

**EUREKA CHARTER TOWNSHIP
MARIHUANA ESTABLISHMENTS AND FACILITIES ORDINANCE #89
MONTCALM COUNTY, MICHIGAN**

**AN ORDINANCE TO REGULATE AND PROHIBIT
CERTAIN MARIHUANA ESTABLISHMENTS AND
FACILITIES AND TO PRESCRIBE PENALTIES FOR
VIOLATION OF THIS ORDINANCE.**

The EUREKA CHARTER TOWNSHIP, MONTCALM COUNTY, MICHIGAN, ordains:

Section 1 - TITLE

This Ordinance shall be known and may be cited as the “Charter Township of Eureka Marihuana Establishments and Facilities Ordinance.”

Section 2 - DEFINITIONS

The following words, terms and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- A. *IHRA* means the Industrial Hemp Research Act, 2014 PA 547, MCL 286.841 *et seq.*
- B. *Marihuana establishment* means that term as defined in the MRTMA.
- C. *Marihuana facility* means that term as defined in the MMFLA.
- D. *MMFLA* means the Medical Marihuana Facilities Licensing Act, 2016 PA 281, as amended.
- E. *MMMA* means the Michigan Medical Marihuana Act, 2008 IL 1, as amended.
- F. *MRTMA* means the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, as amended.

Section 3 - MARIHUANA ESTABLISHMENTS AND FACILITIES PROHIBITED

- A. Pursuant to Section 6 of the MRTMA, marihuana establishments are prohibited within the boundaries of the Township.
- B. Marihuana facilities are also prohibited within the boundaries of the Township.

Section 4 - RIGHTS UNAFFECTED BY THIS ORDINANCE

- A. This Ordinance shall not affect the rights or privileges of any individual or other person under Section 5 of the MRTMA.
- B. This Ordinance does not affect the rights or privileges of a marihuana facility outside of the Township to engage in activities within the Township that it is permitted to engage in under the MMFLA within a municipality that has not authorized marihuana facilities to operate within its boundaries.
- C. This Ordinance does not affect the rights or privileges of registered qualifying patients or registered primary caregivers under the MMMA or the MMFLA.
- D. This Ordinance does not affect the rights or privileges of any individual or other person under the IHRA.
- E. This Ordinance does not affect the rights or privileges of any individual or other person under any other federal or state law, rule or regulation related to the medical use of marihuana.

Section 5 - SEVERABILITY

If any sentence, section, paragraph or part of this Ordinance is determined to be unconstitutional or unenforceable by a court of competent jurisdiction, it shall be severed from

the remainder of the Ordinance and such determination shall not affect the remainder of the Ordinance which shall remain valid and in effect.

Section 6 - PENALTIES

- A. A violation of this Ordinance constitutes a municipal civil infraction. Any person who violates, disobeys, omits, neglects, or refuses to comply with any provision of this Ordinance, or any amendment thereof, or any person who knowingly or intentionally aids or abets another person in violation of this Ordinance, shall be in violation of this Ordinance and shall be responsible for a civil infraction. The civil fine for a municipal civil infraction shall be not less than one hundred dollars (\$100.00) for the first offense and not less than two hundred dollars (\$200.00) for subsequent offenses, in the discretion of the court, in addition to all other costs, damages, expenses and remedies provided by law. For purposes of this section, “subsequent offense” means a violation of the provisions of this Ordinance committed by the same person within twelve (12) months of a previous violation of the same provision of this Ordinance or similar provision of this Ordinance for which said person admitted responsibility or was adjudged to be responsible. Each day during which any violation continues shall be deemed a separate offense.
- B. Anyone who assists another in violating this Ordinance, or who aids and abets another in violation of this Ordinance, shall also be deemed to be in violation of this Ordinance.
- C. In addition to the above-mentioned remedies, the Township is also authorized (at its option and discretion) to pursue a civil lawsuit to enforce and/or ensure compliance with this Ordinance in the Montcalm County Circuit Court.
- D. This Ordinance may be enforced by the Township Zoning Administrator, the Township Building Inspector, the Township Zoning Enforcement Officer, a Deputy Sheriff, and such other Township official or agent as the Township Board may designate from time to time by resolution.
- E. A violation of this Ordinance is also hereby declared to be a nuisance *per se* and is declared to be offensive to the public health, safety and welfare.

Section 7 - EFFECTIVE DATE

This Ordinance shall take effect upon the expiration of thirty (30) days after its publication.

YEAS: Supervisor Rod Roy, Clerk Linda Ruwersma, Treasurer Cindy Hanson;
Trustee Brad Kelley, Elaine Pendrick, Jeremy Austin, and Marty Posekany

NAYS: None

ORDINANCE DECLARED ADOPTED

Approved: December 10, 2018

Published: December 14, 2018

Effective: January 13, 2019

Eureka Charter Township Clerk,
Linda J. Ruwersma, CMMC/CMC