

**AU GRES TOWNSHIP  
ARENAC COUNTY, MICHIGAN  
ORDINANCE AUTHORIZING AND PERMITTING  
ADULT-USE MARIHUANA ESTABLISHMENTS  
ORDINANCE NO. 2020-01**

This Ordinance hereby repeals and replaces Ordinance No. 2019-01

At a regular meeting of the Board of Trustees of Au Gres Township, Arenac County, MI held at the Au Gres Township Hall on October 13th, 2020, at 7:00 pm, Township Board Member Michael Oxley moved to adopt the following Ordinance. The motion was seconded by Township Board Member Penny Kurchak.

*An Ordinance to implement the provisions of the Michigan Regulation and Taxation of Marihuana Act ("MRTMA"), Initiated Law 1 of 2018, which authorizes the licensing and regulation of Marihuana Establishments and affords Au Gres Township 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 and visitors to the Township.*

*Nothing in this ordinance is intended to grant immunity from criminal or civil prosecution, penalty or sanction for the cultivation, manufacturing, possession, use, sale or distribution of marijuana, in any form, that is not in compliance with the Michigan Medical Marihuana Act, MCL 333.26421 et seq. As amended; the Medical Marijuana Facilities Licensing Act, MCL 333.27101 et seq.; the Marihuana Tracking Act, MCL 333.27901 et seq.; the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951 et seq. and all other applicable rules promulgated by the State of Michigan.*

*As of the effective date of this ordinance, marijuana remains classified as a Schedule 1 controlled substance under the Federal Controlled Substances Act, 21 U.S.C. Sec 801 et seq., which makes it unlawful to manufacture, distribute or dispense marijuana. Nothing in this ordinance is intended to grant immunity from any criminal prosecution under federal laws.*

THE TOWNSHIP OF AU GRES ORDAINS:

**Section 1. 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 in the Michigan Regulation and Taxation of Marihuana Act.

1. "Act" means the Michigan Regulation and Taxation of Marihuana Act, 2018 Initiated Law 1, MCL 333.27951 to 333.27967 ("MRTMA").
2. "Agency" means the Marijuana Regulatory Agency.
3. "Application" or "Application Package" means an Application for a Permit under this Ordinance and includes all supplemental documentation attached or required to be attached thereto; the person filing the Application shall be known as the "Applicant."
4. "Clerk" means the Au Gres Township Clerk or his/her designee.
5. "Complete application" means an application that includes all of the information required by this Ordinance and the Au Gres Township Zoning Ordinance for a Marijuana Establishment.
6. "Cultivate" means as that term is defined in the "MRTMA".
7. "Designated Consumption Establishment" means a commercial space that is licensed by the agency and authorized to permit adults 21 years of age and older to consume marihuana products at the location indicated on the state license.
8. "Marihuana Establishment" or "Establishment" means a marihuana grower, marihuana safety compliance facility, marihuana processor, marihuana microbusiness, marihuana retailer, marihuana secure transporter, marihuana designated consumption establishment, or any other type of marihuana-related business licensed to operate by the agency under the act or the rules of the agency.
  - a. "Marihuana grower," as that term is defined in the MRTMA; and
  - b. "Excess Marijuana Grower," as that term is defined in the Michigan Marijuana Regulatory Agency Adult-Use Emergency Rules; and
  - c. "Marihuana microbusiness," as that term is defined in the MRTMA; and
  - d. "Marihuana processor," as that term is defined in the MRTMA; and
  - e. "Marihuana retailer," as that term is defined in the MRTMA; and
  - f. "Marihuana secure transporter," as that term is defined in the MRTMA; and
  - g. "Marihuana safety compliance facility," as that term is defined in the MRTMA; and
  - h. "Temporary Marijuana Event," as that term is defined in the Michigan Marijuana

Regulatory Agency Adult-Use Emergency Rules; and

- i. *"Designated Marijuana Consumption Establishment,"* as that term is defined in the Michigan Marijuana Regulatory Agency Adult-Use Emergency Rules.
9. *"Department"* means the Michigan State Department of Licensing and Regulatory Affairs or any designated Michigan agency (Marihuana Regulatory Agency - M.R.A.) authorized to regulate, issue or administer a Michigan License for a Marihuana Establishment.
10. *"License"* means a current and valid License for a Marihuana Establishment issued by the State of Michigan.
11. *"Licensee"* means a Person holding a current and valid Michigan License for a Marihuana Establishment.
12. *"Permit"* means an approval issued by the Township pursuant to the MRTMA that allows a Person to operate an Establishment in the Township under this Ordinance, which Permit may be granted to a Permit Holder only for and limited to a specific Permitted Premises and a specific Permitted Property.
13. *"Permit Holder"* means the person that holds a current and valid Permit issued under this Ordinance.
14. *"Permitted Premises"* means the particular building or buildings within which the Permit Holder will be authorized to conduct the Establishment's activities pursuant to the Permit.
15. *"Permitted Property"* means the real property comprised of a lot, parcel or other designated unit of real property upon which the Permitted Premises is situated.
16. *"Marihuana" or "Marijuana"* means that term as defined in Section 7106 of the Michigan Public Health Code, 1978 PA 368, MCL 333.7106 and as defined in the MRTMA. For the purpose of this ordinance, the spellings are interchangeable.
17. *"Medical marihuana facilities licensing act" or "MMFLA"* means 2016 PA 281, MCL 333.27101 to 333.27801, which allows for the licensing of medical marihuana facilities.
18. *"Person"* means a natural person, company, partnership, partnership, trust, profit, or non-profit corporation, limited liability company, or any joint venture for a common purpose.
19. *"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.

20. "Public Place" means any area to which the public is invited or generally permitted in the usual course of business.
21. "Same location" means separate state licenses that are issued to multiple marihuana establishments that are authorized to operate at a single property but with separate business suites, partitions, or addresses.
22. "Stacked license" means more than 1 state license issued to a single licensee to operate as a class C marihuana grower as specified in each state license at a marihuana establishment.
23. "Temporary marihuana event license" means a state license held by a marihuana event organizer for an event where the onsite sale or consumption of marihuana products, or both, are authorized at the location indicated on the state license during the dates indicated on the state license.
24. "Township" means Au Gres Township, a general law township located in Arenac County, Michigan.

**Section 2. Permit Required; Number of Permits Available; Eligibility; General Provisions.**

1. The Au Gres Township Board hereby authorizes the operation of the following types of Marihuana Establishments, subject to the number of available Permits issued in this Section.
  - a. MRTMA Marihuana Grower, Class A - cultivations of not more than 100 marihuana plants; and
  - b. MRTMA Marihuana Grower, Class B - cultivations of not more than 500 marihuana plants; and
  - c. MRTMA Marihuana Grower, Class C - cultivation of not more than 2,000 marihuana plants; and
  - d. MRTMA Excess Marijuana Grower - Township Permit issued to a person or entity holding 5 or more Class C Adult-Use marijuana grower permits and 2 or more Class C Medical permits; and
  - e. Marihuana microbusiness; and
  - f. Marihuana Processors; and
  - g. Marihuana Retailer; and

- h. Marihuana Safety Compliance Facilities; and
  - i. Marihuana Secure Transporter; and
  - j. Temporary Marijuana Event; and
  - k. Designated Marijuana Consumption Establishments.
2. The number of Marihuana Establishment Permits in effect at any time shall not exceed the following maximums within the Township:
- a. Marihuana Grower Permits, Class A: Zero (0)
  - b. Marihuana Grower Permits, Class B: Au Gres Township Class A and Class B Medical Facility Permit holders are eligible to apply for and may be granted one Class B or Class C Adult-Use Grow Establishment Permit.
  - c. Marihuana Grower Permits, Class C: Class C Medical Facility Permit holders are eligible to apply for two (2) Class C Adult-Use Establishment Permits for their first Class C Medical Permit and three (3) additional Class C Adult-Use Establishment Permits for their second Class C Medical Permit.
  - d. Excess Marijuana Growers: Additional Marijuana Grower Permits may be issued to Permit Holders who qualify as Excess Marijuana Growers as defined under this Ordinance. Permits shall be issued in 2,000 plant increments not in excess of the total Adult-Use marijuana plant count allowed by the Permit Holders Class C Medical Permits.
  - e. Marihuana Microbusiness Permits: Zero (0)
  - f. Marihuana Processor Permits: One Township Adult-Use Establishment Permit for each Township Commercial Medical Facility Permit.
  - g. Marihuana Retailer Permits: One Marijuana Retailer Establishment Permit for each Township Commercial Medical Provisioning Center Permit.
  - h. Marihuana Safety Compliance Permits: Unlimited
  - i. Marihuana Secure Transporter Permits: One Township Adult-Use Secure Transporter Permit for each Township Commercial Medical Secure Transporter Permit.
  - j. Temporary Marijuana Event: 0 (Zero)

- k. Designated Marijuana Consumption Establishments: 0 (Zero)
- l. The Township Board of Trustees may review and amend the above maximums by resolution annually or as it determines to be advisable. Such revisions shall not be the basis for termination or non-renewal of a Permit previously issued.
3. No Permit shall be issued to any Person under this Ordinance unless the Person has previously obtained and currently holds a Commercial Medical Marijuana Facility permit under Au Gres Township Ordinance 2017-01, except for any Person applying for a Marihuana Grower Class A permit, Marihuana Microbusiness, Designated Marijuana Consumption Establishment, or Marihuana Safety Compliance Facility.
  - a. No Marihuana Grower Establishment Permit under this Ordinance shall be issued or renewed to any Person unless the Person has a Commercial Medical Marijuana Facility Grower Permit under Ordinance 2017-01, except for a Marihuana Grower Class A Permit.
  - b. No Marihuana Processor Establishment Permit under this Ordinance shall be issued or be renewed to any Person unless the person has a Commercial Medical Marijuana Facility Processor Permit under Ordinance 2017-01.
  - c. No Marihuana Retailer Establishment Permit under this Ordinance shall be issued or renewed to any Person unless the Person has a Commercial Medical Marijuana Facility Provisioning Center Permit under Ordinance 2017-01.
  - d. No Marihuana Secure Transporter Establishment Permit under this Ordinance shall be issued or renewed to any Person unless the Person has a Commercial Medical Marijuana Facility Secure Transporter Permit under Ordinance 2017-01.
4. No Person shall operate a Marihuana Establishment at any location within the Township unless a then-currently-effective Permit for a Marihuana Establishment for that Person at that location has been issued under this Ordinance.
5. Marihuana Establishments shall operate only as expressly allowed under this Ordinance.
6. A non-refundable local permitting fee shall be paid annually to Au Gres Township, for each Marijuana Establishment permit issued under this ordinance, of no more than \$5,000 per permit, as set by resolution of the Au Gres Township Board of Trustees.
7. The requirements set forth in this Ordinance shall be in addition to, and not in lieu of, any other Licensing or Permitting requirements imposed by applicable federal, state or local laws, regulations, codes or ordinances.
8. At the time of application, each Applicant shall, for each application type, pay a non-

refundable application fee to Au Gres Township to defray the costs incurred by the Township, as set by resolution of the Township Board of Trustees, not to exceed any limitations imposed by Michigan Law

9. An Initial or Renewal Marijuana Establishment permit shall be valid for one year, expiring on the anniversary of the Establishment's final permit approval date, unless revoked as provided by law. Failure to obtain all other permits and approvals required by all other applicable ordinances and regulations of the Township, County and State of Michigan within that time shall render the Establishment ineligible for renewal and the permit shall be available to another applicant. A Permit and Renewal Permit shall confer a reasonable expectation of subsequent renewal unless:
  - a. A renewal has been denied by the State of Michigan.
  - b. The Applicant has been found to have defrauded the Township, has committed a material violation of this Ordinance, has lost the state License, or is causing a nuisance to the public health, safety or general welfare.
10. Each year, any pending Applications for renewal or amendment of existing Permits shall be reviewed and granted or denied before Applications for new Permits are considered.
11. It is the sole and exclusive responsibility of each Permit Holder or Person applying to be a Permit Holder, to at all times during the Application period and during its operation, to immediately provide Au Gres Township with all material changes in any information submitted in an Application Package and any other changes that may materially affect any state License or Township Permit.
12. No Permit issued under this Ordinance may be assigned or transferred to any Person unless the assignee or transferee has submitted a complete Application Package and all required fees under this Ordinance, other applicable Ordinances and has been approved for a local Permit under this Ordinance by Au Gres Township. No Permit issued under this Ordinance is transferable to any other location except for the Permitted Premises on the Permitted Property.
13. The original and current Permit issued under this Ordinance shall at all times be prominently displayed at the Permitted Premises in a location where it can be easily viewed by the public, law enforcement officials and administrative authorities.
14. 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 to conduct random and unannounced examinations of the Establishment and all records, materials and property in that Establishment, at any time, to review compliance with this Ordinance, state law, any other local regulations, and the Permit.

15. A Permit Holder may not engage in any other Marihuana Establishment in the Permitted Premises or on the Permitted Property, or in its name at any other location within the Township, without first obtaining a separate Local Permit. Only the entity named in a permit may grow at a Marijuana Grow Establishment.
16. Receiving and maintaining a valid Marijuana Establishment License under the MRTMA, issued by the State of Michigan is a condition for the issuance and maintenance of a Marijuana Establishment Permit under this ordinance and continued operation of any Marijuana Establishment.

**Section 3. Other Laws and Ordinances.** In addition to the terms of this Ordinance, any Marihuana Establishment shall comply with all laws, regulations and Ordinances, including without limitation, the Au Gres Township Zoning Ordinance, the MRTMA and M.R.A. rules.

**Section 4. Application for, Renewal of and Transfer of Permits.**

1. **Initial Application.** An Application for a Permit for a Marihuana Establishment must be on a form provided by Au Gres Township shall be submitted to the Township Clerk and shall contain the following information at a minimum:
  - a. The name, address, phone number and email address of the Applicant and the type of proposed Marihuana Establishment;
  - b. The names, home addresses and personal phone numbers for all owners, directors, officers and managers of the Permit Holder and the proposed Marihuana Establishment;
  - c. Seven (7) copies of all the following:
    1. All documentation showing the proposed Permit Holder's valid tenancy, ownership or other legal interest in the proposed Permitted Property and Permitted Premises. If the applicant is not the owner of the proposed Permitted Property and Permitted Premises, a notarized statement from the owner of such property authorizing the use of the property for a Marihuana Establishment shall be provided to the Township.
    2. If the proposed Permit Holder is a corporation, non-profit organization, limited liability company or any other entity other than a natural person, it shall indicate its legal status, attach a copy of all company formation documents (including amendments), identify all owners and their percentage of ownership in the entity accounting for 100% of the ownership interest in the proposed Establishment, proof of registration with the State of Michigan and a certificate of good standing.

3. A photocopy of a valid, unexpired driver's license or state issued identification card for all owners, directors, officers and managers of the Establishment.
4. Evidence of a valid sales tax license for the Applicant if such a license is required by state law or local regulations.
5. Application for a Sign Permit, if any sign is being proposed.
6. The non-refundable application fee as set by the Au Gres Township Board.
7. Business and Operations Plan, showing in detail the Marihuana Establishments' proposed plan of operation, including without limitation, the following:
  - I. A description of the type of Establishment proposed and the anticipated or actual number of employees.
  - II. A security plan meeting the requirements of Section 5. 5. of this Ordinance, which shall include a general description of the security systems, current centrally alarmed and monitored security system service agreement for the proposed Permitted Premises, and confirmation that those systems will meet State requirements and be approved by the State prior to commencing operations.
  - III. A description by category of all products proposed to be sold.
  - IV. A list of Material Safety Data Sheets for any nutrients, pesticides and other chemicals proposed for use in the Marihuana Establishment.
  - V. A description and plan of all equipment and methods that will be employed to stop any impact to adjacent uses, including enforceable assurances that no abatable nuisance odor will be detectable at the property line of the Permitted Premises.
  - VI. A plan for the disposal of Marihuana and related byproducts that will be generated at the Establishment.
8. Whether the Applicant has ever applied for or been granted, denied, restricted, suspended, revoked, or not renewed any commercial License, Permit or certificate issued by a licensing authority in Michigan or any other jurisdiction 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. Site plan and interior floor plan of the Permitted Premises and the Permitted Property, as required by the Township Zoning Ordinance, prepared by a Michigan registered architect, surveyor or professional engineer.
  10. A complete list of all Marijuana Permits and Licenses held by the Applicant, including complete copies of the issued Permits and Licenses.
  11. Information regarding any other Marihuana Establishment or Commercial Medical Marihuana Facility, or similar License that the Applicant is authorized to operate in any other jurisdiction within the State, or another State, and the Applicant's involvement in each such operation.
  12. Application for Special Use Permit provided by Au Gres Township.
  13. Any other information reasonably requested by Au Gres Township that is considered to be relevant to the processing or consideration of the Application.
  14. Information obtained from the Applicant or Proposed Permit Holder is exempt from public disclosure under state law, to the extent permitted by the Michigan Freedom of Information Act (FOIA).
- d. Upon receipt of the application and accompanying documentation, the Au Gres Township Clerk shall accept the application and assign it a sequential application number by Establishment type based on the date and time of acceptance. The Clerk shall act to process an application not later than fourteen (14) business days from the date the application was accepted. When the application is deemed complete, the Clerk shall forward all information to the Planning Commission and establish a date for a Special Use Public Hearing and Planning Commission review.
  - e. An application is valid for one (1) year from the processing date issued by the Clerk. If an application remains incomplete beyond one (1) year, the application shall be null and void and the applicant shall forfeit the application fee. The Township Clerk may, at his/her discretion, extend this period an additional 30 days.
  - f. Preliminary approval means only that the applicant has submitted a valid application for a Marijuana Establishment Permit, and the applicant shall not locate or operate an Establishment without obtaining all other permits and approvals required by all other applicable Ordinances and regulations of the Township, County and State of Michigan. The permits and approvals required

include but are not limited to:

1. Site Plan approval from the Planning Commission per Chapter 9 of the Au Gres Township Zoning Ordinance.
  2. Special Use Permit as issued by the Planning Commission per Chapter 8 of the Au Gres Township Zoning Ordinance.
- g. Upon preliminary approval by the Township Planning Commission, the Planning Commission shall make its recommendation to the Township Board for final approval. Following final approval, the non-refundable initial annual permitting fee shall be paid by the Applicant to the Township Treasurer, via the Township Clerk, prior to the issuance of an Adult-Use Marijuana Establishment Permit. If the fee has not been received within sixty (60) days from the date of the Township Board's final approval, the Applicant will have forfeited its Application, the Application shall become null and void, and the Permit shall be available to another Applicant. All taxes on the property being permitted shall be current prior to the issuance of an Adult-Use Marijuana Establishment Permit.
  - h. Within 10 business days of the Township Board's approval of the Applicant's Special Use Permit, Adult-Use Marijuana Establishment Permit, and payment of the annual non-refundable local permitting fee, the Township Clerk shall issue the Adult-Use Marijuana Establishment Permit in the order of the previously assigned sequential application number.
2. **Renewal Application.** A Marijuana Establishment permit shall expire each year on the anniversary of the final approval of the Permit unless renewed by the Au Gres Township Board of Trustees and is valid until that date unless revoked as provided by law. A valid Marijuana Establishment Permit may be renewed on an annual basis following the review and approval of the Township Board of Trustees, by submitting a Renewal Application form provided by the Township, payment of the annual local Permit fee and all property taxes due to date. Renewal Applications shall be submitted to and received by the Township not less than sixty (60) days prior to the expiration of the annual Permit, except that an Application requesting a change in the location of the Permitted Premises shall be submitted and received not less than ninety (90) days prior to the expiration of the permit. Permit Holders with property taxes past due are ineligible for renewal.

A Permit Holder whose Permit expires and for which a complete Renewal Application form has not been received by the expiration date, shall be presumed to have determined not to seek renewal; provided such Permit Holder may rebut the presumption and apply for the right to file a delayed Renewal Application prior to expiration, which shall be granted by the Township unless the Applicant does not meet Section 2. 9. a. and/or b. The application for the right to file a delayed Renewal Application must be filed before the expiration date, along with any late fees imposed by

resolution of the Township Board, any Annual Permitting Fees shall be paid at the time of the delayed application, and the pre-existing Permit shall thereupon be extended until action is taken on the delayed Renewal Application, but no longer than ninety (90) days after the expiration date. Au Gres Township will not accept renewal applications and permit forfeiture will result after the expiration date.

- a. A Renewal Application may expressly incorporate by reference information or documentation contained in the original Permit Application or Prior Permit Renewal Application, while making clear where such information or documentation can be found, provided that the information or documentation has not changed.
- b. Prior to approval or renewal of an Application for a Marihuana Grower Permit, an Applicant may amend the Class of the Marihuana Grower Permit Application, if a permit is available in the desired Class, by submitting an application form and expressly incorporating by reference the information or documentation contained in the original Permit Application. The Township may impose a fee as established by resolution of the Township Board. The Applicant will be required to show proof of a valid state License allowing operation of the new Class of Marihuana Grower Permit prior to operation.

### **3. Transfer Application.**

- a. The same requirements that apply to all new Applications for a permit apply to all Applications to transfer an existing Permit to a new legal entity or individual(s). No Permit issued under this Ordinance is transferable to any other location except for the Permitted Premises on the permitted Property, and only after the transferee has Applied for and obtained approval for the transfer, including without limitations, the payment of the same fee for the transferred Permit as apply for a new Permit.
- b. No Permit Holder shall transfer any ownership interest in a Permit without first obtaining the express approval of the Au Gres Township Board, after submitting a new Application for a Permit, including payment of any fees as would apply for a new Permit. Any unauthorized transfer or attempted transfer of an ownership interest in a Permit constitutes a violation of this Ordinance.

### **4. Transfer of Control of a Permit Holder.**

- a. No Permit Holder Shall transfer, sell, or otherwise convey more than 1% of the ownership interest in the entity owning the Permit, whether in a single transaction or the sum of multiple transactions, without the express approval of the Township Board.

- b. The Applicant and Permit Holder must submit a change in control transfer Application to the Township Clerk prior to any sale or transfer of stock or membership interest. The Application shall include the following:
1. The names, home addresses, email addresses and personal phone numbers for all owners, directors, officers and managers of the Permit Holder and the Marihuana Establishment;
  2. If the Permit Holder is a corporation, non-profit organization, limited liability company or any other entity other than a natural person, attach a copy of all company formation documents (including amendments), purchase agreement for all stock or membership interest, and a certified copy of the meeting minutes of the board of directors or members authorizing the sale of stock or membership interest.
  3. A photocopy of a valid, unexpired driver's license or state issued identification card for all owners, directors, officers and managers of the proposed Establishment.
  4. Whether the Applicant has ever applied for or been granted any commercial License, Permit 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.
  5. Information regarding any other Marihuana Establishment or Commercial Medical Marihuana Facility, or similar License that the Applicant is authorized to operate in any other jurisdiction within the State, or another State, and the Applicant's involvement in each such operation.
  6. The non-refundable application fee as set by the Au Gres Township Board .
  7. Any documents required to reflect that the Marihuana Establishment will be operated and managed consistent with the current filings provided to the Township.
  8. Any other information reasonably requested by the Township to be relevant to the processing or consideration of the Application.
- c. If, prior to the approval of an Application, an individual Applicant wishes to substitute a different Person as Applicant; or an Applicant that is a corporation, non-profit organization, limited liability company or any other than a natural person, seeks to undergo a change in ownership greater than 1%, the current

Applicant may submit a written request to the Township Clerk to amend the Application. Upon approval by the Township Clerk, the current Applicant may amend the Application to reflect such a change in identity or ownership, provided that the substituted Applicant(s) submits any documents required under Section 4(1). The Township Board may set a fee by resolution for such a change.

- d. The following actions constitute transfer of ownership and may require a new application, application fee and Township Board approval:
  1. *Persons*. Any Transfer of more than 1% of an ownership interest in an Applicant or Permit Holder between Persons constitutes a transfer of ownership.
  2. *Corporations*. Any transfer of more than 1% of stock or any change in principal officers or directors of any corporation holding a Permit constitutes a transfer of ownership.
  3. *Limited Liability Companies*. Any transfer of more than 1% of membership interest or any change in managers or members or change in the interest held by member(s) of any Limited Liability Company holding a Permit constitutes a transfer of ownership.
  4. *Partnerships*. Any change of more than 1% of a partnership interest or any change in general or managing partners of any partnership holding a Permit constitutes a transfer of ownership.
  5. *Assets*. Any transfer of more than 1% of the assets held by an Applicant or Permit Holder within the Township constitutes a transfer of ownership.
5. **Approval, Issuance, Denial and Appeal**. All inspections, review and processing of the Application, including transfer applications, shall be completed by the Clerk and Planning Commission within ninety (90) days of receipt of a complete Application and all required fees. The Township Board shall approve or deny the Permit within one hundred twenty (120) days of receipt of the completed Application and fees, or within one hundred fifty (150) days if the location of the Permitted Premises is proposed to be amended. The processing time may be extended upon written notice by the Township for good cause, and failure to meet the required processing time shall not result in the automatic grant of the Permit. Any denial must be in writing and must state the reason(s) for denial. The Township has no obligation to process or approve any incomplete Application, and any times provided under this Ordinance shall not begin to run until the Township receives a complete Application, as determined by the Township Clerk. A determination of a complete Application shall not prohibit the Township from requiring supplemental information. Any final denial of a Permit may be appealed to a court of competent jurisdiction; provided that:

- a. For denial of a new Permit, an appeal shall not grant any rights to an Applicant; and
  - b. For denial of a Renewal Application, if the Applicant has paid all required fees, including additional fees due during the pendency of the appeal, the previous Permit shall be extended during the pendency of the appeal, unless otherwise ordered by a court.
6. **No Building Currently Existing.** Any Applicant for a Marihuana Establishment Permit whose building is not yet in existence at the time of the Township's initial approval shall have one year immediately following the date of the Township's initial approval to commence construction of the building, in accordance with applicable zoning ordinances. Building codes, and any other applicable state or local laws, rules or regulations, and to thereafter complete construction and commence business operations without unreasonable delay.
7. **Effect of Transfer.**
- a. Immediately following the approval of a transfer of ownership by the Township Board and payment of the Annual Permitting Fee, the transferee(s) will obtain all the interests, rights, obligations and responsibilities of the previous Permit Holder. Once a Permit Holder has transferred his or her ownership interest, any privileges enjoyed by that Permit Holder under this Ordinance are terminated.
  - b. For transfers under Section 4. 3. (Transfer Application), the deadlines for expiration and renewal for a transferred Permit will run from the date the transfer was effectuated.
  - c. For transfers under Section 4. 4. (Transfer of Control of a Permit Holder), the renewal and termination dates of the Permit shall not change.
  - d. For transfers under Section 4. 3. (Transfer Application) where no building is yet in existence, the deadline for construction set forth in Section 4. 6. shall be extended to one year immediately following the date the transfer is approved, but construction must commence within three years after the Township's initial approval of the Permit, regardless of any subsequent transfers.
8. **Duty to Supplement.**
- a. If, at any time before or after a Permit is issued pursuant to this Ordinance, any information required in the Permit Application, the MRTMA, or any rule or regulation promulgated thereunder, changes in any way from what is stated in the Application, the Applicant or Permit Holder shall supplement such information

in writing within thirty (30) days from the date upon which such change occurs.

- b. An Applicant or Permit Holder has a duty to notify the Township Clerk in writing of any pending criminal charge or indictment, and any criminal conviction of a felony or other offense involving a crime of moral turpitude by the Applicant, the Permit Holder, or any owner, principal officer, director, manager or employee within ten (10) days of the date when the Applicant, Permit Holder, owner, principal officer, director, manager or employee has notice of the event.
- c. An Applicant or Permit Holder has a duty to notify the Township Clerk in writing of any pending criminal charge or indictment, and any criminal conviction, whether a felony, misdemeanor, or any violation of a local law or ordinance related to the cultivation, processing, manufacture, storage, sale, distribution, testing or consumption of any form of marihuana, the MMMA, the MMFLA, the MRTMA, any building, fire, health, or zoning statute, code or ordinance related to the cultivation, processing, manufacture, storage, sale, distribution, testing or consumption of any form of marihuana by the Applicant, Permit Holders, owner, principal officer, director, manager or employee within ten (10) days of the date when the Applicant, Permit Holder, owner, principal officer, director, manager or employee has notice of the event.

#### **Section 5 Operational Requirements - Marihuana Establishments.**

A Marihuana Establishment issued a Permit under this Ordinance and operating in Au Gres Township shall at all times comply with the following operational requirements, which the Township Board may review and amend from time to time as it determines reasonable.

1. *Scope of Operation.* Marihuana Establishments shall comply with all applicable codes, including local zoning, building, and health regulations, except to the extent that they are inconsistent with the MRTMA, the Rules of the Marijuana Regulatory Agency or this Ordinance.
2. *Required Documentation.* The Establishment must hold a valid local Permit and Michigan Marihuana Establishment License for the type of Marihuana Establishment intended to be carried out on the Permitted Property. The Establishment must also hold both a valid state License under the MRTMA as well as a valid local Permit for the corresponding type of Facility under the MMFLA. The Establishment operator, owner, License or Permit Holder must have documentation available that demonstrates full compliance with all local and State sales tax requirements, including holding any Permits or Licenses, if applicable.
3. *Location.* Each Marihuana Establishment shall be operated only from the Permitted Premises on the Permitted Property. No Marihuana Establishment shall be permitted to operate from a movable, mobile or transitory location, except for a Permitted and

Licensed Marihuana Secure Transporter when engaged in the lawful transport of Marihuana.

4. *Minimum Age.* No person under the age of eighteen (18) shall be allowed to enter the Permitted Premises without a parent or guardian. No Marihuana Establishment may allow a person under 21 years of age to volunteer or work for the Marihuana Establishment.
5. *Security.* Applicants and Permit Holders shall at all times maintain a security system that meets State law requirements, and shall also include the following:
  - a. Security surveillance cameras installed to monitor all entrances, along with the interior and exterior of the Permitted Premises; and
  - b. Robbery and burglary alarm systems that are professionally monitored and operated 24 hours a day, 7 days a week; and
  - c. A locking safe or vault permanently affixed to the Permitted Premises that shall store all usable marijuana and cash remaining in the Establishment overnight, except for Marihuana actively grown in a Grower Establishment; and
  - d. All Marihuana in whatever form stored at a Permitted Premises shall be kept in a secure manner and shall not be visible from outside the Permitted Premises, nor shall it be grown, processed, exchanged, transferred, displayed or dispensed outside the Permitted Premises; and
  - e. All Security recordings and documentation shall be preserved for a minimum of 48 hours by the Permit Holder and made available to any law enforcement upon request for inspection.
6. *Operating Hours.* Marihuana Retailers and Microbusinesses shall operate between the hours of 8:00 a.m. and 8:00 p.m. or as required by the State of Michigan.
7. *Buffer Zones -* A Retailer Establishment or Microbusiness shall not be located within 1,000 feet of the real property comprising or used by an educational institution or school, college or university, church, house of worship or other religious facility, licensed child care center or preschool, public library, or public or private park with the minimum distances between uses measured horizontally between the nearest property lines.
8. *Co-location with Certain Commercial Medical Marihuana Facilities.* A Marihuana Grower, Marihuana Processor and a Marihuana Retailer may operate from within a single facility operating pursuant to the MRTMA and may operate from a location shared with a Marijuana Facility/s operating pursuant to the MMFLA and the rules of the Department, as the Township makes Permits available.

9. *Amount of Marihuana.* The amount of Marihuana on the Permitted Property and under the control of the Permit Holder, owner or operator of the Establishment shall not exceed that amount permitted by the State License or the Township's Permit.
10. *Sale of Marihuana.* The Marihuana offered for sale and distribution must be packaged and labeled in accordance with state law.
11. *Sign Restrictions.* Signage requirements for Marijuana Establishments, unless otherwise specified, are as provided in Section 7 of the Au Gres Township Zoning Ordinance.
12. *Consumption on Premises.* The sale, consumption or use of alcohol or tobacco products on the permitted property is prohibited. Smoking or consumption of controlled substances, including marijuana, on the permitted property is prohibited.
13. *Distribution.* No person operating an Establishment shall provide or otherwise make available Marihuana to any person who is not authorized to receive Marihuana under state law.
14. *Permits.* All necessary building, electrical, plumbing and mechanical permits must be obtained for any part of the Permitted Premises in which electrical, wiring, lighting or watering devices that support cultivation, growing, processing, harvesting or testing of Marihuana are located.
15. *Waste Disposal.* The Permit Holder, owner and operator of the Establishment shall use lawful methods in controlling waste or by-products from any activities allowed under the State License or Local Permit.
16. *Secure Transportation.* Marihuana may be transported by a Marihuana Secure Transporter within Au Gres Township under this Ordinance, and to effectuate its purpose, only:
  - a. By persons who are otherwise authorized by state law to transport Marihuana;
  - b. In a manner consistent with all applicable state laws and rules, as needed;
  - c. In a secure manner designed to prevent the loss of the Marihuana;
  - d. No vehicle may be used for the continuous storage of Marihuana, but may only be used incidental to, and in furtherance of, the transportation of Marihuana.
  - e. Vehicles used for the secure transport of marijuana must be stored indoors when not in use.

17. *Additional Conditions.* The Au Gres Township Board of Trustees may impose such reasonable terms and conditions on a Marihuana Establishment Special Use as may be necessary to protect the public health, safety and welfare, and to obtain compliance with the requirements of this Ordinance and applicable law.

**Section 6. Penalties and Consequences for violation.** In addition to any other penalties or legal consequences provided under applicable federal, state and local law, regulations, codes and ordinances:

1. Violations of the provisions of this Ordinance or failure to comply with any of the requirements of this Ordinance shall constitute a misdemeanor. Any person who violates this Ordinance or fails to comply with any of the requirements of this Ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not more than \$500.00, or imprisoned for not more than 90 days, or both, and, in addition, shall pay all costs and expenses involved. Each day such a violation continues shall be considered a separate offense.
2. Violations of the provisions of this Ordinance or failure to comply with any of the requirements of this Ordinance shall be subject to and found responsible for a municipal civil infraction. The forfeiture for any municipal civil infraction shall be five hundred dollars (\$500.00) plus court costs, attorney fees and abatement costs of each violation, together with all other remedies pursuant to MCL 600.8701, *et seq.* Each day a violation continues shall be deemed a separate municipal civil infraction.
3. The owner of record or tenant of any building, structure or premises, or part thereof, and any architect, builder, contractor, agent or person who commits, participates in, assists in or maintains such violation may each be found guilty or responsible of a separate offense and suffer penalties and forfeitures provided in subsections (1) and (2) of this section, except as excluded from responsibility by state law.
4. In addition to any other remedies, the Township may institute proceedings for injunction, mandamus, abatement or other appropriate remedies to prevent, enjoin, abate or remove any violations of this Ordinance. The rights and remedies provided herein are both civil and criminal in nature. The imposition of any fine, jail sentence or forfeiture shall not exempt the violator from compliance with the provisions of this Ordinance.
5. This ordinance shall be enforced and administered by the Township Clerk or such other Township official as may be designated from time to time by resolution of the Au Gres Township Board of Trustees.

**Section 7. Applicability.** The provisions of this ordinance shall be applicable to all persons and facilities described herein, whether the operations or activities associated with a Marijuana Establishment were established without authorization before the effective date of this ordinance.

**Section 8. Severability.** The provisions of this Ordinance are hereby declared severable. If any part of this Ordinance is declared invalid for any reason by a court of competent jurisdiction, that declaration does not affect or impair the validity of all other provisions that are not subject to that declaration.

**Section 9. Effective Date.** This Ordinance shall take effect following publication or posting and upon final adoption of the related amendments to the Au Gres Township Zoning Ordinance by the Au Gres Township Board of Trustees.