

Adult Use Marihuana Establishment Ordinance

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF CARO, MICHIGAN, BEING ORDINANCE NO. 479 OF THE CITY OF CARO BY REPEALING SECTION 8-28 OF CHAPTER 8 AND ADDING ARTICLE V, SECTIONS 8-31 to 8-49 TO CHAPTER 8 OF SAID CODE; AND BY 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 ADULT USE OF MARIHUANA UNDER THE **MICHIGAN REGULATION AND TAXATION OF MARIHUANA ACT (MRTMA)** UNDER MCL 333.27951 TO 333.27976.

THE CITY OF CARO ORDAINS:

That the Ordinance Code of the City of Caro is hereby amended by repealing Section 8-28 of Chapter 8 and adding Article V, Sections 8-31 to 8-49 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.

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 adult use Marihuana Establishments within its boundaries pursuant to the Michigan Regulation and Taxation of Marihuana Act (hereinafter “the MRTMA”), Initiated Law 1 of 2018 (MCL 333.27951 to 333.27976).

Section 1. PURPOSE.

The City finds that it is in the public interest to allow the permitting of certain state-licensed adult use Marihuana Establishments, within certain areas of the City, pursuant to the MRTMA, 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 Marihuana Establishments in the City through imposition of an annual, nonrefundable fee of not more than \$5,000.00 on each Marihuana Establishment Licensee pursuant to MRTMA.

Section 2. STATE LICENSED MARIHUANA ESTABLISHMENTS.

This Ordinance amends Chapter 8 of the Code of Ordinances for the City by repealing Section 8-28 of Chapter 8 and adding Article V, Sections 8-31 to 8-49 as follows:

Article III.

Sec. 8-28. Repealed.

Article V. Adult Use Marihuana Establishments

Sec. 8-31. Authorization of State Licensed Marihuana Establishments.

- (a) *Purpose and Intent.* The purpose of this section is to establish standards for siting specific types of Adult Use Marihuana Establishments, authorized by Michigan Regulation and Taxation of Marihuana Act (hereinafter “the MRTMA”), Initiated Law 1 of 2018 (MCL 333.27951 to 333.27976) and permitted under this Chapter. It is the City’s intent to permit the siting of specific types of Adult Use Marihuana Establishments within its boundaries, subject to conditions, to:
- (1) Promote the safe, regulated manufacturing, production, and sale by state-licensed adult use Marihuana Establishments authorized by this Chapter;
 - (2) Discourage the sale of unsafe, unauthorized and unlicensed marihuana, 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 marihuana operation, production and sale;
 - (4) Authorize the operation of specific state-licensed establishments relating to adult use marihuana operations, as defined by the MRTMA, and to prohibit of any other type of unauthorized Marihuana Establishment from operating within the City; and
 - (5) Establish standards and procedures, by which the siting, operating, and maintaining of Adult Use Marihuana Establishments shall be governed.
- (b) *Relationship to State Law.*
- (1) Except as otherwise provided by the MRTMA, 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 Chapter are not subject to criminal or civil prosecution under City ordinances regulating marihuana.
 - (2) Except as otherwise provided by the MRTMA, a person who owns or leases real property upon which a Marihuana Establishment is located and who has no knowledge that the Licensee is violating or violated the MRTMA or this Chapter, is not subject to criminal or civil prosecution under City ordinances regulating marihuana.
- (c) *Authorized Establishments.* The City authorizes the operation of the following types of MRTMA Marihuana Establishments, subject to the number of available licenses for such establishment type:

- (1) Marihuana Growers, Class A - cultivation of not more than 100 marihuana plants;
 - (2) Marihuana Growers, Class B - cultivation of not more than 500 marihuana plants;
 - (3) Marihuana Growers, Class C - cultivation of not more than 2,000 marihuana plants;
 - (4) Marihuana Processors;
 - (5) Marihuana Safety Compliance Facilities;
 - (6) Marihuana Secure Transporters; and
 - (7) Marihuana Retailers.
- (d) *Limited Number of Authorized Establishments.* The number of MRTMA Marihuana Establishment Licenses in effect at any time shall not exceed the following maximums within the City:
- | | |
|---|---------------------|
| (1) Marihuana Grower Permits, Class A: | Maximum of 2 |
| (2) Marihuana Grower Permits, Class B: | Maximum of 2 |
| (3) Marihuana Grower Permits, Class C: | Maximum of 2 |
| (4) Marihuana Processor Permits: | Maximum of 2 |
| (5) Marihuana Safety Compliance Facility Permits: | Maximum of 2 |
| (6) Marihuana Secure Transporter Permits: | Maximum of 2 |
| (7) Marihuana Retailer Permits: | Maximum of 2 |
| (8) Marihuana Microbusiness: | Maximum of 0 |
| (9) Excess Marihuana Grower Permits: | Maximum of 0 |
| (10) Designated Consumption Establishment: | Maximum of 0 |
| (11) Marihuana Event Organizer: | Maximum of 0 |
| (12) Temporary Marihuana Event: | Maximum of 0 |

The City may increase, but not reduce, the above maximum licenses for each authorized establishment type stated above by resolution annually or as it determines to be advisable.

Sec. 8-32. Definitions.

The following words and phrases used in this Ordinance shall have the following meanings unless the context clearly indicates otherwise:

- (a) "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.
- (b) "City" means the City of Caro, a municipal corporation.
- (c) "Cultivate" means to propagate, breed, grow, harvest, dry, cure, or separate parts of the marihuana plant by manual or mechanical means.
- (d) "Department" means the Michigan Department of Licensing and Regulatory Affairs.
- (e) "Industrial hemp" means a plant of the genus cannabis and any part of that plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration that does not exceed 0.3% on a dry-weight basis, or per volume or weight of marihuana-infused product, or the combined percent of delta-9-tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant of the genus cannabis regardless of moisture content.
- (f) "Licensee" means a person holding a license from the State of Michigan to operate a Marihuana Establishment and, if approved pursuant to provisions of this Chapter, one who holds a license issued by the City of Caro to operate a Marihuana Establishment.
- (g) "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. For purposes of this Chapter, marihuana does not include:
 - (1) 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;
 - (2) Industrial hemp; or
 - (3) Any other ingredient combined with marihuana to prepare topical or oral administrations, food, drink, or other products.

- (h) "Marihuana accessories" means any equipment, product, material, or combination of equipment, products, or materials, which is specifically designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, ingesting, inhaling, or otherwise introducing marihuana into the human body.
- (i) "Marihuana concentrate" means the resin extracted from any part of the plant of the genus cannabis.
- (j) "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 department.
- (k) "Marihuana Grower" means a person licensed to cultivate marihuana and sell or otherwise transfer marihuana to Marihuana Establishments. The license types include:
 - (1) Class A – cultivation of not more than 100 marihuana plants;
 - (2) Class B – cultivation of not more than 500 marihuana plants; and
 - (3) Class C – cultivation of not more than 2000 marihuana plants.
- (l) "Marihuana-infused product" means a topical formulation, tincture, beverage, edible substance, or similar product containing marihuana and other ingredients and that is intended for human consumption.
- (m) "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.
- (n) "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.
- (o) "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.
- (p) "Marihuana Secure Transporter" means a person licensed to obtain marihuana from Marihuana Establishments in order to transport marihuana to Marihuana Establishment.
- (q) "Marihuana Safety Compliance Facility" means a person licensed to test marihuana, including certification for potency and the presence of contaminants.
- (r) "Municipal License" means a license issued by the City that allows a person to operate a Marihuana Establishment in the City of Caro.

- (s) “Outdoor grow” means a fully enclosed outdoor area that is shielded from public view, is equipped with secure locks and other functioning security devices to prevent entry into the area by unauthorized persons.
- (t) "Person" means an individual, corporation, limited liability company, partnership of any type, trust, or other legal entity.
- (u) "Process" or "Processing" means to separate or otherwise prepare parts of the marihuana plant and to compound, blend, extract, infuse, or otherwise make or prepare marihuana concentrate or marihuana-infused products.
- (v) “School” means a public or private licensed pre-school, or a public, private, or charter elementary, middle, junior high, or high school, vocational school, secondary school, community college, or other institution of higher education.
- (w) "State license" means a license issued by the department that allows a person to operate a Marihuana Establishment.
- (x) “Window” means the time period set by the City Manager to receive applications for evaluation by the competitive process as specified in this ordinance.

Sec. 8-33. License Required for Marihuana Establishment.

It shall be unlawful to operate a Marihuana Establishment, which includes a Marihuana Grower, Marihuana Safety Compliance Facility Marihuana Processor, Marihuana Microbusiness, Marihuana Retailer, Marihuana Secure Transporter, or any type of marihuana-related business licensed by the State of Michigan without first obtaining a City license to operate pursuant to this Chapter, and having a validly issued license in good standing from the State of Michigan, and having paid all applicable fees.

Sec. 8-34. Local Licensing Authority.

- (a) The City council is designated as the local licensing authority. The City council may by resolution delegate its authority or a portion of such authority to a new committee or other designee to act as the local licensing authority. The local licensing authority shall have the duty and authority pursuant to MRTMA and this Chapter to grant or deny an application described in this Chapter and to levy penalties against the licensee in the manner provided by law.
- (b) The local licensing authority shall consider applications for new business premises, transfer of ownership, change of location, license premises modification, changes in trade name, and any other appropriate application.
- (c) The local licensing authority shall have the power to promulgate rules and regulations concerning the procedure for hearings before the local licensing authority.
- (d) The local licensing authority shall have the power to require any application or licensee to furnish such information to the authority as may be reasonably necessary in order for the authority to perform its duties and functions.

- (e) The local licensing authority shall have the power to administer oaths and issue subpoenas to require the presence of persons and the productions of papers, books and records at any hearing in which the authority is authorized to conduct. Any subpoena shall be served in the same manner as a subpoena issued by a District Court of the State. The District Court Judge shall have the power and authority to enforce such subpoena.

Sec. 8-35. Application for License to Operate an Adult Use Marihuana Establishment.

- (a) Any applicant seeking a City license under provisions of this Chapter, shall apply to the City for a license to operate a specific type of Marihuana Establishment desired and shall notify the City of any application submitted to the State of Michigan for a state license to operate a Marihuana Establishment within the City.
- (b) The City shall notify the Michigan Department of Licensing and Regulatory Affairs of any application for a license submitted to the City which is not in compliance with this Chapter.
- (c) No person who holds an ownership interest in a Marihuana Establishment applicant:
 - (1) will hold an ownership interest in both a Marihuana Safety Compliance Facility, or in a Marihuana Secure Transporter and in a Marihuana Grower, a Marihuana Processor, a Marihuana Retailer, or a Marihuana Microbusiness;
 - (2) will hold an ownership interest in both a Marihuana Microbusiness and in a Marihuana Grower, a Marihuana Processor, a Marihuana Retailer, a Marihuana Safety Compliance Facility, or a Marihuana Secure Transporter;
 - (3) will hold an ownership interest in more than five Marihuana Growers or in more than one Marihuana Microbusiness.

Sec. 8-36. Permitted Locations.

- (a) All Marihuana Establishment Licenses shall be issued for a specific location which shall be designated as a licensed premise.
- (b) Marihuana Establishments shall not be permitted in any residential zoned district.
- (c) Marihuana Establishments shall 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 the establishment is a Marihuana Retailer or Safety Compliance Facility as defined by this Chapter. A Marihuana Retailer or Safety Compliance Facility 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.
- (d) Any applicant for a Marihuana Establishment License must also secure a site plan review and special condition approval from the City Planning Commission and be approved by the City Council for the City of Caro.

Sec. 8-37. Buffering Requirements.

In addition to the location requirements otherwise provided herein, no Marihuana Establishment 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;
- (b) 500 feet of a church or other house of worship; or
- (c) 500 feet of a state-licensed daycare facility.

Sec. 8-38. License Allocation and Annual Fees.

- (a) 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 Marihuana Establishments within 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.
- (b) The term of each License shall be one (1) year.
- (c) The non-refundable application fee for a Marihuana Establishment license for the transfer of an existing license; or renewal the of a license shall be set by Resolution of the City Council from time to time. All fees are non-refundable.
- (d) The City shall issue the Marihuana Establishment Licenses in sequential application number previously assigned and in accordance with any ranking of applications based upon the City’s review of competitive criteria as provided by this Chapter, provided that the maximum number of Establishment Licenses are not then issued for such establishment type.
- (e) Any Marihuana Establishment License issued under this Chapter shall expire on the next June 30th after Establishment License issuance.
- (f) A Marihuana Establishment License may be renewed, provided that an application to renew such Establishment License is filed no later than the May 31st preceding the June 30th license termination date.
- (g) In the event a timely renewal application is filed, an applicant with an existing Establishment License may continue to operate under a limited extension of its existing Establishment License for no longer than 30 days after the June 30th license termination date, or for such additional time as may be reasonably approved by the City during its review of a renewal application.
- (h) If the annual Establishment License is applied for and issued between December 31 and May 30, the nonrefundable annual fee for such Establishment License shall be 1/2 of the total annual fee otherwise applicable for such Establishment License.

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

Sec. 8-39. License Application Submission.

- (a) An application for a Marihuana Establishment License required by this Chapter shall contain the following:
 - (1) The appropriate non-refundable application fee and the non-refundable licensing fee.
 - (2) *If the applicant is an individual.* The applicant's name, date of birth, physical address, copy of government issued photo identification, email address, and one or more phone numbers, including emergency contact information.
 - (3) *If the applicant is not an individual.* The names, dates of birth, physical addresses, copy of government issued photo identification, email addresses, and one or more phone numbers of each stakeholder of the applicant, including designation of the highest-ranking stakeholder as an emergency contact person and contact information for the emergency contact person, articles of incorporation, assumed name, registration documents, and Internal Revenue Service SS-4 EN confirmation letter. If a limited liability company, a copy of the operating agreement of the applicant. If a partnership, a copy of the partnership agreement. If a corporation, a copy of the by-laws or shareholder agreement.
 - (4) The name and address of the proposed Marihuana Establishment and any additional contact information deemed necessary and requested by the City.
 - (5) For the applicant and each stakeholder of the applicant, an affirmation under oath as to whether they are at least 21 years of age, are not currently under indictment, have never been convicted of, pled guilty or nolo contendere to, or forfeited bail concerning any criminal offense under the laws of any jurisdiction, either felony or controlled-substance-related misdemeanor, not including traffic violations.
 - (6) A signed release authorizing the City Police Department to perform a criminal background check, for a fee established by the City Council, to ascertain whether the applicant and each stakeholder of the applicant, each managerial employee of the applicant meet the criteria set forth in this Chapter. If the background check indicates a pending charge or conviction within the past ten (10) years for a controlled substance-related felony, the applicant shall not hire the prospective employee or agent without written permission from the City Council.
 - (7) The name, date of birth, physical address, copy of photo identification, and email address for any managerial employee or employee of the Marihuana Establishment, if other than the applicant.

- (8) An affirmation under oath as to whether the applicant or stakeholder has ever applied for or has been granted any commercial license or certificate issued by a licensing authority in Michigan or any other jurisdiction that has been denied, restricted, suspended, revoked, or not renewed, and a statement describing the facts and circumstances concerning the application, denial, restriction, suspension, revocation, or nonrenewal, including the licensing authority, the date each action was taken, and the reason for each action.
- (9) One of the following: (a) proof of ownership of the entire premises wherein the Marihuana Establishment 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 the lease for the premises.
- (10) Proof of an adequate premise liability and casualty insurance policy in the amount not exceeding the requirements addressed by the State under MRTMA or other applicable state laws, covering the Marihuana Establishment and naming the City as an additional insured party, available for the payment of any damages arising out of an act or omission of the applicant or its stakeholders, agents, employees, or subcontractors.
- (11) A description of the security plan for the Marihuana Establishment, 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.
- (12) A floor plan of the Marihuana Establishment, as well as a scale diagram illustrating the property upon which the Marihuana Establishment is to be operated, including all available parking spaces, and specifying which parking spaces, if any, are handicapped-accessible.
- (13) An affidavit that neither the applicant nor any stakeholder of the applicant is in default to the City. Specifically, that the applicant or stakeholder of the applicant has not failed to pay any property taxes, special assessments, fines, fee or other financial obligations to the City.
- (14) An affidavit that the transfer of marihuana to and from the Marihuana Establishment shall be in compliance with MRTMA and other applicable state laws.
- (15) A staffing plan.
- (16) Any proposed text or graphical materials to be shown on the exterior of the proposed Marihuana Establishment;
- (17) A location area map of the Marihuana Establishment and surrounding area that identifies any restricted buffer zone areas as identified in this Chapter, if applicable, and where the proposed establishment would be located in relation to the same.

- (18) 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.
- (19) As it relates to a Grower Facility as regulated by this Chapter, the following additional items are required:
- a. A grower plan that includes a description of the grower methods to be used, including plans for the growing mediums, treatments and/or additives;
 - b. A production testing plan that includes a description of how and when samples for laboratory testing by a state approved Safety Compliance Facility will be selected, what type of testing will be requested, and how the test results will be used;
 - c. An affidavit that all operations will be conducted in conformance with MRTMA and other applicable state laws, and such operations shall not be cultivated on the premises at any one time more than the permitted number of marihuana plants per MRTMA;
 - d. A chemical and pesticide storage plan that states the names of pesticides to be used and where and how pesticides/chemicals will be stored in the facility, along with a plan for the disposal of unused pesticides; and,
 - e. A description of how growing will be performed within an enclosed locked facility which may be indoors, in an enclosed greenhouse, or an outdoor grow.
- (20) Any additional information as may be required by the City to determine suitability of the proposed establishment, including, but not limited to, information necessary to allow the City to evaluate the competitive criteria categories, if applicable, as provided in this Chapter.
- (c) Upon receipt of a completed Marihuana Establishment application meeting the requirements of this Chapter and confirmation that the number of existing licenses does not exceed the maximum number established by this Chapter, the City shall refer a copy of the application to each of the following for their review and approval: the Police Department or their designee, the Fire Department or their designee, the Building Department, and the Zoning Administrator or their designee. Once applications are verified by each department to be sufficiently complete and comprehensive, the City shall forward the applications to the Planning Commission for review and recommendation to the City Council.
- (d) No application shall be approved unless:
- (1) The Fire Department or designee and the Building Department have inspected the plans of the proposed location for compliance with all laws for which they are charged with enforcement;

- (2) The applicant, each stakeholder of the applicant, and the managerial employees and employees of the applicant, have passed a criminal background check conducted by the City Police Department;
 - (3) The Zoning Administrator has confirmed that the proposed location complies with the Zoning Code; and
 - (4) A special condition application and corresponding fees have been filed with the City for consideration by the Zoning Administrator and Planning Commission;
- (e) If written approval is given by the required officials, the City Manager shall submit the application to the City Council for consideration of licensing approval. The requested Establishment License shall be approved if the applicant meets all approvals required by this Chapter, 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. To the extent permitted by state law, in granting a requested Establishment License, City Council may impose any conditions determined necessary to protect the public health, safety and general welfare of the community. All licenses issued are contingent upon the State of Michigan issuing a license for the operation under state law.
- (f) Licensees shall report any change(s) in the information required by this Chapter to the City within ten days of the change. Fees shall be set by Council Resolution for any stakeholder added after the original application is filed.

Sec. 8-40. License Applications Evaluation.

- (a) Any competing applications for available licenses shall be reviewed under a competitive process pursuant to MCL 333.27959.4, as may be amended.
- (1) For each type of Marihuana Establishment authorized by this Chapter with a limited number of municipal Licenses available, the City Manager shall open an application submission window. The timing, notice and duration of the window shall be determined by the City Manager. If a municipal License is available for a limited license type Marihuana Establishment, the City Manager must open a window at least once per calendar year. A timely renewed Marihuana Establishment License shall not be considered an available license under this Chapter.
 - (2) At the end of a window, if the number of applications for a Marihuana Establishment License exceeds the number of available licenses, the City shall decide among applications by a competitive process intended to select the applicant(s) who are best suited to operate in compliance with MRTMA within the City.
 - (3) Applications to be included in the competitive process are those received by the City prior to the end of the window and which are considered complete.

- (4) The applicants and their applications will be ranked in the order of which is best suited to operate in compliance with MRTMA within the City as determined by the City Manager or his or her designee. This ranking will be used to fill available municipal License slots, starting with the best-suited applicant and application, until all available municipal license slots are filled. A scoring evaluation shall be used to assist the City Manager in determining the best suited and qualified applicant for an Establishment License. Applicants who score the highest on such evaluations will be considered the best suited applicant.
- (b) *Application scoring.* The City shall assess the completeness of the application and score each application with the following competitive criteria categories, and assign a score within the range of scores allotted as follows:
- (1) The applicant's experience in operating other similarly licensed businesses. For purposes of this subsection (b) only, similarly licensed businesses shall include only Marihuana Establishments and Medical Marihuana Facilities operated by the applicant and licensed by Department.
 - a. Between 0 to 4 years of experience shall be assigned 0 points.
 - b. More than 4 years of experience shall be assigned 10 points.
 - (2) The applicant's general business management experience.
 - a. No demonstrated and verifiable general business management experience shall be assigned 0 points.
 - b. Demonstrated and verifiable general business management experience shall be assigned 10 points.
 - (3) The applicant's general business reputation.
 - a. Demonstrated and verifiable unfavorable general business reputation shall be assigned 0 points.
 - b. Demonstrated and verifiable favorable general business reputation shall be assigned 10 points.
 - (4) The integrity, moral character, and reputation; personal and business probity; financial ability and experience; and responsibility or means to operate or maintain a Marihuana Establishment of the applicant.
 - a. Demonstrated and verifiable information of non-favorable characteristics and/or lack of abilities as described in this subsection shall be assigned 0 points.
 - b. Demonstrated and verifiable information of some favorable characteristics and abilities as described in this subsection shall be assigned 5 points.
 - b. Demonstrated and verifiable information of all favorable characteristics and abilities as described in this subsection shall be assigned 10 points.

- (5) The financial ability of the applicant to purchase and maintain adequate liability and casualty insurance.
- a. No demonstrated financial ability to purchase and maintain required insurance shall be assigned 0 points.
 - b. Demonstrated and verifiable financial ability to purchase and maintain required insurance shall be assigned 10 points.
- (6) Whether the applicant or stakeholder is currently under indictment for or has been arrested for, or convicted of, pled guilty or nolo contendere to, forfeited bail concerning any relevant criminal offense under the laws of any jurisdiction, either felony or misdemeanor, not including traffic violations.
- a. Any demonstrated and/or verifiable criminal activity as described in this subsection shall be assigned 0 points.
 - b. No demonstrated and/or verifiable criminal activity as described in this subsection shall be assigned 10 points.
- (7) A felony or misdemeanor of such nature that it may impair the ability of the applicant or stakeholder to operate a licensed business in a safe and competent manner.
- a. Any demonstrated and/or verifiable felony or misdemeanor as described in this subsection shall be assigned 0 points.
 - b. No record of felony or misdemeanor as described in this subsection shall be assigned 10 points.
- (8) Whether the applicant or stakeholder has filed, or had filed against it, a proceeding for bankruptcy within the past seven (7) years.
- a. Any bankruptcy proceeding as described in this subsection shall be assigned 0 points.
 - b. No record of bankruptcy proceedings as described in this subsection shall be assigned 10 points.
- (9) Whether the applicant or stakeholder has been served with a complaint or other notice filed with any public body regarding payment of any federal, state, or local tax that has been delinquent for one (1) or more years.
- a. Any tax delinquency as described in this subsection shall be assigned 0 points.
 - b. No record of tax delinquency as described in this subsection shall be assigned 10 points.
- (10) Whether the applicant or stakeholder has a history of non-compliance with any regulatory requirements in the State of Michigan or any other jurisdiction.

a. Any demonstrated and/or verifiable history of non-compliance with regulatory requirements as described in this subsection shall be assigned 0 points.

b. No demonstrated and/or verifiable history of non-compliance with regulatory requirements as described in this subsection shall be assigned 10 points.

(11) The applicant's experience in operating other similarly licensed businesses in the City of Caro. For purposes of this subsection (b) only, similarly licensed businesses shall include only Marihuana Establishments and Medical Marihuana Facilities operated by the applicant and licensed by Department.

a. 0 years' experience shall be assigned 0 points.

b. Between 0 to 1 year of experience shall be assigned 2 points.

c. Between 1 to 4 years of experience shall be assigned 5 points.

d. More than 4 years of experience shall be assigned 10 points

Sec. 8-41. Licenses Generally.

(a) To the extent permissible, all information submitted in conjunction with an application for a license or license renewal required by this Chapter is confidential and exempt from disclosure under the Michigan Freedom of Information Act, 1976 PA 442, MCL 15.231, *et seq.*

(b) Licensees may transfer a license issued under this Chapter to a different location upon receiving written approval from the City. In order to receive approval to transfer a license location, the licensee must make a written request to the City, indicating the current license location and the proposed license location. Upon receiving the written request, the City shall refer a copy of the written request to each of the following for their approval: the Fire Department or their designee, the Building Department, the Police Department or their designee, the Zoning Administrator and Planning Commission or other City official or their designee, and the City Council. No license transfer shall be approved unless the required officials each give written approval that the licensee and the proposed license location meet the standards identified in this Chapter. A license transfer fee shall be established by City Council through resolution.

(c) Licensees may transfer a license issued under this Chapter to a different individual or entity upon receiving written approval by the City. A licensee desiring to transfer a license to a different individual or entity must make a written request to the City, indicating the current licensee and the proposed licensee. Upon receiving the written request, the City shall consider the request as a new application for a license. A license transfer fee shall be established by City Council through resolution.

(d) Licensees shall report any other change in the information required by this Chapter to the City within ten (10) business days of the change. Failure to do so may result in suspension or revocation of the license.

Sec. 8-42. Minimal Operational Standards of Marihuana Grower Establishments.

The following minimum standards for a Marihuana Grower Establishment shall apply:

- (a) The Grower Establishment shall comply with MRTMA and the Department of Licensing and Regulatory Affairs at all times and in all circumstances, as they may be amended from time to time.
- (b) The premises shall be open, at all times, to any MRTMA Licensing Board investigators, agents, auditors, or police, without a warrant and without notice to the holder of the license, to enter the premises, offices, facilities, or other places of business of a licensee, if evidence of compliance or non-compliance with MRTMA is likely to be found and consistent with constitutional limitations, for the following purposes:
 - (1) To inspect and examine all premises of the Marihuana Establishment;
 - (2) To inspect, examine, and audit relevant records of the licensee and, if the holder of the license or any of the managerial employees or employees fails to cooperate with an investigation, the investigator may impound, seize, assume physical control of, or summarily remove from the premises all books, ledgers, documents, writings, photocopies, correspondence, records, and videotapes, including electronically stored records, money receptacles, or equipment in which the records are stored;
 - (3) To inspect the person or examine personal effects present in a Marihuana Establishment, of any holder of state operating license while that person is present in a Marihuana Establishment;
 - (4) To investigate alleged violations of MRTMA or the City's Ordinances.
- (c) Any Grower Establishment shall maintain a log book and/or database indicating the number of marihuana plants therein. Each marihuana plant will be tagged as required by the MRTMA.
- (d) All marihuana shall be contained within an enclosed locked facility that prevents access by persons not permitted by the Marihuana Establishment to access the area.
- (e) All necessary building, electrical plumbing and mechanical permits shall be obtained for any portion of the structure in which electrical wiring, lighting and/or watering devices that support the grower, growing or harvesting of marihuana are located.
- (f) That portion of the structure storing any chemicals such as herbicides, pesticides, and fertilizers shall be subject to inspection and approval by the City Fire Department to insure compliance with applicable statutes, codes and Ordinances.
- (g) The dispensing of marihuana at the Grower Establishment is prohibited.
- (h) All persons working in direct contact with marihuana shall conform to hygienic practices while on duty, including but not limited to:
 - (1) Maintaining adequate personal cleanliness;
 - (2) Washing hands thoroughly in adequate hand-washing areas before starting work and at any other time when the hands may have become soiled or

contaminated;

- (3) Refraining from having direct contact with marihuana if the person has or may have an illness, open lesion including boils, sores or infected wounds, or any other abnormal source of microbial contamination, until the condition is corrected.
- (i) Litter and waste shall be properly removed and the operating systems for waste disposal shall be maintained so that they do not constitute a source of contamination in the areas where marihuana is exposed.
- (j) Floors, walls and ceiling shall be constructed in such a manner that they are accessible for adequate cleaning and kept in good repair.
- (k) There shall be adequate screening or other protection against the entry of pests. Rubbish shall be disposed of to minimize the development of odor and the potential for waste becoming and attractant, harborage or breeding places for pests.
- (l) Any buildings, fixtures, and other facilities shall be maintained in a sanitary condition.
- (m) Each Grower Establishment shall provide its occupants with readily accessible toilet facilities that are maintained and are in sanitary condition.
- (n) Marihuana that can support the rapid growth of undesirable microorganisms shall be held in a manner that prevents the growth of these microorganisms.
- (o) The Grower Establishment shall be free from infestation by insects, rodents, birds, or vermin of any kind.
- (p) No pictures, photographs, drawings or other depictions of marihuana or marihuana paraphernalia shall appear on the outside of any licensed Grower Establishment, nor be visible outside of the premises. The words "marihuana," "cannabis," and any other words used or intended to convey the presence or availability of marihuana shall not appear on the outside of the premises nor be visible outside of the premises.

Sec. 8-43. Minimal Operational Standards for a Marihuana Retailer.

The following minimum standards for Marihuana Retailers shall apply:

- (a) No Retailer shall be open to the public between the hours of 9:00 PM and 6:00 AM.
- (b) Consumption of marihuana shall be prohibited at the Retailer location, and a sign shall be posted on the premises of each Retailer indicating that consumption is prohibited on the premises.
- (c) Retailers shall continuously monitor the entire premises with surveillance systems that include security cameras. The video recordings shall be maintained in a secure, off-site location for a period of 14 days.
- (d) The public or common areas of the Retailer must be separated from the non-public areas of the Marihuana Establishment.

- (e) All marihuana storage areas within the Retailer must be separated from any customer areas by a permanent barrier. Marihuana may be displayed in a sales area.
- (f) Any usable marihuana remaining on the premises of a Retailer while the Retailer is not in operation shall be secured from the public.
- (g) Drive-through window on the premises of a Retailer shall not be permitted.
- (h) The Retailer shall not allow the sale, consumption, or use of alcohol or tobacco products on the premises.
- (i) No Retailer shall be operated in a manner creating noise, dust, vibration, glare, fumes, or odors detectable to normal senses beyond the boundaries of the property at which the Retail center is operated.
- (j) The License required by this Chapter shall be prominently displayed on the premises of the Retailer.
- (k) Disposal of marihuana shall be accomplished in a manner that prevents its acquisition by any person who may not lawfully possess it or otherwise in non-conformance with state laws.
- (l) All marihuana shall be packaged and labeled as provided by state laws.
- (m) The Retailer premises shall be open, at all times, to any Michigan Licensing Board investigators, agents, auditors, or police, without a warrant and without notice to the holder of the license, enter the premises, offices, facilities, or other places of business of a licensee, if evidence of compliance or non-compliance with MRTMA is likely to be found and consistent with constitutional limitations, for the following purposes:
 - (1) To inspect and examine all premises of the Marihuana Establishment.
 - (2) To inspect, examine, and audit relevant records of the licensee and, if the holder of the license or any of the managerial employees or employees fails to cooperate with an investigation, the investigator may impound, seize, assume physical control of, or summarily remove from the premises all books, ledgers, documents, writings, photocopies, correspondence, records, videotapes, including electronically stored records, money receptacles, or equipment in which the records are stored.
 - (3) To inspect the person or examine personal effects present in a Marihuana Establishment, of any holder of state operating license while that person is present in a Marihuana Establishment.
 - (4) To investigate alleged violations of MRTMA or applicable state laws.
- (n) The Retailer is prohibited from using advertising material that is misleading, deceptive, or false, or that is designed to appeal to minors.
- (o) No pictures, photographs, drawings or other depictions of marihuana or marihuana paraphernalia shall appear on the outside of any licensed Retailer premises nor be visible outside of the premises. The words “marihuana,” “cannabis,” and any other words used or intended to convey the presence or availability of marihuana shall

not appear on the outside of the premises nor be visible outside of the premises.

Sec. 8-44. Minimum Operational Standards of Safety Compliance Facility.

The following minimum standards for a Safety Compliance Facility shall apply:

- (a) The Safety Compliance Facility shall comply with MRTMA and the general rules of the Department of Licensing and Regulatory Affairs at all times and in all circumstances, as they may be amended from time to time.
- (b) Consumption and/or use of marihuana shall be prohibited at the facility;
- (c) The premises shall be open, at all times, to any MRTMA Licensing Board investigators, agents, auditors, or police, without a warrant and without notice to the licensee, enter the premises, offices, facilities, or other places of business of a licensee, if evidence of compliance or non-compliance with MRTMA is likely to be found and consistent with constitutional limitations, for the following purposes.
 - (1) To inspect and examine all premises of Marihuana Establishment.
 - (2) To inspect, examine, and audit relevant records of the licensee and, if the licensee or any managerial employees or employees fails to cooperate with an investigation, the investigator may impound, seize, assume physical control of, or summarily remove from the premises all books, ledgers, documents, writings, photocopies, correspondence, records, videotapes, including electronically stored records, money receptacles, or equipment in which the records are stored.
 - (3) To inspect the person or examine personal effects present in a Marihuana Establishment, of any holder of state operating license while that person is present in a Marihuana Establishment.
 - (4) To investigate alleged violations of MRTMA or applicable state laws.
- (d) The Safety Compliance Facility shall maintain a log book and/or database which complies with MRTMA.
- (e) All marihuana shall be contained within the building and in an enclosed locked facility in accordance with MRTMA.
- (f) There shall be no other accessory uses permitted within the same facility other than those associated with testing marihuana.
- (g) All persons working in direct contact with marihuana shall conform to hygienic practices while on duty.
- (h) Litter and waste shall be properly removed and the operating systems for waste disposal shall be maintained so that they do not constitute a source of contamination in areas where marihuana is exposed.
- (i) Floors, walls and ceilings shall be constructed in such a manner that they may be adequately cleaned and kept clean and in good repair.
- (j) Any buildings, fixtures and other facilities shall be maintained in a sanitary

condition.

- (k) Marihuana that can support the rapid growth of undesirable microorganisms shall be held in a manner that prevents the growth of these microorganisms.
- (l) No pictures, photographs, drawings or other depictions of marihuana or marihuana paraphernalia shall appear on the outside of any licensed Safety Compliance Facility establishment, nor be visible outside of the premises. The words “marihuana,” “cannabis,” and any other words used or intended to convey the presence or availability of marihuana shall not appear on the outside of the premises nor be visible outside of the premises.

Sec. 8-45. Minimum Operational Standards of Marihuana Processor.

The following minimum standards for Marihuana Processor shall apply:

- (a) The Processor shall comply at all times and in all circumstances with the MRTMA, and the general rules of the Department of Licensing and Regulatory Affairs, as they may be amended from time to time.
- (b) Consumption and/or use of marihuana shall be prohibited at the Processor facility.
- (c) All activity related to the Processor shall be done indoors.
- (d) The premises shall be open, at all times, to any MRTMA Licensing Board investigators, agents, auditors, or police, without a warrant and without notice to the licensee, enter the premises, offices, facilities, or other places of business of a licensee, if evidence of compliance or non-compliance with MRTMA or applicable state laws is likely to be found and consistent with constitutional limitations, for the following purposes:
 - (1) To inspect and examine all premises of the Marihuana Establishment;
 - (2) To inspect, examine, and audit relevant records of the licensee and, of the licensee or any managerial employees or employees fails to cooperate with an investigation, the investigator may impound, seize, assume physical control of, or summarily remove from the premises all books, ledgers, documents, writings, photocopies, correspondence, records, videotapes, including electronically stored records, money receptacles, or equipment in which the records are stored;
 - (3) To inspect the person or examine personal effects present in a Marihuana Establishment, of any holder of state operating license while that person is present in a Marihuana Establishment;
 - (4) To investigate alleged violations of MRTMA or applicable state laws.
- (e) Any Processor shall maintain a logbook and/or database which complies the MRTMA, as amended, or applicable state laws.
- (f) All marihuana shall be tagged as required by MRTMA.
- (g) All marihuana shall be contained within an enclosed locked facility in accordance with MRTMA, as amended.

- (h) All necessary building, electrical plumbing and mechanical permits shall be obtained for any portion of the structure in which electrical wiring for devices that support the Processing of marihuana are located.
- (i) That portion of the structure where the storage of any chemicals is located shall be subject to inspection and approval by the City Fire Department to ensure compliance with all applicable statutes, codes and ordinances.
- (j) The dispensing of medical marihuana at the Processor facility shall be prohibited.
- (k) All persons working in direct contact with marihuana shall conform to hygienic practice while on duty, including but not limited to:
 - (1) Maintaining adequate personal cleanliness;
 - (2) Washing hands thoroughly in adequate hand-washing areas before starting work and at any other time when the hands may have become soiled or contaminated;
 - (3) Refraining from having direct contact with marihuana if the person has or may have an illness, open lesion including boils, sores or infected wounds, or any other abnormal source of microbial contamination, until the condition is corrected.
- (l) Litter and waste shall be properly removed and the operating systems for waste disposal are maintained so that they do not constitute a source of contamination in areas where marihuana is exposed.
- (m) Floors, walls, and ceilings shall be constructed in such a manner that they may be adequately cleaned and kept clean and in good repair.
- (n) There shall be adequate screening or other protection against the entry of pests. Rubbish shall be disposed of so as to minimize the development of odor and minimize the potential for the waste development of odor and minimize the potential for waste becoming and attractant, harborage or breeding places for pests.
- (o) Any buildings, fixtures and other facilities shall be maintained in a sanitary condition.
- (p) Each Processor shall provide its occupants with readily accessible toilet facilities that are maintained in a sanitary condition.
- (q) Marihuana that can support the rapid growth of undesirable microorganisms shall be held in a manner that prevents the growth of these microorganisms.
- (r) The Processor shall be free from infestation by insects, rodents, birds, or vermin of any kind.
- (s) The Processor shall not produce anything other than useable marihuana intended for human consumption.
- (t) No pictures, photographs, drawings or other depictions of marihuana or marihuana paraphernalia shall appear on the outside of any licensed Processor Establishment, nor be visible outside of the premises. The words "marihuana," "cannabis," and

any other words used or intended to convey the presence or availability of marihuana shall not appear on the outside of the premises nor be visible outside of the premises.

Sec. 8-46. Minimum Operational Standards of Marihuana Secure Transporter.

The following minimum standards for Marihuana Secure Transporters shall apply:

- (a) The Secure Transporter shall comply at all times with the MRTMA and the general rules of the Department of Licensing and Regulatory Affairs, as they may be amended from time to time.
- (b) Consumption and/or use of marihuana shall be prohibited at a storage facility of a Secure Transporter.
- (c) Storage of marihuana by a Secure Transporter shall comply with the following:
 - (1) The storage facility shall be continuously monitored with a surveillance system that includes security cameras. The video recording shall be maintained in a secure, off- site location for a period of fourteen (14) days;
 - (2) The storage facility shall not be used for any other commercial purpose;
 - (3) The storage facility shall not be open or accessible to the general public;
 - (4) The storage facility shall be maintained and operated so as to comply with all state and local rules, regulations and ordinances;
 - (5) The storage facility shall be open at all times to any MRTMA Licensing Board investigator or police officers, without a warrant and without notice to the holder of the license, enter the premises, offices, facilities or other places of business of a licensee, if evidence of compliance or non-compliance with MRTMA is likely to be found and consistent with constitutional limitations for the following purposes:
 - a. To inspect and examine all premises of the Marihuana Establishment;
 - b. To inspect, examine and audit relevant records of the licensee and, if the holder of the license or any of the managerial employees or employees fails to cooperate with an investigation, the investigator may impound, seize, assume physical control of, or summarily remove from the premises all books, ledgers, documents, writings, photocopies, correspondence, records, videotapes, including electronically stored records, money receptacles, or equipment in which the records are stored;
 - c. To inspect the person or examine personal effects present in a Marihuana Establishment, of any holder or state operating license while that person is present in a Marihuana Establishment;
 - d. To investigate alleged violations of MRTMA or applicable state laws.
- (6) All marihuana stored within the facility shall be within enclosed, locked facilities in accordance with MRTMA.

- (7) All persons working in direct contact with marihuana being stored by a Secure Transporter shall conform to hygienic practices while on duty, including but not limited to:
 - a. Maintaining adequate personal cleanliness;
 - b. Washing hands thoroughly in adequate hand washing areas before starting work and at any other time when the hands may have become soiled or contaminated;
 - c. Refrain from having direct contact with marihuana if the person has or may have an illness, open lesion including boils, sores or infected wounds, or any other abnormal source of microbial contamination, until the condition is corrected.
- (d) A Secure Transporter Licensee and each stakeholder shall not have an interest in another Marihuana Establishments.
- (e) A Secure Transporter shall enter all transactions, current inventory, and other information as required by the state into the statewide monitoring system as required by law.
- (f) A Secure Transporter shall comply with all the following:
 - (1) Each driver transporting marihuana must have a chauffeur's license issued by the state;
 - (2) Each employee who has custody of marihuana or money that is related to a marihuana transaction shall not have been convicted of or released from incarceration, for a felony under the laws of this state, any other state, or the United States within the past five (5) years, or have been convicted of a misdemeanor involving a controlled substance with the past five (5) years;
 - (3) Each vehicle shall be operated with a two-person crew with at least one individual remaining with the vehicle at all times during the transportation of marihuana;
 - (4) A route plan and manifest shall be entered into the statewide monitoring system, and a copy shall be carried in the transporting vehicle and presented to a law enforcement officer upon request;
 - (5) The marihuana shall be transported by one or more sealed containers and not be accessible while in transit; and
 - (6) A Secure Transporting vehicle shall not bear markings or other indication that it is carrying marihuana or a marihuana infused product.
- (g) A vehicle used by a Secure Transporter is subject to administrative inspection by a law enforcement officer at any point during the transportation of marihuana to determine compliance with all state and local laws, rules, regulations and ordinances.

Sec. 8-47. City Liability and Indemnification.

- (a) By accepting an Establishment License issued under this Chapter, 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 the establishment owners, operators, employees, clients or customers for a violation of state or federal laws, rules or regulations.
- (b) By accepting an Establishment License issued under this Chapter, 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 establishment, arising out of, claimed to have arisen out of, or in any manner connected with the operation of an establishment or use of a product cultivated, processed, distributed or sold that is subject to the establishment 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. § 1964(c).
- (c) By accepting an Establishment License issued under this Chapter, 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. § 801, *et seq.*, or Article 7 of the Michigan Public Health Code, MCL 333.7101, *et seq.*

Sec. 8-48. Revocation and Review.

- (a) An Establishment License granted under this Chapter may be revoked for any of the following reasons:
 - (1) Any fraud or misrepresentation contained in the Establishment License application;
 - (2) Any violation of this Chapter;
 - (3) Loss, expiration or revocation of the applicant’s State License under MRTMA;
 - (4) Conducting business in violation of this Ordinance, MRTMA; 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.
- (b) No Establishment License issued under this Chapter shall be revoked except after hearing before the City Council, with at least ten (10) days' written notice to the

Establishment License holder stating the time and place of such hearing and setting forth the reasons for revocation.

- (c) An applicant for any Establishment License who has been refused a license or the renewal of a license under this Chapter for any reason by the authorized issuing officer, or whose Establishment 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 City 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 City Council shall grant a hearing to the applicant or suspended license holder with at least ten (10) days written notice. The decision of the City Council on such appeal shall be final.

Sec. 8-49. Penalties and Enforcement.

- (a) Any person who violates any of the provisions of this Chapter shall be responsible for a municipal civil infraction and subject to the payment of a civil fine, not more than \$500, plus costs. Each day a violation of this Chapter continues to exist constitutes a separate violation. A violator of this Chapter shall also be subject to such additional sanctions, remedies and judicial orders as authorized under Michigan law.
- (b) A violation of this Chapter 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 Chapter.
- (c) This Chapter 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.

Section 3. ZONING ORDINANCE AMENDMENTS.

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:

Article X. (B-1 Community Business Districts)

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 Chapter 8 of City of Caro Ordinances, sections 8-29 to 8-30.

- (9) **Adult Use Marihuana Retailers and Marihuana Safety Compliance Facilities, subject to the conditions of Chapter 8 of City of Caro Ordinances, sections 8-31 to 8-49.**

Article XI. (B-2 General Business Districts)

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 Chapter 8 of City of Caro Ordinances, sections 8-29 to 8-30.
- (12) Adult Use Marihuana Retailers and Marihuana Safety Compliance Facilities subject to the conditions of Chapter 8 of City of Caro Ordinances, sections 8-13 to 8-49.**
- (13) Accessory buildings and uses customarily incidental to any of the above-permitted uses.
- (14) 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.
- (15) Ministorage facilities, subject to the condition of section 44-711(28).

Article XII. (I-1 Light Industrial Districts)

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 planing 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) **Adult Use Marihuana Establishments, subject to the conditions of Chapter 8 of City of Caro Ordinances, sections 8-31 to 8-49.**
- (12) Accessory buildings and uses customarily incidental to any of the above-permitted uses.

Article XIII. (I-2 General Industrial Districts)

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) **Adult Use Marihuana Establishments, subject to the conditions of Chapter 8 of City of Caro Ordinances, sections 8-31 to 8-49.**

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

Section 4. CONFLICT.

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

Section 5. REPEALED.

All Ordinance or parts of ordinances of the City in conflict herewith, including but not limited to Ordinance Section 8-28, are hereby repealed, but only to the extent necessary to give this Ordinance full force and effect.

Section 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 _____ day of _____ 2021, and the second reading has been set for _____, 2021.

Section 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.

Section 8. EFFECTIVE DATE.

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

Section 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 Mayor and City Clerk and shall be published once in the City newspaper of record.

City Clerk/Treasurer

City Mayor