Medical Marihuana Ordinance

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF CARO, MICHIGAN, BEING ORDINANCE NO. 475 OF THE CITY OF CARO BY ADDING ARTICLE IV, SECTIONS 8-29 and 8-30 TO CHAPTER 8 OF SAID CODE AND AMENDING SECTIONS 44-269; 44-291; 44-320 and 44-352 TO CHAPTER 44 OF THE ZONING CODE BY ADOPTING THIS ORDINANCE FOR THE REGULATION AND LICENSING OF CERTAIN ASPECTS OF **MEDICAL MARIHUANA FACILITIES LICENSING ACT** UNDER MCLA. 333.27101, *et seq.*

The City of Caro ordains:

That the Ordinance Code of the City of Caro is hereby amended by adding Article IV, Sections 8-29 and 8-30 to Chapter 8 – Business and by amending Section 44-269 in Article X (B-1 Community Business Districts); Section 44-291 in Article XI (B-2 General Business Districts); Section 44-320 in Article XII (I-1 Light Industrial Districts); and Section 44-352 in Article XIII (I-2 General Industrial Districts) of Chapter 44 – Zoning to read as follows:

ORDINANCE TO AMEND THE CODE OF THE CITY OF CARO

The City of Caro (hereinafter "City") Ordains to adopt an Ordinance to permit and regulate the operation of certain, specified state-licensed medical marihuana facilities within its boundaries pursuant to PA 281 of 2016, the Medical Marihuana Facilities Licensing Act, MCLA 333.27101, *et seq*. (hereinafter "the Act").

Sec. 1. Purpose.

The City finds that it is in the public interest to allow the permitting of certain state-licensed medical marihuana facilities, within certain areas of the City, pursuant to the Act and to provide for the adoption of reasonable restrictions to protect the public health, safety, and general welfare of the community at large, as well as retain the character of neighborhoods; and mitigate potential impacts on surrounding properties and persons. It is also the intent of this Ordinance to help defray administrative and enforcement costs associated with the operation of a Medical Marihuana Facility in the City through imposition of an annual, nonrefundable fee of not more than $5,000.00 on each Medical Marihuana Facility Licensee pursuant to the Act.

Sec. 2. Conflict.

Nothing in this ordinance shall be construed in such a manner as to conflict with the existing City Ordinances except as otherwise stated herein.

Sec. 3. State Licensed Medical Marihuana Facilities

This Ordinance amends Chapter 8 of the Code of Ordinances for the City by adding Article IV, Sections 8-29 to 8-30 of such Chapter 8 as follows:

Article IV – MEDICAL MARIHUANA FACILITIES

Sec. 8-29 Authorization of State Licensed Medical Marihuana Facilities

(a) Purpose and Intent. The purpose of this section is to establish standards for siting specific types of Medical Marihuana Facilities, authorized by the Act and permitted under this Ordinance. It is the City's intent to permit the siting specific types of Medical Marihuana Facilities within its boundaries, subject to conditions, to:

(1) Promote the safe, regulated manufacturing, production, and sale by state-licensed growing facilities for medical marihuana authorized by this Ordinance, and to ensure the safe access to medical marihuana to the City's patients;

(2) Discourage the sale of unsafe, unauthorized and unlicensed medical marihuana facilities, operations and products;

(3) Preserve and protect the health, safety, and welfare of the residents of the City and the general public by minimizing unsafe, unauthorized and unregulated medical marihuana operation, production and sale;

(4) Authorize the operation of state-licensed growing and processing facilities for medical marihuana operations, as defined by the Act, and to prohibit authorizing of any other type of marihuana facility from operating within the City.

(5) Establish standards and procedures, by which the siting, operating, and maintaining of a Medical Marihuana Facility shall be governed.

(b) Relationship to State Law.

(1) Except as otherwise provided by the Act and this Ordinance, a Licensee and its employees and agents who are operating within the scope of a State Operating License and pursuant to the requirements in this Ordinance are

not subject to criminal or civil prosecution under City ordinances regulating marihuana.

(2) Except as otherwise provided by the Act and this Ordinance, a person who owns or leases real property upon which a Medical Marihuana Facility is located and who has no knowledge that the Licensee is violating or violated the Act or this Ordinance, is not subject to criminal or civil prosecution under City ordinances regulating marihuana.

(c) Definitions. For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

(1) "Applicant" means a person who applies for a license under this article. If an entity applies for a license, the term includes an officer, director, or managerial employee of the entity when appropriate.

(2) "Facility License" means a license issued by the City under this section authorizing an Applicant to operate a Medical Marihuana Facility.

(3) "Grower" means a Licensee that is a commercial entity located in this State that cultivates, dries, trims, or cures and packages marihuana for sale to a Processor or Provisioning Center.

(4) "License" means a State Operating License issued pursuant to the Act.

(5) "Licensee" means a commercial entity that has obtained a State Operating License for one or more of the medical marihuana facilities authorized under the Act.

(6) "Medical Marihuana Facility" means a location at which a license holder is licensed to operate under the Act.

(7) "Marihuana-infused product" means a topical formulation, tincture, beverage, edible substance, or similar product containing any usable marihuana that is intended for human consumption in a manner other than smoke inhalation.

(8) "Processor" means a Licensee that is a commercial entity located in this State that purchases marihuana from a Grower and that extracts resin from the marihuana or creates a marihuana-infused product for sale and transfer in package form to a Provisioning Center.

(9) "Provisioning Center" means a Licensee that is a commercial entity located in this State that purchases marihuana from a Grower or Processor and sells, supplies, or provides marihuana to registered qualifying patients, directly or through the patients' registered primary caregivers. Provisioning Center includes any commercial property where marihuana is sold at retail to registered qualifying patients or registered primary caregivers. A noncommercial location used by a primary caregiver to assist a qualifying patient connected to the caregiver through the department's marihuana registration process in accordance with the Michigan Medical Marihuana Act, 2008 IL 1, MCL 33.26421 to 333.26430, is not a Provisioning Center for purposes of the Act or this chapter.

(10) "Safety Compliance Facility" means a Licensee that is a commercial entity that receives marihuana from a Marihuana Facility or registered primary caregiver, tests it for contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the marihuana to the Marihuana Facility.

(11) "Secure Transporter" means a Licensee that is a commercial entity located in this State that stores marihuana and transports marihuana between Marihuana Facilities for a fee.

(12) "State operating license" means a license that is issued under the Act that allows the Licensee to operate as Marihuana Facilities.

All other terms used in this chapter have the same definitions ascribed to them in the Act.

(d) Applicability and Enabling Provision.

(1) Pursuant to Section 205(1) of the Act, and subject to the limit on the total number of facilities as stated in subsection (e) herein, the City will authorize Facility Licenses for the following types of Medical Marihuana Facilities:

a. Growers

- Class A – with not more than 500 marihuana plants
- Class B – with not more than 1,000 marihuana plants

- Class C – with not more than 1,500 marihuana plants per License

b. Processors

c. Provisioning Centers

d. Secure Transporters

e. Safety Compliance Facilities

(2) This Ordinance shall only apply to medical marihuana facilities or operations authorized by the Act, and this Ordinance shall not be construed to apply to permit any recreational marihuana facilities or operations, including but not limited to any recreational marihuana facilities regulated under the Michigan Regulation and Taxation of Marihuana Act.

(4) No person or entity that was open or operating any facility purporting to produce, manufacture, test, transfer or transport medical marihuana or marihuana prior to the adoption of this Ordinance by the City Council shall be considered a lawful use or lawful nonconforming use.

(5) This section does not apply to, or regulate, any protected patient or caregiver conduct pursuant to the Michigan Medical Marihuana Act of 2008.

(e) Number of Licensed Medical Marihuana Facilities.

(1) The maximum number of each type of Medical Marihuana Facility authorized by this Article is as follows:

a. No more than two (2) Growers; provided, however, that nothing in such limitation shall prevent a Grower holding a Class C License from stacking such Class C Licenses under provisions of the Medical Marihuana Facilities Licensing Act

b. No more than two (2) Processors

c. No more than two (2) Provisioning Centers

d. No more than two (2) Secure Transporters

e. No more than two (2) Safety Compliance Facilities

(f) City Liability and Indemnification

(1) By accepting a Facility License issued under this Ordinance, the Licensee waives and releases the City, its officers, elected officials, and employees from any liability for injuries, damages or liabilities of any kind that result from any arrest or prosecution of Medical Marihuana Facility owners, operators, employees, clients or customers for a violation of state or federal laws, rules or regulations.

(2) By accepting a Facility License issued under this Ordinance, the Licensee agrees to indemnify, defend and hold harmless, the City, its officers, elected officials, employees and insurers against all liability, claims or demands arising on account of bodily injury, sickness, disease, death, property loss or damage or property loss or damage or any other loss of any kind, including, but not limited to any claim or diminution of property value by a property owner whose property is located in proximity to a Licensed Medical Marihuana Facility, arising out of, claimed to have arisen out of, or in any manner connected with the operation of a Medical Marihuana Facility or use of a product cultivated, processed, distributed or sold that is subject to the Facility License, or any claim based on an alleged injury to business or property by reason of a claimed violation of the federal Racketeer Influenced and Corrupt Organizations Act ("RICO"), 18 U.S.C. Sec. 1964(c).

(3) By accepting a Facility License issued under this Ordinance, the Licensee agrees to indemnify, defend and hold harmless, the City, its officers, elected officials, employees and insurers against all liability, claims or demands arising on account of any alleged violation of the federal Controlled Substances Act, 21 U.S.C. Sec. 801 et. seq. or Article 7 of the Michigan Public Health Code, MCL 333.7101 et. seq.

(g) Facility License Requirement.

(1) Any person or entity that wishes to operate as a Medical Marihuana Facility in the City shall obtain a Facility License and a must obtain a State Operating License, as well as comply with all requirements under the Act and this Ordinance prior to opening or operating.

(2) No Facility License shall be issued under this Ordinance without first satisfying the application procedure and obtaining approval from the City pursuant to this Ordinance.

(3) The application and inspection fee for the Facility License required by this section shall be as set from time to time by the City by resolution.

(4) In addition to any inspection fees as established by the City, a nonrefundable annual fee of $5,000.00 shall be paid by the applicant to the City to help defray the administrative and enforcement costs associated with the operation of the Medical Marihuana Facilities operating in the City. The nonrefundable fee shall be paid for each license type sought by the applicant and for each license of the same type (ie. multiple "stacked" Grower Class C licenses) as may be sought by the applicant and allowed by State law.

(5) No Facility License issued under this section shall be transferrable unless first approved by the State Medical Marihuana Licensing Board.

(6) All Facility Licenses issued under this section may be renewed annually and shall be subject to annual inspection and renewal fees as set from time to time by the City by resolution.

(7) The City, within its own discretion, may limit the number of Facility Licenses issued under this section, and may revise this limit from time to time within its own discretion.

(8) No person or entity that has opened or operated a facility doing business or purporting to do business under this Article or the Act without first obtaining a Facility License, shall be eligible for a Facility License.

(9) A person or entity that receives a Facility License under this Article shall display its Facility License and, when issued, its State Medical Marihuana Facility License in plain view clearly visible to public visitors, City officials and State Medical Marihuana Licensing Board authorized agents.

(h) Location Requirements.

(1) The Applicant Medical Marihuana Facility must be located in lands zoned for I-1 Light Industrial or I-2 General Industrial use as provided for in

Articles XII and Article XIII of Chapter 44 of the City Code, unless a Provisioning Center or Safety Compliance Facility, which may also be located in lands zoned as B-1 Community Business District or B-2 General Business District as provided for in Articles X and Article XI of Chapter 44 of the City Code. Any Applicant Medical Marihuana Facility location must also be in accordance with a site plan reviewed and recommended for approval by the Planning Commission and submitted for approval to the City Council for the City of Caro.

(2) The Applicant location shall meet all applicable written and duly promulgated standards of the City and, prior to opening, shall demonstrate to the City that it meets the rules and regulations promulgated by the State Medical Marihuana Facilities Licensing Board.

(3) The Applicant location shall conform to all standards of the zoning district in which it is located.

(4) No person shall reside in or permit any person to reside in or on the premises of any Medical Marihuana Facility.

(5) In additional to the location requirements otherwise provided herein, no Medical Marihuana Facility may be located within:

a. 1,000 feet of a pre-existing public or private school providing education in kindergarten or any of grades 1 through 12; or

b. 500 feet of a church or other house of worship.

(i) Application Procedure.

(1) All Applicants for Facility Licenses required by this section shall file an Application and fee with the City Clerk upon a form provided by the City. This Application shall be signed by the Applicant if an individual, or by all partners if a partnership, by a managing member if a limited liability company, or by the president if a corporation.

(2) All applicants for a Facility License to operate a Medical Marihuana Facility shall submit with the application a photocopy of the applicant's valid and current License or prequalification status letter for licensure as

issued by the State of Michigan in accordance with the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.

(3) The Applicant may be requested to provide any information required by the Act and any other information deemed by the City as needed for approval or City's Planning Commission review. For an application to be considered submitted, all of the following documents must be included in the application.

a. Documents identifying the actual or proposed ownership structure of the facility, including percentage ownership of each person or entity; and

b. A current organization chart that includes position descriptions and the names of each person holding each position; and

c. Records detailing the planned tangible capital investment in the City, including detail related to the number and nature of applicant's proposed medical marihuana facilities in the City and whether the locations of such facilities will be owned or leased; further, if multiple licenses are proposed, an explanation of the economic benefits to the City and job creation, if any, to be achieved through the award of such multiple licenses. Supporting factual data shall be included with the response to this subsection; and

d. A statement of expected job creation from the proposed Medical Marihuana Facility(ies); and

e. Records detailing the financial structure and financing of the proposed Medical Marihuana Facility(ies); and

f. If a marihuana grower facility(ies) are proposed, plans to integrate such facility(ies) with other proposed medical marihuana facilities and a statement whether the medical marihuana grower facility will grow 1,000 plants or more and the square footage of the building(s) housing such grower facility, and if so, will the facility contain more than 10,000 square feet of space; and

g. A written description of the training and education that the applicant will provide to all employees; and

h. One of the following: (a) proof of ownership of the entire premises wherein the marihuana facility is to be operated; or (b) written consent from the property owner for use of the premises in a manner requiring licensure under this chapter along with a copy of any lease for the premises; and

i. A description of the security plan for the marihuana facility, including, but not limited to, any lighting, alarms, barriers, recording/monitoring devices, and/or security guard arrangements proposed for the facility and premises. The security plan must contain the specification details of each piece of security equipment; and

j. A floor plan of the proposed licensed premises showing, without limitation, building layout, all entryways and exits to the proposed licensed premises, loading zones and all areas in which medical marihuana will be stored, grown, manufactured or dispensed, as well as a scale diagram illustrating the property upon which the marihuana facility is to be operated, including all available parking spaces, and specifying which parking spaces, if any, are handicapped-accessible; and

k. A facility sanitation plan to protect against any marihuana being ingested by any person or animal, indicating how the waste will be stored and disposed of, and how any marihuana will be rendered unusable upon disposal. Disposal by on-site burning or introduction in the sewerage system is prohibited; and

l. A proposed patient recordkeeping plan that will track quantities sold to individual patients and caregivers, and will monitor inventory; and

m. Proof of an insurance policy covering the facility and naming the City, its elected and appointed officials, employees, and agents, as

additional insured parties, available for the payment of any damages arising out of an act or omission of the applicant or its stakeholders, agents, employees, or subcontractors, in the amount of (a) at least $1,000,000.00 for property damage; (b) at least $1,000,000.00 for injury to one person; and (c) at least $2,000,000.00 for injury to two or more persons resulting from the same occurrence. The insurance policy underwriter must have a minimum A.M. Best Company insurance ranking of B+, consistent with State law. The policy shall provide that the City shall be notified by the insurance carrier 30 days in advance of any cancellation.

(4) No Facility License shall be issued unless both the Application and site plan are submitted to the City's Planning Commission for review and recommendation and is approved by the City Council.

(5) Upon receipt of a completed application purporting to meet the requirements of this section and the appropriate license application fee, the City Clerk shall refer a copy of the application to each of the following for their approval: the Fire Department, the Building Safety Office, the Police Department, the Zoning Administrator, the City Treasurer and the City Manager.

a. No application shall be approved unless: (1) The Fire Department and the Tuscola County Building Code Department have inspected the proposed location and confirmed compliance with all laws for which they are charged with enforcement and for compliance with the requirements of this chapter; (2) The Zoning Administrator has confirmed that the proposed location complies with the Zoning Code and this chapter, including any variances; (3) The City Treasurer has confirmed that the applicant and each stakeholder of the applicant and the proposed location of the establishment are not in default to the City; (4) The Police Department has determined that the applicant has met the requirements of this chapter with

respect to the background check and security plan; and (5) the City Manager has confirmed the sufficiency of all other aspects of the application submittal are in accordance with the requirements of this section.

(6) Upon an Applicant's completion of the above-referenced form and furnishing of all required information, documentation and fee, the City Clerk shall accept the application and assign it a sequential application number based on the date and time of acceptance. The City shall act to provisionally accept or reject an application no later than twenty-one (21) days from the date the application was filed. If the application is accepted as to form, the City shall issue the applicant a Provisional Facility License, provided the maximum number of Facility Licenses are not then issued for such facility type pursuant to subsection (e)(1) of this section.

(7) A Provisional Facility License means only that the applicant has submitted a valid preliminary application for a Medical Marihuana Facility License, and the applicant shall not locate or operate a Medical Marihuana Facility without obtaining all other permits and approvals required by this Article and all other applicable ordinances and regulations of the City. A Provisional Facility License will lapse and be void if such other permits and approvals are not diligently pursued to completion within sixty (60) days after issuance of the Provisional Facility License.

(8) The City shall issue the Medical Marihuana Facility Licenses in order of the sequential application number previously assigned, provided the maximum number of Facility Licenses are not then issued for such facility type pursuant to subsection (e)(1) of this section.

a. Any Medical Marihuana Facility License issued under this Chapter shall expire on the next June 30th after Facility License issuance.

b. A Medical Marihuana Facility License may be renewed, provided that an application to renew such Facility License is filed no later than the May 31st preceding the June 30th Facility License termination date.

c. In the event a timely renewal application is filed, an applicant with an existing Facility License may continue to operate under a limited extension of its existing Facility License for no longer than 30 days after the June 30th Facility License termination date, or for such additional time as may be reasonably approved by the City during its review of a renewal application.

d. If the annual Facility License is applied for and issued between December 31 and May 30, the nonrefundable annual fee for such Facility License shall be 1/2 of the total annual fee otherwise applicable for such Facility License.

e. If a Facility License is terminated or revoked for any reason, the former Facility License holder may apply for a new Medical Marihuana Facility License, but will be considered only as a new applicant and must meet all standards and conditions applicable under this Chapter for a new Medical Marihuana Facility License.

(9) The Facility License shall be approved if the Applicant meets all approvals required by this Article, all other applicable ordinances and regulations of the City and the Applicant demonstrates to satisfaction of City Council that the conduct of the Applicant's business would not pose a substantial threat to the public health, safety, or general welfare. In granting a requested Facility License, City Council may impose any conditions determined necessary to protect the public health, safety and general welfare.

(j) Medical Marihuana Facility Standards

(1) In accordance with the provisions of this Article and State law, licensed Medical Marihuana Growers, Processors, Secure Transporters, Provisioning Centers and Safety Compliance Facilities are only authorized to operate in the City through the issuance of a Facility License, provided that:

a. Any uses or activities found by the State of Michigan or a court with jurisdiction to be unconstitutional or otherwise not permitted

by State law may not be permitted by the City. In the event that a court with jurisdiction declares some or all of this article invalid, then the City may suspend the acceptance of applications for Facility Licenses pending the resolution of the legal issue in question.

b. At the time of application for a Facility License the Medical Marihuana Facility must be licensed by the State of Michigan and must be at all times in compliance with the laws of the State of Michigan including but not limited to the Michigan Medical Marihuana Act, MCL 333.26421 et seq.; the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.; and the Marihuana Tracking Act, MCL 333.27901 et seq.; and all other applicable rules promulgated by the State of Michigan.

c. The use or facility must be at all times in compliance with this Ordinance and all other applicable laws and ordinances of the City.

d. The City may suspend or revoke a Facility License based on a finding that the provisions of the standards in this section, all other applicable provisions of the zoning ordinance, or the terms of the Facility License are not met.

e. A Medical Marihuana Facility may not be permitted as a home business or accessory use nor may they include accessory uses except as otherwise provided in this ordinance.

f. Signage requirements for Medical Marihuana Facilities, unless otherwise specified, are as provided in the zoning Chapter for the City's Code of Ordinances, the Act and its regulations.

g. Acceptance by any person of a Facility License granted by the City under this section shall constitute permission to any officer of the City to enter upon and inspect the licensed premises at all reasonable times.

(2) Licensed Medical Marihuana facilities shall be subject to the following standards:

a. Indoor Grow and Processing. In permitted areas, medical marihuana Grower activities shall be located entirely within one or more completely enclosed buildings. In permitted areas, medical marihuana Processor activities shall be located entirely within a fully enclosed, secure, indoor facility or greenhouse with rigid walls, a roof, and doors.

b. Other Medical Marihuana Facilities. In permitted areas, Secure Transporters, Provisioning Centers and Safety Compliance Facilities activities shall be located entirely within one or more completely enclosed buildings.

c. Lighting. Lighting shall be regulated as follows:

1. Light cast by light fixtures inside any building used for marihuana growing or marihuana processing shall not be visible outside the building from 7:00 p.m. to 7:00 a.m. the following day.

d. Odor Control.

1. Growers, processors, and safety compliance facilities shall install and maintain in operable condition an appropriate exhaust ventilation system which precludes the emission of detectable marihuana odor resulting from any grow or production process or operations from the premises.
2. No Medical Marihuana Facility shall permit the emission of marihuana odor resulting in detectable odors that leave the facility premises upon which they originated and interfere with the reasonable and comfortable use and enjoyment of another's property.
3. Whether a marihuana odor emission interferes with the reasonable and comfortable use and enjoyment of a property shall be measured against the objective standards of a reasonable person of normal sensitivity.

e. Security: Facility License holders shall at all times maintain a security system that meets state law requirements, and shall also include:

1. Security surveillance cameras installed to monitor all entrances, along with the interior and exterior of the Licensed premises;
2. Burglary alarm systems which are professionally monitored and operated 24 hours a day, 7 days a week;
3. A locking safe permanently affixed to the Licensed premises that shall store all marihuana and cash remaining at the facility overnight;
4. All marihuana in whatever form stored at the Licensed premises shall be kept in a secure manner and shall not be visible from outside the Licensed premises, nor shall it be grown, processed, exchanged, displayed or dispensed outside the Licensed premises;
5. All security recordings and documentation shall be preserved for at least 30 days by the Facility License holder and made available to law enforcement upon request for inspection.

f. Water. The Medical Marihuana Facility shall be a customer of the City Municipal Water Supply and use the City Municipal water supply for all operations, and in compliance with the limitations on discharge into the City wastewater system.

(k) Revocation and Review.

(1) A Facility License granted under this section may be revoked for any of the following reasons:

a. Any fraud or misrepresentation contained in the Facility License application;
b. Any violation of this Ordinance;

c. Loss, expiration or revocation of the Applicant's State Medical Marihuana Facility License;

d. Conducting business in violation of this Ordinance, the Act, the Medical Marihuana Act, MCL 333.26421 et seq., or the Marihuana Tracking Act, MCL 333.27901 et seq.; as well as conducting business in an unlawful manner or in such a way as to constitute a menace to the health, safety, or general welfare of the public; or

e. Conducting business for recreational marihuana or any marihuana operations not exclusively authorized by this Ordinance and the Act.

(2) No Facility License issued under this Section shall be revoked except after hearing before the Council following not less than ten (10) days' written notice to the Facility License holder stating the time and place of such hearing and setting forth the reasons for revocation.

(3) An applicant for any Facility License who has been refused a Facility License or the renewal of a Facility License under this section for any reason by the authorized issuing officer or whose Facility License has been suspended, unless an appeal is provided to another agency by this Code or by state law, may appeal such refusal or suspension to the Council by setting forth all of the facts in a written petition and filing the same with the City Clerk within five days after such refusal or suspension. The Council shall grant a hearing to the applicant or suspended Facility License holder, upon the same notice as is required by subsection (2) above. The decision of the Council on such appeal shall be final.

Sec. 8-30 Penalties and Enforcement.

(a) Any person who violates any of the provisions of this Ordinance shall be responsible for a municipal civil infraction and subject to the payment of a civil fine of not more than $500, plus costs. Each day a violation of this Ordinance continues to exist constitutes a separate violation. A violator of this Ordinance

shall also be subject to such additional sanctions, remedies and judicial orders as are authorized under Michigan law.

(b) A violation of this Ordinance is deemed to be a nuisance per se. In addition to any other remedy available at law, the City may bring an action for an injunction or other process against a person to restrain, prevent, or abate any violation of this Ordinance.

(c) This Ordinance shall be enforced and administered by the City Manager, or such other City official as may be designated from time to time by resolution of the City Council.

Sec. 4

This Ordinance amends Chapter 44 of the Code of Ordinances for the City by amending Section 44-269 in Article X (B-1 Community Business Districts); Section 44-291 in Article XI (B-2 General Business Districts); Section 44-320 in Article XII (I-1 Light Industrial Districts); and Section 44-352 in Article XIII (I-2 General Industrial Districts) of Chapter 44 – Zoning of the Code of Ordinances for the City as follows:

Sec. 44-269. - Principal uses permitted subject to special conditions.

The following uses shall be permitted, subject to the conditions hereinafter imposed for each use and subject further to the review and approval of the planning commission:

(1) Gasoline service stations for the sale of gasoline, oil and minor accessories only where no work, except incidental service, is rendered, subject to the conditions of section 44-711(10). Such incidental service does not include steam cleaning, undercoating, vehicle body repair, painting, tire recapping, engine rebuilding, auto dismantling, upholstering, auto glass work, or other operations of the sort.

(2) Publicly owned buildings, public utility buildings, telephone exchange buildings, electric transformer stations and substations; gas regulator

stations with service yards, but without storage yards; water and sewage pumping stations.

(3) Overhead or underground lines and necessary poles and towers to be erected to service primarily those areas beyond the city. Such review shall consider abutting property and uses as they relate to easements, rights-of-way, overhead lines, poles and towers and, further, shall consider injurious effects on property abutting or adjacent thereto and on the orderly appearance of the city. Essential services primarily for residents of the city shall be subject to the provisions of section 44-538.

(4) Residential units within commercial structures, except on the main floor and basement of those structures.

(5) Dance studio, dance academy, and/or dance school. A building or a portion of a building where dancing is permitted only by students (four or more at a time) and instructors engaged in dancing instruction. A dance studio is not an educational institution. A dance studio is not a dancing establishment wherein dancing is allowed and participated in on a recurring basis by one or more persons whether or not they are compensated for their dancing. Subject to sections 44-709 and 44-710.

(6) Gym. A building or a portion of a building designed for the major purpose of physical exercise, fitness or weight reducing which includes, but is not limited to, exercise equipment such as weight resistance machines, stationary bicycles, and/or space for the purpose of physical exercise. Whirlpools, saunas, and/or massages must be ancillary, not the primary source of business. Private instructional rooms are not allowed. Subject to sections 44-709 and 44-710.

(7) Bowling alleys, billiard halls, indoor archery ranges, indoor tennis courts, indoor skating rinks, arcades with both electronic aided gaming or non-electronic gaming or similar facilities for indoor recreation subject to the conditions of section 44-711(3).

(8) Provisioning Centers and Safety Compliance Facilities, as Medical Marihuana Facilities, and subject to the conditions of Article IV, Chapter 8 of City of Caro Ordinances, Sections 8-29 to 8-30.

Sec. 44-291. - Principal uses permitted subject to special conditions.

The following uses shall be permitted subject to the conditions hereinafter imposed for each use and subject to the review and approval of the planning commission:

(1) Outdoor sales space for exclusive sale of new or used automobiles, farm equipment and machinery, house trailers or rental of trailers and/or automobiles, subject to the conditions of section 44-711(18).

(2) Motels, subject to the conditions of section 44-711(16).

(3) Drive-in or open front stores, subject to the conditions of section 44-711(9).

(4) Veterinary hospitals or clinics, subject to the conditions of section 44-711(25).

(5) Plant material nurseries for the retail sale of plant materials not grown on the site, and sales of lawn furniture, playground equipment and garden supplies, subject to the conditions of section 44-711(21).

(6) Recreational areas, subject to the conditions of section 44-711(23).

(7) Sexually oriented businesses, subject to the conditions of section 44-711(24).

(8) Communication towers affixed directly to the ground, subject to the conditions of section 44-711(6).

(9) Communication towers affixed to existing structures, subject to the conditions of section 44-711(5).

(10) Overhead or underground lines and necessary poles and towers to be erected to service primarily those areas beyond the city. Such review shall consider abutting property and uses as they relate to easements, rights-of-way, overhead lines, poles and towers and, further, shall consider injurious effects on property abutting or adjacent thereto and on the orderly

appearance of the city. Essential services primarily for residents of the city shall be subject to the provisions of section 44-538.

(11) Provisioning Centers and Safety Compliance Facilities, as Medical Marihuana Facilities, and subject to the conditions of Article IV, Chapter 8 of City of Caro Ordinances, Sections 8-29 to 8-30.

(12) Accessory buildings and uses customarily incidental to any of the above-permitted uses.

(13) Drive-up automated teller machine (ATM) shall provide an on-site area for the stacking of six vehicles per ATM with, at a minimum, the first space shall be concrete. The drive-up automated teller machine must comply with articles XVII, XVIII, and XXIV of this chapter and section 44-711.

(14) Ministorage facilities, subject to the condition of section 44-711(28).

Sec. 44-320. Principal uses permitted subject to special conditions.

The following uses shall be permitted, subject to the conditions hereinafter imposed for each use and subject to the review and approval of the planning commission:

(1) Auto engine and body repair, and undercoating shops when completely enclosed.

(2) Automobile or other machinery assembly plants subject to adequate control of noise and/or other nuisances.

(3) Lumber and planning mills subject to the conditions of section 44-711(14).

(4) Metal plating, buffing and polishing, subject to appropriate measures to control the type of process to prevent noxious results and/or nuisances.

(5) Retail uses which have an industrial character in terms of either their outdoor storage requirements or activities such as, but not limited to, lumber yard, building materials outlet, upholsterer, cabinet maker, outdoor sales of boats, house trailers, automobile garages, or agricultural implements.

(6) Communication towers affixed directly to the ground, subject to the conditions of section 44-711(6).

(7) Communication towers affixed to existing structures, subject to the conditions of section 44-711(5).

(8) Overhead or underground lines and necessary poles and towers to be erected to service primarily those areas beyond the city. Such review shall consider abutting property and uses as they relate to easements, rights-of-way, overhead lines, poles and towers and, further, shall consider injurious effects on property abutting or adjacent thereto and on the orderly appearance of the city. Essential services primarily for residents of the city shall be subject to the provisions of section 44-538.

(9) Other uses of a similar character to the above uses.

(10) Medical Marihuana Facilities subject to the conditions of Article IV, Chapter 8 of City of Caro Ordinances, Sections 8-29 to 8-30.

(11) Accessory buildings and uses customarily incidental to any of the above-permitted uses.

Sec. 44-352. Principal uses permitted subject to special conditions.

The following principal uses shall be permitted, subject to special conditions:

(1) Outdoor theaters, subject to the conditions of section 44-711(19).

(2) Correctional facilities, subject to the conditions of section 44-711(8).

(3) Communication towers affixed directly to the ground, subject to the conditions of section 44-711(6).

(4) Communication towers affixed to existing structures, subject to the conditions of section 44-711(5).

(5) Overhead or underground lines and necessary poles and towers to be erected to service primarily those areas beyond the city. Such review shall consider abutting property and uses as they relate to easements, rights-of-way, and overhead lines, poles and towers and, further, shall consider injurious effects on property abutting or adjacent thereto and on the orderly appearance of the city. Essential services primarily for residents of the city shall be subject to the provisions of section 44-538.

(6) Medical Marihuana Facilities subject to the conditions of Article IV, Chapter 8 of City of Caro Ordinances, Sections 8-29 to 8-30.

(7) Accessory buildings and uses customarily incidental to any of the above-permitted uses.

Sec. 5. Repealed.

All Ordinance or parts of ordinances of the City in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

Sec. 6. Adoption.

A First Reading of this Ordinance is hereby declared to have been approved by the City Council of the City of Caro, County of Tuscola, State of Michigan, at a meeting, called and held on the 4th day of November 2019, and the second reading has been set for November 18, 2019.

Sec. 7. 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, phrases or words of this Ordinance.

Sec. 8. Effective Date.

This Ordinance shall take effect immediately thirty (30) days following a second reading and adoption and with publication.

Sec. 9. Publication.

This Ordinance shall be recorded by the City Clerk in the City Ordinance Book as soon as it is adopted, which record shall be authenticated by the signatures of the City President and City Clerk and shall be published once in the City newspaper of record.

Adopted December 2, 2019.