

# Au Gres Township

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## Ordinance Authorizing and Permitting Commercial Medical Marijuana Facilities Ordinance No. 17-01

### SECTION 1 PURPOSE

- A. It is the intent of this ordinance to authorize the establishment of several types of medical marijuana facilities in the Township of Au Gres and provide for the adoption of reasonable restrictions to protect the public health, safety and general welfare of the community at large; 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 marijuana facilities in Au Gres Township through the imposition of annual, nonrefundable licensing fee of not more than \$5,000.00 on each medical marijuana facility licensee. Authority for the enactment of these provisions is set forth in the Medical Marijuana Facilities Licensing Act, MCL 333.27101 et seq.
- B. 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., and all other applicable rules promulgated by the State of Michigan.
- C. 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.

### SECTION 2 DEFINITIONS

- A. Any term defined by the Michigan Medical Marihuana Act, MCL 333.26421 et seq., shall have the definition given in the Michigan Medical Marihuana Act.
- B. Any term defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq., shall have the definition given in the Medical Marihuana Facilities Licensing Act.
- C. Any term defined by the Marihuana Tracking Act, MCL 333.27901 et seq., shall have the definition given in the Marihuana Tracking Act.
- D. "Affiliate" means any person that controls, is controlled by, or is under common control with; is in a partnership or joint venture relationship with; or is a co-shareholder of a corporation, a co-member of a limited liability company, or a co-partner in a limited liability partnership with a licensee or applicant.

**"Application"** means an application for a permit under this ordinance and includes supplemental documentation attached or required to be attached thereto; the person filing the applications shall be known as the **"applicant."**

**"Commercial Marijuana Facility", "Marihuana Facility" or "Facility"** means 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, marijuana provisioning center, marijuana secure transporter, or marijuana 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.

**"Department"** means the Michigan State Department of Licensing and Regulatory Affairs or any authorized designated Michigan agency authorized to regulate, issue or administer a Michigan License for a Commercial Marijuana Facility.

**"Grower"** means a licensee that is a commercial entity located in this state that cultivates, dries, trims, or cures and packages marihuana for sale to a processor or provisioning center.

**"Licensee"** means a person holding a state operating license under the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.

**"Marihuana" or "Marijuana"** means that the term as defined in the Public Health Code. MCL 333.1101 et seq.; the Medical Marihuana Act MCL 333.26421 et seq.; the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.; and the Marihuana Tracing MCL 333.27901 et seq. For the purpose of this ordinance, the spellings are interchangeable.

**"Marihuana plant"** means any plant of the species *Cannabis sativa* L.

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

**"Michigan medical marihuana act"** means the Michigan medical marihuana act, 2008 IL 1, MCL 333.26421 to 333.26430.

**"Paraphernalia"** means any equipment, product, or material of any kind that is designed for or used in growing, cultivating, producing, manufacturing, compounding, converting, storing, processing, preparing, transporting, injecting, smoking, ingesting, inhaling, or otherwise introducing into the human body, marihuana.

**"Permit"** means a current and valid permit for a Commercial Marijuana Facility issued under this ordinance. Which shall be granted to a permit holder only for and limited to a specific permitted premise and a specific permitted property.

**"Permit Holder"** means the person that holds a current and valid permit under this ordinance.

**"Permitted Premises"** Means a particular building or buildings within which the Permit Holder will be authorized to conduct the facility's activities.

**"Permitted Property"** means the real property comprised of a lot, parcel or other designated unit of real property upon which a permitted premises facility is situated.

**"Person"** means an individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, trust, other legal entity or any joint venture for a common purpose.

**"Processor"** means a licensee that is a commercial entity located in this state that purchases marihuana from a grower and that extracts resin from the marihuana or creates a marihuana-infused product for sale and transfer in packaged form to a provisioning center.

**"Provisioning center"** means a licensee that is a commercial entity located in this state that purchases marihuana from a grower or processor and sells, supplies, or provides marihuana to registered qualifying patients, directly or through the patients' registered primary caregivers. Provisioning center includes any commercial property where marihuana is sold at retail to registered qualifying patients or registered primary caregivers. A noncommercial location used by a primary caregiver to assist a qualifying patient connected to the caregiver through the department's marihuana registration process in accordance with the Michigan Medical Marihuana Act, 333.26421 et seq., is not a provisioning center for purposes of this act.

**"Registered primary caregiver"** means a primary caregiver who has been issued a current registry identification card under the Michigan Medical Marihuana Act, MCL 333.26423.

**"Registered qualifying patient"** means a qualifying patient who has been issued a current registry identification card under the Michigan medical marihuana act or a visiting qualifying patient as that term is defined in section 3 of the Michigan Medical Marihuana Act, MCL 333.26423.

**"Registry identification card"** means that term as defined in section 3 of the Michigan medical marihuana act, MCL 333.26423.

**"Safety compliance facility"** means a licensee that is a commercial entity that receives marihuana from a marihuana facility or registered primary caregiver, tests it for contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the marihuana to the marihuana facility.

**"Secure transporter"** means a licensee that is a commercial entity located in this state that stores marihuana and transports marihuana between marihuana facilities for a fee.

**"State operating license"** or, unless the context requires a different meaning, **"license"** means a license that is issued under the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.

**"Township"** means Au Gres Township, a general law township located in Arenac County, Michigan.

### SECTION 3 AUTHORIZATION OF FACILITIES AND FEES

- A. The maximum number of each type of marijuana facility located in The Township of Au Gres is set as follows at the time of adoption, but will be reviewed annually or as determined to be advisable at the discretion of the Au Gres Township Board of Trustees. The review and its findings shall be recorded in the minutes of the relevant meeting of the Au Gres Township Board.

Type of Facility	Number Allowed
Grower Type A	25
Grower Type B	25
Grower Type C	25 (Amended to 40 as of December 7th, 2017)
Secure Transporter	10
Processor	30
Safety Compliance Facility	5
Provisioning Center	6 (Amended to 3 as of May 11th, 2021)

- B. A non-refundable local permitting fee shall be paid annually to the Township of Au Gres by each marijuana facility licensed under this ordinance. This fee shall be set annually by the Au Gres Township Board of Trustees.

August 11<sup>th</sup>, 2020 the ordinance was amended by a unanimous Board of Trustee roll call vote with the following outdoor grow restrictions:

**"No new applications for outdoor medical marijuana grows would be accepted and to modify the Medical Marijuana Police Power ordinance to reflect these changes."**

### SECTION 4 GENERAL REQUIREMENTS

- A. No person shall operate a marijuana facility in the Township of Au Gres without a valid Marijuana facility permit issued by the Township of Au Gres and shall operate pursuant to the provisions of this ordinance.
- B. 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.
- C. At the time of application, each Applicant shall pay a non-refundable application fee to defray the costs incurred by the township. Such fee shall be set annually by the Au Gres Township Board of Trustees, not to exceed any limitations imposed by Michigan Law.
- D. A new or renewal permit shall not confer any vested rights or reasonable expectation of subsequent renewal on the applicant or permit holder, and shall remain valid for one year.
- E. Each year, any pending applications for renewal of existing permits shall be reviewed and granted or denied before applications for new permits are considered.
- F. It is the sole and exclusive responsibility of each current or prospective permit holder to at all times during its' operation or application period, to immediately provide Au Gres Township with all material changes in any information previously provided that may materially affect any state or local permit.

- G. No permit issued under this ordinance may be assigned or transferred to any person unless the assignee or transferee has submitted an application, fees and documentation required under this ordinance and has been granted a local permit by Au Gres Township. No permit issued under this ordinance is transferable to any other location other than the permitted premises on the permitted property.
- H. The original local permit issued under this ordinance shall be prominently displayed in the facility in a location where it can be readily viewed by the public, law enforcement or administrative officials at all times.
- I. Acceptance by the permit holder of a permit constitutes consent by the permit holder and its' owners, officers, managers, agents and employees for any state, federal or local law enforcement to conduct random, unannounced examinations of their facility and all articles of property therein at any time to insure compliance with this ordinance, the permit or local and state regulations.
- J. A permit holder may not engage in any other medical marijuana facility on the permitted property or premises without first obtaining a separate local permit.
- K. No permit shall be granted or renewed for a medical marijuana facility in a residence, building or area not specifically zoned for that purpose.
- L. Receiving and maintaining a valid marijuana facility license issued by the State of Michigan is a condition for the issuance and maintenance of a marijuana facility permit under this ordinance and continued operation of any marijuana facility.

#### **SECTION 5 APPLICATION FOR PERMITS**

- A. An application for a permit to operate a medical marijuana must be on a form provided by Au Gres Township and shall be submitted to the Au Gres Township Clerk along with the following information:
  - 1. The name address, phone number and email address of the applicant/s and the type of proposed medical marijuana facility.
  - 2. The names, home addresses and personal phone numbers for all owners, directors, officers and managers of the proposed medical marijuana facility.
  - 3. One copy each of the following:
    - a) Documentation showing the applicant's valid tenancy, ownership or other legal interest in the property and premises proposed to be permitted. If the applicant is not the owner of the proposed permitted property and/or premises, a notarized statement from the owner of such property authorizing its' use for a medical marijuana facility.
    - b) If the applicant is a corporation, non-profit organization, limited liability company or any other entity other than a natural person, indicate its legal status and attach a copy of all company formation documents (including amendments), proof of registration with the State of Michigan and a certificate of good standing.
    - c) A photocopy of a valid, unexpired driver's license or state issued identification card for all owners, directors, officers and managers of the proposed facility.
    - d) Evidence of a valid sales tax license for the business if such a license is required by state law or local regulations.
    - e) Application for a sign permit, if a sign is being proposed.
    - f) The non-refundable application fee as set by the Au Gres Township Board.
    - g) Whether any applicant 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 or nonrenewal, including the licensing authority, the date each action was taken and the reason for each action.

- h) Information regarding any other commercial medical marijuana facility that the applicant is currently authorized to operate in any other jurisdiction within Michigan, another state or country and the applicant's involvement in each facility.
  - i) Application for Special Use Permit to be issued by the Township Planning Commission
  - j) Application for Site Plan review to be issued by the Township Planning Commission
4. Any other reasonable information requested by Au Gres Township that is considered to be relevant to the processing or consideration of the application.
- B. 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 facility type based on the date and time of acceptance. The Township Clerk shall process the application not later than fourteen business days from the date the application was accepted. If deemed complete, the Clerk shall forward the information to the Planning Commission and work with the applicant to establish a date for the Special Use Permit Public Hearing and the planning commission site plan review.
  - C. After submitting an application for a marijuana facility license, the applicant shall not locate or operate a marijuana facility without obtaining all other permits and approvals required by all other applicable ordinances and regulations of Au Gres Township and other jurisdictions (e.g. Arenac County, State of Michigan). The permits and approvals required include but are not limited to:
    1. Special Use Permit as recommended by the Township Planning Commission and approved by the Township Board.
    2. Site Plan approval from the Township Planning Commission
  - D. Within 10 business days of the Township Board approval of a special use permit and Planning Commission approval of a site plan, the Au Gres Township Clerk shall issue the medical marijuana facility permit in order of the previously assigned sequential application number.
  - E. An application is valid for one year from the processing date issued by the Township Clerk. If all permits and approvals are not received in that time frame, the application shall be null and void.

#### **SECTION 6 PERMIT RENEWAL**

- A. A medical marijuana facility permit shall be valid until the annual renewal date, which will be set one year from the issuance date, unless revoked as provided by law.
- B. A valid medical marijuana facility permit may be renewed on an annual basis by submitting a renewal application form provided by Au Gres Township and payment of the annual local permit fee. Renewal applications must be filed at least 60 days prior to the annual Renewal date/expiration of permit or 90 days prior for changes of location. Au Gres Township will not accept renewal applications and permit forfeiture will result after the expiration date.

## 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 medical marijuana facility were established without authorization before the effective date of this ordinance.

## SECTION 8 PENALTIES AND ENFORCEMENT

- A. Any person who violates any of the provisions of this ordinance shall be responsible for a municipal civil infraction and subject to the payment of a civil fine of not more than \$500.00, plus costs. Each day a violation of this ordinance continues to exist constitutes a separate violation. A violator of this ordinance shall also be subject to such additional sanctions, remedies and judicial orders as are authorized under Michigan Law.
- B. A violation of this ordinance is deemed to be a nuisance per se. In addition to any other remedy available at law, Au Gres Township may bring an action for an injunction or other process against a person to restrain, prevent or abate any violation of this ordinance.
- C. This ordinance shall be enforced and administered by the Clerk or such other Au Gres Township official as may be designated from time to time by resolution of the Au Gres Township Board of Trustees.

## SECTION 9 SEVERABILITY

In the event 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 10 OPERATIONAL REQUIREMENTS

- A. A commercial Marijuana Facility issued 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 deems reasonable.
- B. **Scope of Operation.** Commercial Marijuana Facilities shall comply with all respective applicable codes of the local zoning, building and health departments. The Facility must hold a valid local Permit and State Commercial Marijuana Facility license for the type of Facility intended to be carried out on the permitted property. The Facility owner, Operator or Licensee must have documentation available that local and State sales tax requirements, including holding any licenses, if applicable, are satisfied.
- C. **Location.** Each commercial Marijuana Facility shall be operated only from the permitted premises on the permitted property. No Commercial Marijuana Facility shall be permitted to operate from a moveable, mobile or transitory location, except for a permitted and licensed secure transporter when engaged in the lawful transport of marijuana.
- D. No person under the age of eighteen (18) shall be allowed to enter a Commercial Marijuana Facility.
- E. **Security.** Permit holders shall at all times maintain a security system that meets State Law requirements, and shall also include the following.
  - 1. Security surveillance cameras installed to monitor all entrances; along with the interior and exterior of the Facility;
  - 2. Robbery and burglary alarm systems which are professionally monitored and operated 24 hours a day, 7 days a week;

3. A locking safe permanently affixed to the permitted premises that shall store all Marijuana and cash remaining in the Facility overnight;
  4. All marijuana in whatever form stored at the facility shall be kept in a secure manner and shall not be visible from outside the facility, nor shall it be grown, processed, exchanges, displayed or dispensed outside the facility; and
  5. All security recordings and documentation shall be preserved for at least 48 hours by the permit holder and made available to any law enforcement upon request for inspection.
- F. **Sale of Marijuana.** Marijuana and marijuana products offered for sale and distribution must be packaged and labeled in accordance with the laws of the State of Michigan.
  - G. **Sign Restrictions.** No pictures, photographs, drawings or other depictions of marijuana or marijuana paraphernalia shall appear on the outside of any facility nor be visible outside of the facility. The words "Marijuana," "cannabis" or any other words intended to convey the presence or availability of marijuana shall not appear on the outside of the facility nor be visible outside of the facility.
  - H. **Use of Marijuana.** 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.
  - I. **Unpermitted Growing.** Only the entity named in a permit may grow at a commercial marijuana grow facility.
  - J. **Additional Conditions.** The Au Gres Township Board may impose such reasonable terms and conditions on a Commercial Marijuana Facility 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 11. EFFECTIVE DATE

This Ordinance shall take effect fifteen (15) days following publication or posting after final adoption by the Au Gres Township Board of Trustees.

#### Amendments:

December 7<sup>th</sup>, 2017 the number of Class-C (1500 plants) medical marijuana grow permits was increased by 15 (from 25 to 40). By unanimous Board of Trustee roll call vote.

August 11<sup>th</sup>, 2020 the ordinance was amended by a unanimous Board of Trustee roll call vote with the following outdoor grow restrictions:

**"No new applications for outdoor medical marijuana grows would be accepted and to modify the Medical Marijuana Police Power ordinance to reflect these changes."**

May 11<sup>th</sup>, 2021 the number of medical marijuana Provisioning Center permits was reduced from 6 to 3. By unanimous Board of Trustee roll call vote.