

**CHARTER TOWNSHIP OF AUSABLE
IOSCO COUNTY, MICHIGAN**

ORDINANCE # 119

AN ORDINANCE TO IMPLEMENT THE PROVISIONS OF THE MICHIGAN REGULATION AND TAXATION OF MARIHUANA ACT, INITIATED LAW 1 OF 2018, WHICH AUTHORIZES THE LICENSING AND REGULATION OF MARIHUANA ESTABLISHMENTS AND AFFORDS THE CHARTER TOWNSHIP OF AUSABLE THE OPTION WHETHER OR NOT TO ALLOW MARIHUANA ESTABLISHMENTS; TO REGULATE MARIHUANA ESTABLISHMENTS BY REQUIRING A PERMIT AND COMPLIANCE WITH REQUIREMENTS AS PROVIDED IN THIS ORDINANCE, IN ORDER TO MAINTAIN THE PUBLIC HEALTH, SAFETY, AND WELFARE OF THE RESIDENTS OF AND VISITORS TO THE TOWNSHIP; TO PROVIDE PENALTIES FOR VIOLATION OF THIS ORDINANCE; TO PROVIDE FOR SEVERABILITY; TO PROVIDE AN EFFECTIVE DATE; AND TO PARTIALLY REPEAL CHARTER TOWNSHIP OF AUSABLE ORDINANCE NO. 117 (THE PROHIBITION OF MARIHUANA ESTABLISHMENTS ORDINANCE).

THE CHARTER TOWNSHIP OF AUSABLE ORDAINS:

SECTION I. DEFINITIONS.

The following words and phrases shall have the following definitions when used in this ordinance. Any term defined by the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951 et seq. shall have the definition given by that Act.

1. "Act" means the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951 et seq.
2. "Application" means an application for a permit under this ordinance and includes all supplemental documentation attached or required to be attached thereto; and the person filing the application shall be known as "the Applicant."
3. "License" means a current and valid license for a marihuana establishment issued by the state of Michigan.
4. "Licensee" means a person holding a current and valid license for a marihuana establishment issued by the state of Michigan.
5. "Marihuana" means that term as defined in the Act.
6. "Marihuana establishment" means those terms as defined in the Act or in the regulations promulgated by the Michigan Marihuana Regulatory Agency, including:
 - "Designated Consumption Establishment"
 - "Excess Marihuana Grower"
 - "Marihuana Event Organizer"

- “Marihuana Grower”
- “Marihuana Microbusiness”
- “Marihuana Processor”
- “Marihuana Retailer”
- “Marihuana Safety Compliance Facility”
- “Marihuana Secure Transporter”
- “Temporary Marihuana Event License”

7. “Permit” means a current and valid approval for a marihuana establishment issued by the Charter Township of AuSable under this ordinance, which shall be granted to a permit holder only for and limited to a specific permitted premises and specific permitted property.

8. “Permit holder” means the person that holds a current and valid permit issued by the Township under this ordinance.

9. “Permitted premises” means the particular building or buildings within which the permit holder will be authorized to conduct the marihuana establishment’s activities pursuant to a permit.

10. “Permitted property” means the real property comprised of a lot, parcel, or other Township-designated unit of real property upon which the marihuana establishment is situated.

11. “Person” means a natural person, company, partnership, profit or non-profit corporation, limited liability company, or any joint venture for a common purpose.

12. “Regulations” means any current or future regulations promulgated by the Michigan State Department of Licensing and Regulatory Affairs, the Michigan Marihuana Regulatory Agency, and any designated Michigan agency authorized to regulate, issue, or administer a license for a marihuana establishment, including, but not limited to, the “emergency rules” that were filed with the Michigan Secretary of State on July 3, 2019, and any future amendments to or replacement of those rules.

13. “Special use permit” means a permit for the use of the permitted property and permitted premises for a specific purpose in the Township approved and issued by the Township Planning Commission under the Charter Township of AuSable Zoning Ordinance, which may include conditions, restrictions, and other specified requirements.

SECTION II. PERMIT REQUIRED; NUMBER OF PERMITS AVAILABLE; ELIGIBILITY; GENERAL PROVISIONS.

1. Type and Number of Marihuana Establishments. The Township hereby authorizes the operation of the following types of marihuana establishments in the Township, subject to the conditions, restrictions, and other specified requirements imposed by the Township Planning Commission pursuant to a special use permit. All marihuana establishments shall be limited to the permitted premises, and the total number of permits in effect at any time shall not exceed the maximum number for each category of marihuana establishment as specified below:

A. <u>Designated Consumption Establishment:</u>	0 permits allowed.
B. <u>Excess Marihuana Grower:</u>	0 permits allowed.
C. <u>Marihuana Event Organizer:</u>	0 permits allowed.
D. <u>Marihuana Grower:</u>	
<u>Class A Marihuana Grower:</u>	1 permit allowed.
<u>Class B Marihuana Grower:</u>	0 permits allowed.
<u>Class C Marihuana Grower:</u>	0 permits allowed.
E. <u>Marihuana Microbusiness:</u>	0 permits allowed.
F. <u>Marihuana Processor:</u>	1 permit allowed.
G. <u>Marihuana Retailer:</u>	1 permit allowed.
H. <u>Marihuana Safety Compliance Facility:</u>	1 permit allowed.
I. <u>Marihuana Secure Transporter:</u>	1 permit allowed.
J. <u>Temporary Marihuana Event License:</u>	0 permits allowed.

The Township Board of Trustees may review and amend the above maximums by resolution or amendment of this ordinance as it determines to be advisable. Such revisions shall not be the basis for termination or non-renewal of a permit previously issued.

2. Permit Requirement. No person shall operate a marihuana establishment at any time on any location within the Township unless the applicant has secured (1) a license from the state of Michigan; (2) a permit issued by the Township under this ordinance; and (3) a special use permit issued by the Township Planning Commission.

3. Revoked License. If the state of Michigan revokes the license of a permit holder, the permit granted by the Township shall automatically be revoked at the same time.

4. Permit Fee. A nonrefundable fee shall be paid by each marihuana establishment permitted under this ordinance in an annual amount of \$5,000.00 prior to the Township's issuance of a permit by the Township under this ordinance.

5. Application Procedure.

A. Every applicant for a permit to operate a marihuana establishment shall file an application in the Township Zoning Administrator's office upon a form provided by the Township.

B. Every applicant for a permit to operate a marihuana establishment shall submit with the application a photocopy of the applicant's valid and current license issued by the state of Michigan.

C. Upon an applicant's completion of the above-described form and furnishing of all required information and documentation, the Township Zoning Administrator shall accept the application and assign it in sequential application number by marihuana establishment type based on the date and time of acceptance. The Township Zoning Administrator shall act to approve or deny an application not later than fourteen (14) days from the date the application was accepted. If approved, the Township Zoning Administrator shall issue the applicant a provisional permit.

D. A provisional permit means only that the applicant has submitted a valid application for a marihuana establishment permit, and the applicant shall not locate or operate a marihuana establishment without obtaining all other permits and approvals required by all other applicable ordinances and regulations of the Township. A provisional permit will lapse and be void if such permits and approvals are not diligently pursued to completion.

E. Within fourteen (14) days from the applicant submitting proof of obtaining all other required permits and approvals and payment of the permit fee, the Township Zoning Administrator shall approve or deny the marihuana establishment permit. The Township Zoning Administrator shall issue marihuana establishment permits in order of the sequential application number previously assigned.

F. Maintaining a valid marihuana establishment license issued by the state of Michigan is a condition for the issuance and maintenance of a marihuana establishment permit under this ordinance and continued operation of any marihuana establishment.

G. A marihuana establishment permit issued under this ordinance is not transferable or assignable without the approval of the Township Board of Trustees.

H. The permit issued under this ordinance shall be prominently displayed at the permitted premises in a location where it can be easily viewed by the public, law enforcement, and administrative authorities.

I. Acceptance by the permit holder of a permit constitutes consent by the permit holder and its owners, officers, managers, agents, employees, and representatives for any state, federal, or local law enforcement agency and the Township Zoning Administrator to conduct random examinations of the marihuana establishment and all records, materials, and property in the marihuana establishment, to ensure compliance with this ordinance, the permit, state of Michigan laws and regulations, and any other local ordinances.

J. No permit shall be granted or renewed for a marihuana establishment in a building or area not specifically zoned for that purpose.

6. Permit Renewal. A marihuana establishment permit shall be valid for one (1) year from the date of issuance. A valid marihuana establishment permit may be renewed on an annual basis by submitting a renewal application upon a form provided by the Township and payment of the annual permit fee. Application to renew a marihuana establishment permit shall be filed at least thirty (30) days prior to the date of its expiration.

SECTION III. CO-LOCATION.

A marihuana grower, marihuana processor, and a marihuana retailer may, if such marihuana establishments have been authorized under section II of this ordinance, operate from within a single facility operating pursuant to the Act and may operate from a location shared with a marihuana facility operating pursuant to the Michigan Medical Marihuana Facilities Licensing Act and Charter Township of AuSable Ordinance No. 113, in accordance with the requirements imposed by the Act, the regulations, and applicable Township requirements.

SECTION IV. OPERATIONAL REQUIREMENTS.

A marihuana establishment issued a permit under this ordinance shall comply with the following operational requirements, which the Township Board of Trustees may review and amend from time to time as it determines reasonable.

1. Compliance. A marihuana establishment shall comply with all applicable ordinances, codes, and requirements of the local zoning, building, and health department authorities.
2. Security. Permit holders shall at all times maintain a security system that satisfies the requirements imposed under the Act and the regulations.
3. Sign Restrictions. All signage shall comply with the requirements of the Act, the regulations, and any restrictions imposed by the Township Planning Commission and the Township Zoning Ordinance.
4. Waste Disposal. The permit holder shall use lawful methods as specified in the regulations and as required by the Township in controlling waste and by-products from any activities allowed under the license and the permit.
5. Amount of Marihuana. The amount of marihuana on the permitted property and under the control of the permit holder, owner, or operator of the marihuana establishment shall not exceed the amount permitted by the license or the permit.
6. Consumption on Premises. The sale, consumption, or use of alcohol or tobacco products on the permitted premises is prohibited. Smoking or consumption of controlled substances, including marihuana, on the permitted property is prohibited.

7. Sale of Marihuana. The marihuana offered for sale and distribution must be packaged and labeled in accordance with the applicable laws and regulations.

8. Indoor Operation. All activities of marihuana establishments, including distribution, growth, cultivation, and the sale of marihuana, and all other related activities permitted under the permit holder's license or permit, must occur indoors. A marihuana retailer shall not use a drive-through window or similar sales method.

9. Operating Hours. A marihuana retailer shall operate during the hours as permitted in the special use permit issued by the Township Planning Commission or as required by the state of Michigan.

SECTION V. VIOLATIONS AND PENALTIES.

1. Any person or organization who violates any of the provisions of this ordinance shall be responsible for a municipal civil infraction, as defined by Section 113 of the Revised Judicature Act of 1961, being Michigan Public Act 236 of 1961, as amended ("Public Act 236").

2. The Charter Township of AuSable Superintendent, the Charter Township of AuSable Zoning Administrator, the Charter Township of AuSable Ordinance Enforcement Officer, and Charter Township of AuSable officials and employees as may be authorized by the Charter Township of AuSable Board of Trustees are authorized to administer and enforce this ordinance and issue municipal civil infraction citations.

3. A municipal civil infraction action may be commenced upon the issuance by an authorized local official directing the defendant to appear in court.

4. Failure of the defendant to appear within the time specified on a citation or at the time scheduled for a hearing or appearance is a misdemeanor punishable by up to ninety (90) days in jail and/or up to a \$500.00 fine, plus costs of prosecution, and can result in the entry of a default judgment against the defendant on the municipal civil infraction.

5. A defendant found responsible by the judge or magistrate for a violation of this ordinance shall pay a fine not to exceed \$500.00, plus costs not to exceed \$500.00, which are not limited to the costs taxable in ordinary civil actions and may include all expenses, direct and indirect, to which the Township has been put in connection with the municipal civil infraction, up to the entry of judgment. Except as otherwise provided by law, costs shall be payable to the general fund of the Township.

6. In addition to ordering a defendant to pay a civil fine and costs, the court may issue and enforce any judgment, writ, or order (including but not limited to injunctive relief) necessary to enforce this ordinance, in accordance with Section 8302 of Public Act 236.

7. If a defendant fails to comply with an order or judgment issued pursuant to Section 8727 of Public Act 236 within the time prescribed by the court, the court may proceed under Sections 8302, 8729, and 8731 of Public Act 236, as applicable.

8. Each day on which any violation of this ordinance continues constitutes a separate offense, and the offender shall be subject to the applicable fine, costs, penalties, and sanctions for each separate offense.

9. In addition to any remedies available at law, the Township may bring an action for an injunction or other process against a defendant to restrain, prevent, or abate any violation of this ordinance.

SECTION VI. EFFECTIVE DATE.

This ordinance shall become effective immediately upon its publication as required by law.

SECTION VII. PUBLICATION; RECORDATION; AUTHENTICATION.

This ordinance or a lawful summary shall be published once in a newspaper of general circulation within the boundaries of the Township, and qualified under state law to publish legal notices, within thirty (30) days after its adoption; this ordinance shall be recorded in the record of ordinances book of the Township; and the Township Supervisor and the Township Clerk shall authenticate this ordinance by placing his or her official signature upon this ordinance.

SECTION VIII. SEVERABILITY.

The provisions of this ordinance are hereby declared to be severable, and if any clause, sentence, word, section, or provision is hereafter declared void or unenforceable for any reason by any court of competent jurisdiction, it shall not affect the remainder of this ordinance, which shall continue in full force and effect.

SECTION XIX. PARTIAL REPEAL OF TOWNSHIP ORDINANCE.

Charter Township of AuSable Ordinance No. 117, the Charter Township of AuSable Prohibition of Marihuana Establishments Ordinance, is hereby repealed to the extent that marihuana establishments are authorized by the Township under section II of this ordinance.

CERTIFICATION

I hereby certify that the foregoing constitutes a true and complete copy of an ordinance duly adopted by the Charter Township of AuSable Board of Trustees at a regular meeting held on the ____ day of _____, _____.

I further certify that the following Board members were present at the meeting: _____, _____, and that the following Board members were absent: _____.

I further certify that the Board member _____ moved for adoption of the ordinance, and the motion was supported by the Board member _____.

I further certify that the following Board members voted upon roll call vote for the adoption of the ordinance: _____, and the following Board members voted against the adoption of the ordinance: _____.

Adopted and approved this ____ day of _____, _____, by the Charter Township of AuSable Board of Trustees.

The Township Supervisor declared this ordinance adopted.

Dated: _____

Kevin Beliveau
Charter Township of AuSable Supervisor

Dated: _____

Kelly Graham
Charter Township of AuSable Clerk

