.
2. An unlimited number of processors shall be authorized in the Township.
3. Not more than two (2) retailers shall be authorized in the Township.
4. Not more than five (5) Microbusinesses shall be authorized in the Township.
5. An unlimited number of secure transporters shall be authorized in the Township.
6. An unlimited number of safety compliance facilities shall be authorized in the Township.
7. Zero (0) marihuana event organizers shall be authorized in the Township.
8. Zero (0) temporary marihuana events shall be authorized in the Township.
9. Zero (0) designated consumption establishments shall be authorized in the Township.
10. Zero (0) excess marihuana grower licenses are authorized in the Township.
11. No other license types as may be permitted or established by the Rules promulgated pursuant to the Michigan Regulation and Taxation of Marihuana Act (MCL 333.27951, *et seq.*) shall be authorized in the Township.

### **SECTION V** **RECREATIONAL (ADULT USE) MARIHUANA ESTABLISHMENT LICENSES**

1. All applicants for a Township recreational (adult use) marihuana establishment license shall be pre-qualified by the State of Michigan Marijuana Regulatory Agency and shall provide proof of such approval from the state prior to or upon applying to the Township for a Township license.
2. On and after the effective date of this ordinance, or as otherwise provided by resolution of the Township Board, the Township shall accept applications for any available authorized Township license to operate a recreational (adult use) marihuana establishment within the Township. Any such application shall be made on a Township form and must be submitted to the Township Supervisor (or other designee).
3. The Township shall post the availability of any such licenses at the Township Hall for a new application period. For all recreational (adult use) marihuana establishments, the application period is 30 days from effective date of the ordinance or until the Township's authorized limit for that type of recreational (adult use) marihuana establishments is met, or as otherwise established by the Township Board by resolution. Once the Township Supervisor (or designee) receives a complete application including the initial annual recreational (adult use) marihuana establishment fee, the application shall be time and date stamped. All complete applications received within the application period shall be considered for conditional authorization and/or Township licensure. In the event that more applications are submitted to the Supervisor than the number of recreational (adult use) marihuana establishments authorized for Township licensure by this ordinance, the applications shall be considered by the Township Board pursuant to the evaluation criteria contained in Section VI of this Ordinance. The Township Board shall consider an application for a recreational (adult use) marihuana establishment license within 60 days of the close of the application period. Once the Township Board has determined which applications will be authorized for Township licensure, any additional complete applications shall be held in abeyance for future conditional licensure. Any applicant waiting for future conditional licensure may withdraw their application by written notice to the Supervisor at any time and may receive a fifty percent refund of the application fee submitted.
4. If a conditionally licensed applicant is denied a state operating license, then such conditional license will be canceled by the Supervisor and the conditional license shall be available to the next applicant for the specific type of recreational (adult use) marihuana establishment license in order of rankings, per the evaluation criteria in Section VI.
5. A conditionally licensed applicant shall receive a license from the Township to operate the recreational (adult use) marihuana establishment within the Township upon the applicant providing the Supervisor proof that the applicant has received a state operating license for the recreational (adult use) marihuana facility in the Township and the applicant has met all other requirements of this ordinance for the operation of a recreational (adult use) marihuana establishment.
6. If a conditionally licensed applicant fails to obtain a license from the Township within one year from the date of conditional license, then such conditional license shall be canceled by the Supervisor and the conditional license shall be available to the next applicant for the

specific type of recreational (adult use) marihuana establishment license in order of rankings, per the evaluation criteria in Section VI. The Township Board shall have the authority to extend the deadline to obtain a Township license for up to an additional six months on written request of the applicant, within thirty days prior to cancellation, upon the reasonable discretion of the Township Board making a finding of good cause for the extension.

7. A licensee shall not operate a recreational (adult use) marihuana establishment at any location in the Township other than the address provided in the application to the Township.
8. As of the effective date of this ordinance, any Recreational (Adult Use) marihuana Class C grow establishment currently licensed by the Township, which maintains a Township and State license in good standing at all times may continue their operations, which may include outdoor grow operations. If such Township license lapses and/or is not renewed, or if the State license lapses and/or is not renewed, any future Recreational (Adult Use) marihuana Class C grow establishment must conduct all operations completely indoors. This section applies to any licensee, person and/or entity that purchases, transfers, or otherwise obtains the license rights to any existing Recreational (Adult Use) marihuana Class C grow establishment that is currently engaged in and/or has Township approval for outdoor grow operations.

## **SECTION VI** **LICENSE EVALUATION CRITERIA**

In the event that the Township receives more applications for recreational (adult use) marihuana establishment licenses than are authorized by this ordinance, the Township Board shall review all applications to determine which of the applications are best suited to operate such establishment in the Township in compliance with the Michigan Regulation and Taxation of Marihuana Act (MCL 333.27951, *et seq.*). In making such analysis, the Township Board shall consider the following criteria:

1. The applicant's experience in operating other licensed marihuana businesses in Leavitt Township.
2. The applicant's experience in operating other licensed marihuana businesses in Oceana County, Michigan.
3. The applicant's experience in operating other licensed marihuana businesses in Michigan.
4. If the applicant is a resident of Leavitt Township.
5. If the applicant is a resident of Oceana County, Michigan.
6. An estimate of the number and type of jobs that are expected to be created and the amount and type of compensation expected to be paid for such jobs.
7. Planned tangible capital investments in the Township, including if multiple licenses are sought.

8. An explanation of anticipated economic benefits to the Township with supporting factual data.
9. Whether any recreational (adult use) grow operation will be conducted completely indoors, in order to mitigate any potential impacts (such as odor, noise, lights, fumes) on adjoining properties. If the operation will not be conducted completely indoors, the Township Board may include in its consideration the license applicant's explanation of methods proposed to be used to mitigate impacts of outdoor grow operations on adjoining properties.
10. The applicant's general business management experience.
11. The applicant's financial ability and/or means to operate or maintain a marihuana establishment.
12. Whether the applicant has been delinquent in paying taxes to the Township, Oceana County and/or any other public entity in the past 10 years.
13. Whether the applicant has a history of non-compliance with any regulatory requirements in the Township, Oceana County, or elsewhere within the State of Michigan.

**SECTION VIII**  
**ANNUAL RECREATIONAL (ADULT USE) MARIHUANA ESTABLISHMENT FEE**

There is hereby established a nonrefundable Township recreational (adult use) marihuana establishment fee in the following amounts for each licensed recreational (adult use) marihuana establishment within the Township, to help defray administrative and enforcement costs associated therewith. The initial application fees shall be due at the time of submission of the application. The annual fee shall be paid each year by the anniversary of the date of Township licensure to operate the recreational (adult use) marihuana establishment. The annual recreational (adult use) marihuana establishment fees are as follows and shall be payable as follows:

Class A initial application \$1,500  
Annual relicensing and/or renewal \$2,000

Class B initial application \$2,500  
Annual relicensing and/or renewal \$3,000

Class C initial application \$5,000  
Annual relicensing and/or renewal \$5,000

Microbusiness initial application \$2,500  
Annual relicensing and/or renewal \$3,500

All other establishments initial application \$5,000  
Annual relicensing and/or renewal \$5,000

**SECTION IX**  
**NONRENEWAL, SUSPENSION, REVOCATION, APPEALS**

1. It is hereby expressly declared that nothing in this ordinance be held or construed to give or grant to any authorized recreational (adult use) marihuana establishment a vested right, privilege or permit to continued licensure from the Township for operations within the Township.
2. Each license is exclusive to the licensee and a licensee or any other person must apply to and receive Township Board approval before a license is transferred, sold or purchased. The attempted transfer, sale or other conveyance of an interest in a license without prior approval of the Township Board is grounds for suspension or revocation of the license or for other appropriate sanction.
3. The Township Board, after notice and hearing, may suspend, revoke or refuse to renew a license for any of the following reasons:
  - a. The applicant or licensee, or his/her agent, manager or employee, has violated, does not meet or has failed to comply with any of the terms, requirements, conditions of provisions of this ordinance or with any applicable state or local law or regulation;
  - b. The recreational (adult use) marihuana establishment has operated in a manner that adversely affects the public health, safety and welfare.
4. Evidence to support a finding for nonrenewal, suspension or revocation of a license may include, without limitation, a continuing pattern of conduct of drug related criminal complaints within the premises of the recreational (adult use) marihuana establishment or in the immediate surrounding area or an ongoing nuisance condition emanating from or caused by a recreational (adult use) marihuana establishment.
5. An applicant may appeal any Township decision regarding licensure, nonrenewal, suspension or revocation of a license to the full Township Board, upon written request. An applicant requesting such appeal shall submit the request in writing to the Township Clerk, which request shall include reasons for the appeal. The Township Board shall, within a reasonable time thereafter, provide notice to the applicant of the time and date of the Township Board meeting at which the appeal will be heard. At such Township Board meeting, the applicant will have the opportunity to present his/her case supporting their appeal request.

**SECTION X**  
**SEVERABILITY**

The provisions of this ordinance are hereby declared to be severable. If any clause, sentence, word, section or provision is hereafter declared void or unenforceable for any reason by a court of competent jurisdiction, it shall not affect the remainder of such ordinance which shall continue in full force and effect. The provisions herein shall be construed as not interfering or conflicting with the statutory regulations for licensing recreational (adult use) marihuana establishments pursuant to the Michigan Regulation and Taxation of Marihuana Act (MCL 333.27951, *et seq.*).

**SECTION XI**  
**REPEAL**

All ordinance or parts of ordinances in conflict herewith are hereby repealed.

**SECTION XII**  
**EFFECTIVE DATE**

This ordinance shall take effect the day after publication after adoption.

Naomi Oomen, Clerk

**TOWNSHIP OF LEAVITT**  
**COUNTY OF OCEANA, STATE OF MICHIGAN**

**ORDINANCE NO. 2021-4**

**ADOPTED: MAY 10, 2021**

**EFFECTIVE: Upon publication after adoption**

**ORDINANCE TO AMEND RECREATIONAL/ADULT USE**  
**MARIHUANA ESTABLISHMENT ORDINANCE**

An ordinance to amend Ordinance 2021-3, the Recreational (Adult Use) Marihuana Ordinance regarding recreational (adult use) marihuana establishment setback requirements, setback waiver procedure, and site plan sketch requirement for certain recreational (adult use) marihuana establishments; to provide for severability; to repeal all ordinances or parts of ordinances in conflict therewith and to provide an effective date.

**THE TOWNSHIP OF LEAVITT**

**OCEANA COUNTY, MICHIGAN**

**ORDAINS:**

**SECTION I**  
**AMENDMENT OF SECTION VII,**  
**ORDINANCE 2021 -**

Section VII of Ordinance 2021- 3, Recreational (Adult Use) Marihuana Establishment Ordinance, is amended to read as follows:

**GENERAL REGULATIONS REGARDING**  
**AUTHORIZED RECREATIONAL (ADULT USE) MARIHUANA ESTABLISHMENTS**

1. A licensed recreational (adult use) marihuana establishment shall only be operated within the Township by the holder of a state operating license issued pursuant to the Michigan Regulation and Taxation of Marihuana Act and the Administrative Rules promulgated thereunder. The establishment shall only be operated as long as the State operating license and Township license both remain in effect.
2. Prior to operating a licensed recreational (adult use) marihuana establishment within the Township pursuant to a state operating license, the establishment must comply with all applicable regulations, ordinances and codes.



3. Prior to operating an authorized recreational (adult use) marihuana establishment within the Township pursuant to a state operating license, the establishment must comply with all Township construction and building ordinances, all other Township ordinances specifically regulating recreational (adult use) marihuana establishments and generally applicable Township police power ordinances. The establishment shall only be operated as long as it remains in compliance with all such ordinances now in force or which hereinafter may be established or amended.
4. If at any time a licensed recreational (adult use) marihuana establishment violates this ordinance the Township Board may request that the State revoke or refrain from renewing the establishment's State operating license. Once such State operating license is revoked or fails to be renewed, the Supervisor shall cancel the Township license and the license shall be available to the next applicant for the specific type of recreational (adult use) marihuana establishment license in order of rankings, per the evaluation criteria in Section VI.
5. A recreational (adult use) marihuana establishment shall not be located within 1,000 feet of an existing public or private school providing education in kindergarten or any grades 1 – 12. The 1,000 foot separation distance shall be measured between property lines.
6. A recreational (adult use) marihuana establishment shall not be located closer than 500 feet to a dwelling unit used for residential purposes or shall not be located closer than 250 feet from a property line of a property containing a dwelling unit used for residential purposes, whichever distance is greater; except that a Class A grower whose growing operations are carried out completely indoors may be located within 500 feet of a dwelling unit used for residential purposes. In no case may recreational (adult use) marihuana operations and associated activities be located within 50 feet of a property line, except for parking lots, signs, fences or other security measures.
7. The Township Board may consider a request for a waiver of setback requirements, upon a written request for a waiver submitted to the Township Board and a showing by the license applicant of the following: 1) reasons for inability to meet required setbacks; 2) methods to mitigate impacts of proposed location of recreational (adult use) marihuana establishment on surrounding property owners, businesses, occupants and community institutions; 3) any potential traffic impacts and proposed methods to manage such impacts; 4) any potential impacts on property values and proposed methods to manage negative impacts.; and 5) methods of addressing any other potential impacts identified by the Township Board and/or township residents and/or property owners. The Township Board, prior to considering the setback waiver request, shall send written notice of the Township Board's waiver consideration to all property owners within 300 feet of the property proposed for setback waiver at least 15 days before the date of the Board meeting at which the waiver request will be heard, shall publish such notice in a newspaper of general circulation in the township at least 15 days before the date of the Board meeting, and shall post such notice on the Township website at least 48 hours before the Board's consideration of the waiver request, if such website exists. When considering the waiver request, the Township Board shall consider all information provided by the license applicant, any information provided by the public, and may attach reasonable conditions to any grant of a setback waiver. The Township Board's

decision on a setback waiver request is final. Any appeal shall be taken directly to circuit court, in the manner proscribed by law.

8. A recreational (adult use) marihuana establishment shall prevent smoke, odors, debris, dust, noise, lights, glare, heat, other emissions or discharge from interfering with the reasonable and comfortable use and enjoyment of another's property. Whether smoke, odors, debris, dust, noise, lights, glare, heat, other emissions or discharge interfere with the reasonable and comfortable use and enjoyment of property shall be measured against the objective standards of a reasonable person of normal sensitivity.
9. A marihuana retailer establishment shall only be open to the public between the hours of 8:00 a.m. and 9:00 p.m.
10. A microbusiness retailer component shall only be open to the public between the hours of 8:00 a.m. and 9:00 p.m.
11. Any person seeking approval of a marihuana retailer license or a microbusiness that includes a retailer component license must submit a site plan sketch to the Township Board with their application, to demonstrate that adequate parking and traffic circulation are provided, that any necessary screening from adjacent properties is provided, that adequate garbage disposal areas are provided, that signage is not injurious to surrounding properties and that the proposed retailer and/or microbusiness with retailer component will be in keeping with the character of the surrounding area. The Township Board will consider the site plan sketch a component of a recreational (adult use) marihuana retailer license and/or a microbusiness license that includes a retailer component.
12. All signage and advertising shall comply with Leavitt Township and/or Oceana County regulations.
13. A licensed recreational (adult use) marihuana establishment shall consent to inspection of the facility by Township officials and/or by the County Sheriff's Department, upon reasonable notice, to verify compliance with this ordinance.
14. The Township expressly reserves the right to amend or repeal this ordinance in any way including, but not limited to, complete elimination of or reduction in the type and/or number of licenses for recreational (adult use) marihuana establishments authorized to operate within the Township.

## **SECTION II** **SEVERABILITY**

The provisions of this ordinance are hereby declared to be severable. If any clause, sentence, word, section or provision is hereafter declared void or unenforceable for any reason by a court of competent jurisdiction, it shall not affect the remainder of such ordinance which shall continue in full force and effect. The provisions herein shall be construed as not interfering or conflicting with the statutory regulations for licensing recreational (adult use) marihuana establishments pursuant to the

Michigan Regulation and Taxation of Marihuana Act (MCL 333.27951, *et seq*).

**SECTION III**  
**REPEAL**

All ordinance or parts of ordinances in conflict herewith are hereby repealed.

**SECTION IV**  
**EFFECTIVE DATE**

This ordinance shall take effect the day after publication after adoption.

Naomi Oomen, Clerk  
Leavitt Township