

**CHARTER TOWNSHIP OF PORTAGE
COUNTY OF HOUGHTON, STATE OF MICHIGAN**

**ORDINANCE NO. 148
ADOPTED: November 9, 2020
EFFECTIVE: January 1, 2021**

ADULT USE/RECREATIONAL MARIHUANA ESTABLISHMENTS ORDINANCE

An ordinance to provide a title for the ordinance; to define words; to authorize the operation of and provide regulations for adult use/recreational marihuana establishments in Portage Charter Township pursuant to Michigan Initiated Law 1 of 2018 (Michigan Regulation and Taxation of Marihuana Act), as may be amended; to provide for an annual fee; to provide penalties for violation of this ordinance; to provide for severability; to repeal all ordinances or parts of ordinances in conflict therewith and to provide an effective date. Ordinance Number 147, prohibiting Adult Use/Recreational Marihuana Facilities, is hereby repealed.

**THE CHARTER TOWNSHIP OF PORTAGE
HOUGHTON COUNTY, MICHIGAN**

ORDAINS:

**SECTION I
TITLE**

This ordinance shall be known as and may be cited as the Portage Charter Township Adult Use/ Recreational Marihuana Establishments Ordinance.

**SECTION II
DEFINITIONS**

Words used herein shall have the definitions as provided for in Michigan Initiated Law 1 of 2018, as may be amended.

**SECTION III
AUTHORIZED ADULT USE/RECREATIONAL MARIHUANA ESTABLISHMENTS**

1. The following adult use/recreational marihuana establishments are authorized to operate within the Township by the holder of a state operating license, subject to compliance with Michigan Initiated Law 1 of 2018, as may be amended, the Rules promulgated thereunder and this ordinance:

There is no limit on the number of establishments allowed in each category. Establishments are restricted to operation only within the zoning districts of the Portage Charter Township Zoning Ordinance as specified below. All requirements for additional reviews and permits must be met.

- a) Class A growers (up to 100 marihuana plants) [FF Farm Forest]
- b) Class B growers (up to 500 marihuana plants) [FF Farm Forest]
- c) Class C growers (up to 2,000 marihuana plants) [FF Farm Forest]
- d) Marihuana Microbusiness [B-2 General Business, MU Mixed Use District]

- e) Marihuana Processor includes two different models: and establishment which makes marihuana-infused products or an establishment which makes both marihuana-infused products and marijuana concentrate. For marijuana-infused products only (Baked Goods stores equivalent) establishments are permitted in B-1 Neighborhood Business, B-2 General Business, LAR Lake Shore Residential, and MU Mixed Use. If marijuana-infused products and marijuana concentrate are made the establishment would only be permitted in M-1 Manufacturing.
- f) Marihuana Retailer [B-2 General Business, MU Mixed Use District]
- g) Marihuana Safety Compliance Facility [B-2 General Business, MU Mixed Use District]
- h) Marihuana Secure Transporter [B-2 General Business, MU Mixed Use District]

The following establishments and operations are not permitted within the Township: Excess Marihuana Grower, Marihuana Event Organizer, Temporary Marihuana Events, and Designated Marihuana Consumption Facilities, Or any other establishment defined under the Michigan Regulation and Taxation of Marijuana Act.

2. Unauthorized operation of a marihuana establishment is forbidden in all zoning districts.
3. As permitted by law and regulation, various establishments may be located on the same site and within the same structure if all applicable regulations are met. Each establishment is a separate entity for purposes of this ordinance.
4. Until December of 2021, only entities that have a medical marihuana license can obtain a license under the State's recreation statute.
5. The Township shall accept applications for authorization to operate a marihuana establishment within the Township. Application shall be made by submitting the approved application form, as set by resolution of the Township Board to the Township Clerk and/or other designee of the Township Board (hereinafter referred to as "Clerk"). Upon receipt and review of the complete application form and the required, non-refundable application fee of \$5,000 for each establishment, the Clerk shall issue a conditional authorization.
6. After conditional authorization from the Township the conditionally authorized applicant must submit proof to the Clerk that the applicant has applied for prequalification from the state for a state operating license or has submitted full application for such license. If the applicant fails to submit such proof, then such conditional authorization shall be canceled by the Clerk.
7. If a conditionally authorized applicant is denied prequalification for a state operating license or is denied on full application for a state operating license, then such conditional authorization will be canceled by the Clerk.
8. A conditionally authorized applicant shall receive full authorization from the Township to operate the marihuana establishment within the Township upon the applicant providing to the Clerk proof that the applicant has received a state operating license for the marihuana establishment in the Township and the applicant has met all other requirements of this ordinance for operation including but not limited to any zoning approval for the location of the establishment within the Township.
9. If a conditionally authorized applicant fails to obtain full authorization from the Township within one year from the date of conditional authorization, then then such conditional authorization shall be canceled by the Clerk. The Township Board shall have authority to extend the deadline to obtain full authorization for up to an additional six months on written request of the applicant, within thirty days prior to cancellation, upon the reasonable discretion of the Township Board finding good cause for the extension.

SECTION IV
GENERAL REGULATIONS REGARDING
AUTHORIZED ADULT USE/RECREATIONAL MARIHUANA ESTABLISHMENTS

1. An authorized adult use/recreational marihuana establishment shall only be operated within the Township by the holder of a state operating license issued pursuant to Initiated Law 1 of 2018, as may be amended, and the Rules promulgated thereunder. The establishment shall only be operated as long as the state operating license remains in effect.
2. Prior to operating an authorized adult use/recreational marihuana establishment within the Township pursuant to a state operating license, the establishment must comply with all Township zoning and other ordinances and regulations, which shall include a site plan review by the planning commission. The establishment shall only be operated as long as it remains in compliance with all Township zoning and other ordinances and regulations. The planning commission and Township Board may require special conditions with respect to the site plan to accommodate the health, safety, and wellbeing of the community.
3. Prior to operating an authorized adult use/recreational marihuana establishment within the Township pursuant to a state operating license, the establishment must comply with all Township construction and building ordinances, all other Township ordinances specifically regulating adult use/recreational marihuana establishments, and generally applicable Township police power ordinances. The establishment shall only be operated as long as it remains in compliance with all such ordinances now in force or which hereinafter may be established or amended.
4. An authorized adult use/recreational marihuana establishment shall consent to inspection of the establishment by Township officials and/or by the County Sheriff's Department, upon reasonable notice, to verify compliance with this ordinance.
5. No odors or fumes associated with the establishment operation shall be detectable beyond the exterior limits of the structure or enclosure.
6. Solid wastes must be handled in accordance with existing laws and regulations. They must not have an adverse effect on public assets.
7. Liquid chemical and organic wastes must be handled in accordance with existing laws and regulations. They must not have an adverse effect on public assets, especially water treatment facilities.
8. If at any time an authorized adult use/recreational marihuana establishment violates this ordinance, any other ordinance of the Township, the Michigan Regulation and Taxation of Marijuana Act, or any rules or regulations promulgated thereunder the Township Board may revoke or refrain from renewing the authorization and establishment shall cease operation of the establishment. Upon the foregoing violation, the Township may also request that the state revoke or refrain from renewing the establishment's state operating license, and once such state operating license is revoked or fails to be renewed, the Clerk shall cancel the Township authorization. Any fees paid to the Township are forfeited.
9. It is hereby expressly declared that nothing in this ordinance be held or construed to give or grant to any authorized adult use/recreational marihuana establishment a vested right, license, privilege or permit to continued authorization from the Township for operations within the Township.
10. The Township expressly reserves the right to amend or repeal this ordinance in any way including but not limited to complete elimination of or reduction in the type and/or number of authorized adult use/recreational marihuana establishment authorized to operate within the Township.

SECTION V
ANNUAL ADULT USE/RECREATIONAL MARIHUANA ESTABLISHMENT FEE

There is hereby established an annual nonrefundable Township adult use/recreational marihuana establishment fee in the amount of \$5,000 for each authorized adult use/recreational marihuana establishment within the Township, to help defray administrative and enforcement costs associated therewith. Authorized adult use/recreational marihuana establishments identified in Section III, above, are individual entities regardless of ownership or management. An initial annual non-refundable adult use/recreational marihuana establishment fee of \$5,000 shall be payable at the time of application for Township authorization and thereafter the same non-refundable amount shall be payable each year by the anniversary of the date of full Township authorization to operate the marihuana establishment.

SECTION VI
VIOLATIONS AND PENALTIES

1. Any person who disobeys, neglects or refuses to comply with any provision of this ordinance or who causes, allows or consents to any of the same shall be deemed to be responsible for the violation of this ordinance. A violation of this ordinance is deemed to be a nuisance per se.
2. A violation of this ordinance is a municipal civil infraction, for which the fines shall not be less than \$100 nor more than \$500 for the first offense and not less than \$250 nor more than \$500 for subsequent offenses, in the discretion of the Court. For purposes of this section, “subsequent offenses” means a violation of the provisions of this ordinance committed by the same person within 12 months of a previous violation of the same provision of this ordinance for which said person admitted responsibility or was adjudicated to be responsible. The foregoing sanctions shall be in addition to the rights of the Township to proceed at law or equity with other appropriate and proper remedies. Additionally, the violator shall pay costs which may include all expenses, direct and indirect, which the Township incurs in connection with the municipal civil infraction, including reasonable attorneys’ fees.
3. Each day during which any violation continues shall be deemed a separate, subsequent offense.
4. In addition, the Township may seek injunctive relief against persons alleged to be in violation of this ordinance, and such other relief as may be provided by law.
5. This ordinance shall be administered and enforced by the Ordinance Enforcement Officer of the Township or by such other person (s) as designated by the Township Board from time to time.

SECTION VII
RIGHT TO APPEAL AN ADVERSE DECISION

The applicant may appeal an adverse decision to the Charter Township of Portage’s Board of Trustees.

SECTION VIII
SEVERABILITY

The provisions of this ordinance are hereby declared to be severable. If any clause, sentence, word, section or provision is hereafter declared void or unenforceable for any reason by a court of competent jurisdiction, it shall not affect the remainder of such ordinance which shall continue in full force and effect. The provisions herein shall be construed as not interfering or conflicting with the statutory regulations for licensing adult use/recreational marihuana establishments pursuant to Initiated Law 1 of 2018, as may be amended.

SECTION IV
REPEAL

All ordinance or parts of ordinances in conflict herewith are hereby repealed.

Adopted Version – November 9, 2020

SECTION V
EFFECTIVE DATE

This ordinance shall take effect on January 1, 2021.

CERTIFICATE

The undersigned, as the duly elected and acting clerk of Charter Township of Portage, hereby certifies that this ordinance was duly adopted by the township board at a regular meeting of said board, at which a quorum was present, held on the 9th day of November, 2020 and that copies of the ordinance were transmitted and published as directed.

Township Clerk – Amy Skewes

Township Supervisor – Bruce Petersen