

CHARTER TOWNSHIP OF AUSABLE

AN ORDINANCE TO AMEND THE AUSABLE CHARTER TOWNSHIP ZONING ORDINANCE

THE CHARTER TOWNSHIP OF AUSABLE ORDAINS that the AuSable Charter Township Zoning Ordinance, as amended, be further amended as follows:

I. The following definitions are added to Article 2 (“Definitions”), Section 2.02, of the AuSable Charter Township Zoning Ordinance:

- A. **Grower:** - A licensee that is a commercial entity located in the state that cultivates, dries, trims, or cures and packages marihuana for sale to a processor or provisioning center.
- B. **Licensee:** - A person holding a state operating license issued under the Medical Marihuana Facilities Licensing Act MCL 333.27101 et seq.
- C. **Marijuana or Marihuana:** -That term as defined in the Public Health Code, MCL 333.1101 et seq., the Michigan Medical Marihuana Act, MCL 333.26421 et seq.; the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.; and the Marihuana Tracking Act, MCL 333.27901 et seq.
- D. **Marihuana facility:** - An enterprise at a specific location at which a licensee is licensed to operate under the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.; including a marihuana grower, marihuana processor, marihuana provisioning center, marihuana secure transporter, or marihuana safety compliance facility. The term does not include or apply to a “primary caregiver” or “caregiver” as that term is defined in the Michigan Medical Marihuana Act, MCL 333.26421 et seq.
- E. **Person:** An individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, trust, or other legal entity.
- F. **Processor:** A licensee that is a commercial entity located in Michigan that purchases marihuana from a grower and that extracts resin from the marihuana or creates a marihuana-infused product for sale and transfer in packaged form to a provisioning center.
- G. **Provisioning center:** A licensee that is a commercial entity located in Michigan that purchases marihuana from a grower or processor and sells, supplies, or provides marihuana to registered qualifying patients, directly or through the patients registered primary caregivers. Provisioning center includes any commercial property where marihuana is sold at retail to registered qualifying patients or registered primary caregivers. A noncommercial location used by a primary caregiver to assist a qualifying patient connected to the caregiver in accordance with the Michigan Medical Marihuana Act, MCL 333.26421 et seq., is not a provisioning center for purposes of this article.
- H. **Safety compliance facility:** A licensee that is a commercial entity that receives marihuana from a marihuana facility or registered primary caregiver, tests it for contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the marihuana to the marihuana facility.
- I. **Secure transporter:** A licensee that is a commercial entity located in Michigan that stores marihuana and transports marihuana between marihuana facilities for a fee.

II. Sections 12.01, 12.02, and 12.03 of Article 12 (“Business Districts”) of the AuSable Charter Township Zoning Ordinance are amended to include the following special land use permitted by special approval in the C-1, C-2, and C-3 zoning districts.

- Marihuana provisioning center

III. Section 13.01 of Article 13 (“Industrial Districts”) of the AuSable Charter Township Zoning Ordinance is amended to include the following special land uses permitted by special approval in the I-1 zoning district:

- Marihuana grower
- Marihuana processor
- Marihuana secure transporter
- Marihuana safety compliance facility

IV. The following Section 16.34 shall be added to Article 16 (“Special Land Use Standards”) of the AuSable Charter Township Zoning Ordinance:

Section 16.34 MARIHUANA GROWER, MARIHUANA PROCESSOR, MARIHUANA PROVISIONING CENTER, MARIHUANA SECURE TRANSPORTER, AND MARIHUANA SAFETY COMPLIANCE FACILITY

A. **A marihuana grower, marihuana processor, marihuana provisioning center, marihuana secure transporter, and marihuana safety compliance facility, in accordance with the provisions of state law, may be permitted through the issuance of a permit pursuant to Article 7 of the AuSable Charter Township Zoning Ordinance, in the specified zones, provided that:**

1. Any uses or activities found by the State of Michigan or a court with jurisdiction to be unconstitutional or otherwise not permitted by state law, shall not be permitted by the Township of AuSable. In the event that a court with jurisdiction declares some or all of this article invalid, then the Township of AuSable may suspend the acceptance of applications for special land use permits pending the resolution of the legal issue in question.
2. At the time of application for the special land use permit, the marihuana facility must be in the licensing process with the State of Michigan, and then must be at all times in compliance with the laws of the State of Michigan, including but not limited to the Michigan Medical Marihuana Act, MCL 333.26421 et seq.; the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.; and the Marihuana Tracking Act, MCL 333.27901 et seq.; and all other applicable rules promulgated by the State of Michigan.
3. At the time of application for a special land use permit, the marihuana facility must have the Township of AuSable permit concurrently in process with the special land use permit and site plan approval, and then must be at all times in compliance with the Township of AuSable Ordinance 113 and all other applicable ordinances.
4. A marihuana facility, or activities associated with the licensed growing, processing, testing, transporting, or sales of marihuana, may not be permitted as a home-based business, home occupation, or accessory use, nor may they include accessory uses, except as otherwise provided in this ordinance.
5. Signage requirements for marihuana facilities, unless otherwise specified, are as provided in Article 22 of the AuSable Charter Township Zoning Ordinance.

B. Marihuana growers and marihuana processors shall be subject to the standards as listed in Article 13 (Industrial Districts) of the AuSable Charter Township Zoning Ordinance and to the following standards:

1. **Lighting.** Lighting shall be regulated as follows: Light cast by light fixtures inside any building shall not be visible outside the building from 7:00 p.m. to 7:00 a.m. the following day. Outdoor marihuana grow lights shall not be illuminated from 7:00 p.m. to 7:00 a.m. the following day.
2. **Odor.** As used in this subsection, building means the building, or portion thereof, used for marihuana production or marihuana processing.
 - i. The building shall be equipped with an activated carbon filtration system for odor control to ensure that air leaving the building through an exhaust vent first passes through an activated carbon filter.
 - ii. Doors and windows shall remain closed, except for the minimum length of time needed to allow people to ingress or egress the building.
 - iii. An alternative odor control system is permitted if approved by the State of Michigan.
3. **Security Cameras.** if used, security cameras shall be directed to record only the subject property and may not be directed to the public rights-of-way as applicable, except as required to comply with licensing requirements of the State of Michigan.
4. **Indoor Production and Processing.** In the AuSable Township Industrial Districts, marihuana production shall be located entirely within one or more completely enclosed buildings. In the AuSable Township Industrial Districts, marihuana processing shall be located entirely within a fully enclosed, secure, indoor facility or greenhouse with rigid walls, a roof, and doors.

C. Provisioning centers shall be subject to the following standards:

1. **Hours.** A provisioning center may only sell to consumers or allow consumers to be present in the building space occupied by the provisioning center as regulated by the State of Michigan.
2. **Indoor activities.** All activities of a provisioning center, including all transfers of marihuana, shall be conducted within the structure and out of public view. A provisioning center shall not have a walk-up window or drive-through window service.
3. **Other Activities.** Marihuana and tobacco products shall not be smoked, ingested, or otherwise consumed in the building space occupied by the provisioning center.
4. **Physical Appearance.** The exterior appearance of the structure shall remain compatible with the exterior appearance of structures already constructed or under construction within the immediate area. The exterior shall be maintained so as to prevent blight or deterioration or substantial diminishment or impairment of property values within the immediate area.
5. **Odor.** As used in this subsection, building means the building, or portion thereof, used for a provisioning center.
 - i. The building shall be equipped with an activated carbon filtration system for odor control to ensure that air leaving the building through an exhaust vent first passes through an activated carbon filter.
 - ii. Doors and windows shall remain closed, except for the minimum length of time needed to allow people to ingress or egress the building
 - iii. An alternative odor control system is permitted if approved by the State of Michigan

D. Marihuana safety compliance facilities shall be subject to the following standards:

1. All activities of a marihuana safety compliance facility, including all transfers of marihuana, shall be conducted within the structure and out of public view.

E. Marihuana secure transporters shall be subject to the following standards:

1. Any buildings or structures used for the containment of stored materials shall be located no closer than 20 feet from any property line as stated in Article 13 (Industrial Districts) of the AuSable Charter Township Zoning Ordinance.

V. The following Section 19.16 shall be added to Article 19 (“Nonconforming Uses of Land and Structures”) of the AuSable Charter Township Zoning Ordinance:

Section 19.16 MARIHUANA FACILITIES

A. No marihuana facilities operating or purporting to operate prior to December 15, 2017, shall be deemed to have been a legally existing use, nor shall the operations of such marihuana facility be deemed a legal nonconforming use under the AuSable Charter Township Zoning Ordinance.

B. A property owner shall not have vested rights or nonconforming use rights that would serve as a basis for failing to comply with the AuSable Charter Township Zoning Ordinance or any amendment thereto.

C. Discontinuation of a state medical marihuana license shall constitute prima facie evidence that a nonconformity has been discontinued.

This ordinance shall take effect upon the expiration of seven days after its publication.

This ordinance shall be published once, in full, in a newspaper of general circulation within the boundaries of the Charter Township of AuSable, and qualified under state law to publish legal notices, within fifteen (15) days after its adoption. The Township Clerk shall immediately record this ordinance in the Township Ordinance Book, and the Township Supervisor and the Township Clerk shall authenticate the record by their official signatures on the record.

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 18th day of September, 2017.

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 18th day of September, 2017, 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

Dated: _____

Mary Jo Samotis
Charter Township of AuSable Treasurer