

Medical Marijuana Ordinance

2021-3

Adopted: February 12, 2021

THE TOWNSHIP OF TROUT LAKE, CHIPPEWA COUNTY, MICHIGAN ORDAINS:

Section 1. Medical Use of Marijuana

The acquisition, possession, cultivation, use, delivery or distribution of marijuana to treat or alleviate a debilitating medical condition is prohibited except in compliance with the Michigan Medical Marijuana Act of 2008 (the "Act") and applicable provisions of this Ordinance.

Section 2. Findings

A registered primary caregiver, operating in compliance with the Act, the Act's General Rules, and the requirements of this Ordinance, shall be permitted as a home occupation, as regulated by this Ordinance. The Township makes the following findings in support of its determination that the regulation of registered primary caregivers as a permitted home occupation is consistent with the purposes and intent of the Act:

- A. In 2008, the voters of the State of Michigan adopted by initiative election a statute authorizing the limited use, growing, and distribution of marijuana for certain medical conditions.
- B. The Act does not, however, create a general right for individuals to use, possess, or deliver marijuana in Michigan.
- C. The Act's protections are limited to individuals suffering from serious or debilitating medical conditions or symptoms, to the extent that the individuals' marijuana use is carried out in compliance with the provisions of the Act, including the provisions related to the operations of registered primary caregivers.
- D. The Act's definition of "medical use" of marijuana includes the "transfer" of marijuana "to treat or alleviate a registered qualifying patient's debilitating medical condition or symptoms associated with the debilitating medical condition," but only if such "transfer" is performed by a registered primary caregiver who is connected with the same qualifying patient through the registration process established by the Department of Licensing and Regulatory Affairs, and who is otherwise operating in strict compliance with the Act and the Act's General Rules.
- E. The Act provides that a registered primary caregiver may assist no more than five qualifying patients with their medical use of marijuana.
- F. The Act does not, therefore, create a new vocation for entrepreneurs or others who wish to engage in the sale of marijuana to more than five persons in a commercial setting. Instead, the Act is directed at improving the health and welfare of qualifying patients.
- G. The health and welfare of qualifying patients is improved by permitting the operations of registered primary caregivers as a home occupation, because this allows qualifying patients who suffer from serious debilitation medical conditions or symptoms to obtain the benefits of

the medical use of marijuana in a residential setting, without having to unnecessarily travel into commercial areas.

- H. By permitting the operations of registered primary caregivers as a home occupation, rather than in a commercial setting, this promotes the Act's purpose of ensuring that (i) a registered primary caregiver is not assisting more than five qualifying patients with their medical use of marijuana, and (ii) a registered primary caregiver does not unlawfully expand its operations beyond five qualifying patients, so as to become an illegal commercial operation, in the nature of a marijuana collective, cooperative or dispensary.

Section 2. Definitions

The definition of words and terms used in this Ordinance shall be the definitions contained in the Act, unless otherwise defined herein or in Trout Lake Township Ordinance 2021-1.

- "Home occupation" means an occupation or profession that is customarily incidental and secondary to the use of a dwelling. It is customarily conducted within a dwelling, carried out by its occupants utilizing equipment customarily found in a home and, except for a sign allowed by this Ordinance, is generally not distinguishable from the outside.
- "Medical marijuana facility" means any location from which medical marijuana is grown or provided to legally qualified patients.
- "Township" means Trout Lake Township.

Section 3. Standards and Requirements for Primary Caregivers

- A. The medical use of marijuana shall comply at all times with the Act and Act's General Rules, as amended.
- B. A registered primary caregiver shall not possess marijuana, or otherwise engage in the medical use of marijuana, in a school bus, on the grounds of any preschool or primary or secondary school, or in any correctional facility.
- C. Not more than two registered primary caregivers, who shall also be full-time residents of the dwelling, shall be permitted to operate at any one property.
- D. The medical use of marijuana shall be conducted entirely within a dwelling or attached garage, except that a registered primary caregiver may keep and cultivate, in an "enclosed, locked facility" (as that phrase is defined by the Act), up to 12 marijuana plants for each registered qualifying patient with whom the registered primary caregiver is connected through the registration process established by the Department of Licensing and Regulatory Affairs, and up to 12 additional marijuana plants for personal use, if the primary caregiver is also registered as a qualifying patient under the Act.
- E. A sign identifying the home occupation by word, image or otherwise, or indicating that the medical use of marijuana is taking place on the premises, shall not be permitted; nor shall any vehicle having such a sign be parked anywhere on the premises.
- F. Except for lighting, heating, watering, drying or other equipment, or fertilizers, herbicides or other chemicals directly related to the medical use of marijuana, not other materials or

equipment not generally associated with normal ownership, use, and maintenance of a dwelling shall be permitted.

- G. Distribution of marijuana or use of items in the administration of marijuana shall not occur at or on the premises of the primary caregiver. A qualifying patient shall not visit, come to, or be present at the residence of the primary caregiver to purchase, smoke, consume, obtain or receive possession of any marijuana.
- H. Except for the primary caregiver, no other person shall deliver marijuana to the qualifying patient.
- I. No one under the age of 18 years shall have access to medical marijuana.
- J. No on-site consumption or smoking of marijuana shall be permitted within the dwelling (or on the property) of a primary caregiver, except for lawful medical marijuana consumption by the primary caregiver if registered as a qualifying patient under the Act.
- K. Medical marijuana shall not be grown, processed, handled or possessed at the dwelling of the primary caregiver beyond that which is permitted by law.
- L. All necessary building, electrical, plumbing and mechanical permits shall be obtained for any portion of a building or structure in which equipment and devices that support the cultivation, growing or harvesting of marijuana are located or used.
- M. If marijuana is grown or located in a room with windows, all interior lighting shall be shielded to prevent ambient light from creating a distraction for adjacent properties.
- N. Related merchandise or products shall not be sold or distributed from the dwelling or property of the primary caregiver, apart from the permitted quantity of medical marijuana.
- O. To ensure compliance with all applicable requirements and laws, the portion of a building or other structure, such as a cultivation room, where energy use and heating requirements exceed typical residential limits and chemical storage occurs, are subject to inspection and approval by any Township official authorized to enforce this Ordinance.
- P. The property, dwelling and all enclosed, locked facilities shall be available for inspection upon request by any Township official authorized to enforce this Ordinance, building official or law enforcement official.

Section 4. Permitting

The operations of a registered primary caregiver, as a home occupation, shall be permitted only with the prior issuance of an annual Township permit.

- A. A complete and accurate application shall be submitted on a form provided by the Township.
- B. The permit application shall include the name and address of the applicant, the address of the property, proof that the dwelling is the applicant's full-time residence; a current state registration card issued to the primary caregiver; a full description of the nature and types of equipment which will be used in marijuana cultivation and processing; and a description of the location at which the use will take place. The Township Clerk may require additional

information necessary to demonstrate compliance with all requirements. The Township Clerk shall review the application to determine compliance with this Ordinance, the Act and the Act's General Rules. A permit shall be granted within thirty (30) days if the application demonstrates compliance with this Ordinance, the Act and the Act's General Rules.

- C. The Township shall not charge any fee to apply for or receive a permit hereunder. All issued permits shall be valid, unless properly revoked pursuant to this Section, for the period of July 1st through June 30th of the following year.
- D. The use shall be maintained in compliance with the requirements of this Ordinance, the Act and the Act's General Rules. Any departure shall be ground to revoke the permit and take other lawful action. If a permit is revoked, the applicant shall not engage in the activity unless and until a new permit is granted.
- E. Information treated as confidential under the Act, including the primary caregiver registry identification card and any information about qualifying patients associated with the primary caregiver, that is received by the Township shall be maintained separately from public information submitted in support of the application. It shall not be distributed or otherwise made available to the public and shall not be subject to disclosure under the Freedom of Information Act.
- F. The use of the dwelling or other permitted facility of a qualifying patient to cultivate medical marijuana in accordance with the Act, solely for personal use, does not require a permit under this Section; however, all applicable state and Township ordinance requirements must be met.
- G. The provisions of this Section do not apply to the personal use and/or internal possession of marijuana by a qualifying patient in accordance with the Act, for which a permit is not required.

Section 5. Marijuana Establishments Prohibited

- A. It is unlawful to establish or operate a for-profit or nonprofit marijuana dispensary, collective or cooperative with the Township, even if such use is intended for the medical use of marijuana.
- B. Any and all types of a "marijuana establishment," as that term is defined and used in Michigan Initiated Law 1 of 2018, commonly known as the Michigan Regulation and Taxation of Marijuana Act, are completely prohibited in the Township.
- C. Any and all types of "marijuana facilities" as described in Act 281 of 2016, the Medical Marijuana Facilities Licensing Act are completely prohibited in the Township.
- D. Nothing in this Section shall limit any privileges, rights, immunities or defenses of a person as provided in the Act.

Section 6. Penalties and Enforcement

A violation of any provision of this Ordinance is declared to be a nuisance per se.

- A. Any person, firm, or corporation who shall violate any provision of this Ordinance shall be deemed responsible for violating a municipal civil infraction, for which the fine shall be:

- 1) First Offense: Not less than \$100.00 nor more than \$500.00;
- 2) Second Offense: Not less than \$250.00 nor more than \$1,000.000;
- 3) Third Offense: Not less than \$500.00 nor more than \$2,500.00;
- 4) Subsequent Offenses: Not less than \$500.00 nor more than \$2,500.00.

Fines shall be in the discretion of the Court, and such fines shall be in addition to other costs, attorney fees, damages, expenses, and other remedies as provided by law. For purposes of this section, "second offense," "third offense," and "subsequent offenses" mean a violation of the provisions of this Ordinance committed by the same person for the same property within twelve (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, provided, however, that offenses committed on subsequent days within a period of one week following the issuance of a citation for a first offense shall all be considered separate first offenses.

- B. In addition to pursuing a municipal civil infraction proceeding pursuant to Subsection A hereof, the Township may also institute an appropriate action in a court of competent jurisdiction seeking injunctive, declaratory, or other equitable relief to enforce or interpret this Ordinance or any provision of the Ordinance.
- C. All remedies available to the Township under this Ordinance and Michigan law shall be deemed to be cumulative and not exclusive.
- D. Each and every day during which a violation of this Ordinance shall exist shall be deemed to be a separate offense.
- E. Any person, firm or entity that assists with or enables the violation of this Ordinance shall be responsible for aiding and abetting, and shall be considered to have violated the provision of this Ordinance involved for which such aiding and abetting occurred. Furthermore, any attempt to violate this Ordinance shall be deemed a violation of the provision of this Ordinance involved as if the violation had been successful or completed.

Section 7. Severability

The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.

Section 8. Effective Date

This Ordinance shall become effective thirty (30) days after its publication (or publication of a summary thereof) in a newspaper in general circulation within Trout Lake Township.

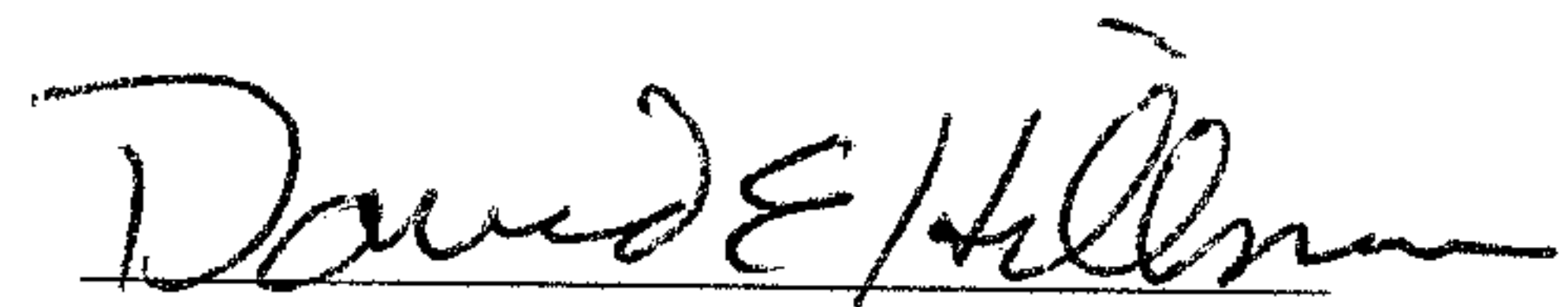
This Ordinance was offered for adoption by Township Board Member David Blake-Thomas and was seconded by Township Board Member Trustee Simpson. The vote being as follows:

YEAS: 5

NAYS: 0

ABSENT/ABSTAIN:

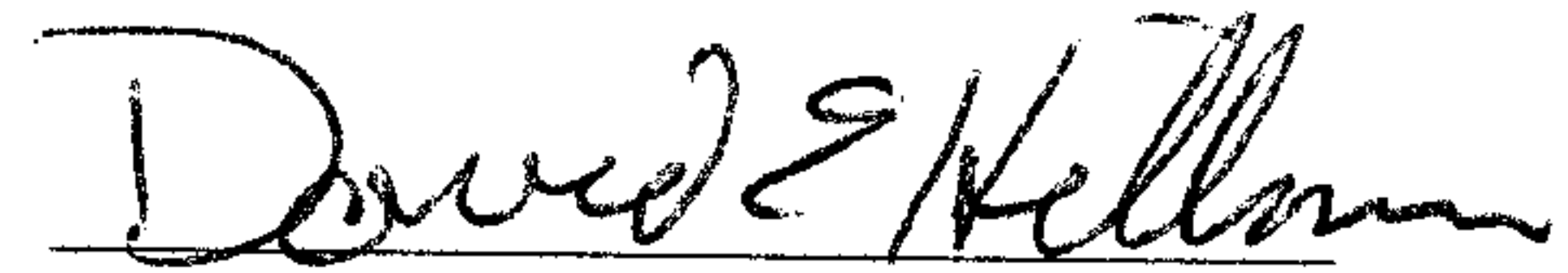
ORDINANCE DECLARED ADOPTED



David Hillman, Township Clerk

CERTIFICATION

I hereby certify that the above is a true copy of an ordinance adopted by the Trout Lake Township Board at a general meeting held via teleconference on February 9, 2021 at 6:30 p.m. pursuant to the required statutory notice and procedures.



David Hillman, Township Clerk