

**TOWNSHIP OF CHARLEVOIX
ORDINANCE NO. 1.78 - 2013**

AN ORDINANCE TO AMEND CHARLEVOIX TOWNSHIP ZONING ORDINANCE, ORDINANCE
___ OF 2007, ARTICLE XI: REGULATION OF MEDICAL MARIHUANA

THE TOWNSHIP OF CHARLEVOIX ORDAINS:

SECTION 1. Addition of Article XI: Regulation of Medical Marihuana. Sections 11.1 thru 11.6.

11.1 Purpose and Intent.

Intent and Purpose. As a result of the enactment of the Michigan Medical Marihuana Act (hereinafter referred to as the “MMMA”), Initiated Law 1 of 2008, MCL 333.26423, *et seq.*, and its administrative rules, R 333.101, *et seq.*, the Township of Charlevoix intends to provide reasonable land use regulations associated with the medical use of marihuana in accordance with the MMMA to:

- Protect public, health, safety, and welfare.
- Provide adequate separation of primary caregiver facilities from schools, churches and any areas where children congregate including, but not limited to, day care facilities, public beaches and athletic fields.
- Mitigate negative impacts associated with medical marihuana use in residential areas.

11.2 Definitions.¹

Enclosed, locked facility - That term as defined in Section 3 of Initiated Law 1 of 2008, as amended (Michigan Medical Marihuana Act), being MCL 333.26423.

Marihuana or marihuana - That term as defined in Section 7106 of Act No. 368 of the Public Acts of 1978, as amended (Michigan Public Health Code), being MCL 333.7106.

Medical Use - That term as defined in Section 3 of Initiated Law 1 of 2008, as amended (Michigan Medical Marihuana Act), being MCL 333.26423.

Primary caregiver - That term as defined in Section 3 of Initiated Law 1 of 2008, as amended (Michigan Medical Marihuana Act), being MCL 333.26423 who has registered with the Bureau of Health Professions, Michigan Department of Licensing and Regulatory Affairs or any successor agency under the Michigan Medical Marihuana Act.

Primary caregiver facility - A structure in which the activities of a primary caregiver are conducted.

Qualifying patient - That term as defined in Section 3 of Initiated Law 1 of 2008, as amended (Michigan Medical Marihuana Act), being MCL 333.26423 who has registered with the Bureau of Health Professions, Michigan Department of Licensing and Regulatory Affairs or any successor agency under the Michigan Medical Marihuana Act, and includes the parents or legal guardians of a qualifying patient under the age of 18 who are serving as the primary caregiver as required by the Michigan Medical Marihuana

Act exclusively for that qualifying patient under the age of 18.¹

11.3 Regulations for Qualifying Patients.

The medical use of marihuana by a qualifying patient in that qualifying patient's dwelling or an accessory structure is hereby recognized as an accessory use to the principal residential use of the property and can be established without a zoning permit in any zoning district, but shall be subject to the following regulations:

- (1) The qualifying patient must be issued and at all times must maintain a valid registry identification card, or appropriate documentation, by the Bureau of Health Professions, Michigan Department of Licensing and Regulatory Affairs or any successor agency under the provisions of the MMMA.
- (2) All marihuana plants or products must be contained within the dwelling or accessory structure in an enclosed, locked facility that permits access only by the qualifying patient.
- (3) If a room with windows within the dwelling or accessory structure is utilized to grow marihuana for medical use, any artificial lighting shall be shielded to prevent glare, must not be visible from neighboring properties, and must not be visible from adjacent streets or public ways.

11.4 Regulations for Primary Caregivers.

The medical use of marihuana by a primary caregiver is hereby authorized as a use by right only in single family homes and their associated accessory structures in the following zoning districts: One-Family Dwelling District (R-1), the One & Two-Family Dwelling District (R-2), the Planned Unit Development District (PUD) and the Agricultural District (A), provided that all of the following regulations are met:

- (1) The primary caregiver must be issued and at all times must maintain a valid registry identification card, or appropriate documentation, by the Bureau of Health Professions, Michigan Department of Licensing and Regulatory Affairs or any successor agency under the provisions of the MMMA.
- (2) The primary caregiver must obtain a zoning permit under Article XIII of the Township Zoning Ordinance.
- (3) Except when being transported as provided in subsection (9) below, all marihuana plants or products must be contained within the dwelling or accessory structure in

¹ (Editor's Note: Definitions are listed here for reference but may change if the MMMA is amended by the State Legislature.)

MMMA: Initiated Law 1 of 2008. Section 333.26423 Definitions:

"Enclosed, locked facility" means a closet, room, or other enclosed area equipped with locks or other security devices that permit access only by a registered primary caregiver or registered qualifying patient.

"Marihuana" means that term as defined in section 7106 of the public health code, 1978 PA 368, MCL 333.7106.

"Medical use" means the acquisition, possession, cultivation, manufacture, use, internal possession, delivery, transfer, or transportation of marihuana or paraphernalia relating to the administration of marihuana to treat or alleviate a registered qualifying patient's debilitating medical condition or symptoms associated with the debilitating medical condition.

"Primary caregiver" means a person who is at least 21 years old and who has agreed to assist with a patient's medical use of marihuana and who has never been convicted of a felony involving illegal drugs.

"Qualifying patient" means a person who has been diagnosed by a physician as having a debilitating medical condition.

an enclosed, locked facility where the marihuana plants and products are labeled for each qualifying patient and that permits access only by the primary caregiver.

- (4) If a room with windows within the dwelling or accessory structure is utilized to grow marihuana for medical use, any artificial lighting shall be shielded to prevent glare, must not be visible from neighboring properties, and must not be visible from adjacent streets or public ways.
- (5) Except as provided herein, no more than one (1) primary caregiver shall be permitted to provide primary caregiver services to qualifying patients within a single dwelling or accessory structure.
- (6) Except for any qualifying patients who reside with the primary caregiver at the dwelling, no more than five (5) qualifying patients may be present at the same time at a dwelling or accessory structure in which a primary caregiver of medical marihuana is providing primary caregiver services to qualifying patients for any purpose directly related to primary caregiver services. This subsection shall not be construed to prohibit the presence of qualifying patients, for purposes unrelated to primary caregiver services, at a dwelling or accessory structure in which a primary caregiver of medical marihuana provides primary caregiver services
- (7) Qualifying patient visits to a dwelling or accessory structure in which a primary caregiver is providing primary caregiver services to qualifying patients shall be restricted to between the hours of 7 a.m. and 10 p.m., except when the qualifying patient resides with the primary caregiver at the dwelling and except when the qualifying patient visits are for purposes unrelated to primary caregiver services.
- (8) No qualifying patients under the age of eighteen (18) shall be permitted at any time at a dwelling or accessory structure in which a primary caregiver is providing primary caregiver services to qualifying patients, except in the presence of his/her parent or guardian, except when the qualifying patient resides with the primary caregiver at the dwelling, and except when the qualifying patient visits are for purposes unrelated to primary caregiver services.
- (9) No marihuana for medical use shall be dispensed by the primary caregiver to qualifying patients at the dwelling or accessory structure in which a primary caregiver is providing primary caregiver services to qualifying patients, except to a qualifying patient who resides with the primary caregiver at the dwelling. Except as provided herein, the primary caregiver shall deliver all marihuana for the medical use of such qualifying patient, and such delivery shall take place on private property away from public view. Any such delivery vehicle shall be unmarked and not bear any emblem or sign that would indicate the nature of its cargo. In addition, all marihuana for medical use delivered to a qualifying patient shall be packaged so the public cannot see or smell the marihuana.
- (10) No marihuana for medical use shall be consumed, smoked, or ingested by a qualifying patient by any method at a dwelling or accessory structure in which a primary caregiver is providing primary caregiver services to qualifying patients, except by a qualifying patient who resides with the primary caregiver at the dwelling.
- (11) A dwelling or an accessory structure in which a primary caregiver is providing primary caregiver services to qualifying patients shall display indoors and in a manner legible and visible to his/her qualifying patients:

- (a) A notice that qualifying patients under the age of eighteen (18) are not allowed at the dwelling or accessory structure in which a primary caregiver is providing primary caregiver services to qualifying patients, except in the presence of his/her parent or guardian, except when the qualifying patient resides with the primary caregiver at the dwelling, or except when the qualifying patient visits are for purposes unrelated to primary caregiver services, and
 - (b) A notice that no dispensing or consumption of marihuana for medical use shall occur at the dwelling or accessory structure in which a primary caregiver is providing primary caregiver services to qualifying patients, except to or by a qualifying patient who resides with the primary caregiver at the dwelling.
- (12) A dwelling or an accessory structure in which a primary caregiver is providing primary caregiver services to qualifying patients shall not have any signage, symbols, pictures, or similar features visible from the outdoors that would indicate the nature of the primary caregiver services being conducted in the dwelling.
- (13) No primary caregiver facility shall be located in violation of any of the following spacing requirements:

EXCLUDED AREAS:

- (a) SR, PRD, C, HCO, I, I-2, MRD, R-3, R-2 (multi-family), PUD (multi-family)
- (b) Within 1,000 feet of schools
- (c) Within 500 feet of churches
- (d) Within 500 feet of community rehabilitation facilities (Bergmann Center)
- (e) Within 500 feet of sports facilities (Mt. McSauba Recreation Area & Stroud Fields & tennis courts)

ALLOWED AREAS:

Single family residences in the following zoning districts: Agricultural ("A") District, One-Family Dwelling ("R-1") District, One and Two-Family Dwelling ("R-2") District, and Planned Unit Development ("PUD") District.

The above spacing requirements shall be from lot line to lot line. The Medical Marihuana Reference Maps in Section 11.5 illustrates the parcels where a primary caregiver facility may be established. To the extent there is a conflict between the Medical Marihuana Reference Maps and the application of the spacing requirements provided herein, the application of the spacing requirements shall control.

- (14) The portion of the dwelling or accessory structure in which a primary caregiver is providing primary caregiver services to qualifying patients, including any room or area utilized to grow marihuana for medical use, shall contain electrical service

- and wiring, certified by an electrician licensed in the State of Michigan, meeting the applicable requirements of the electrical code in effect in Charlevoix County.
- (15) All primary caregivers must notify the zoning administrator on a yearly basis if the primary caregiver facility is still in operation. Notification shall be in writing and shall be submitted no less than one month before and not after the month and day of the issuance of the zoning permit. (Example: If the original zoning permit is issued on February 10, 2012, notification to the Zoning Administrator must be between January 10, 2013 and February 10, 2013.)
 - (16) Any primary caregiver with a valid zoning permit who chooses to cease operations at any point in time shall notify the zoning administrator in writing within seven (7) days. The zoning administrator shall have the right to inspect the facility for compliance.

11.5 Medical Marihuana Reference Maps.

11.6 Relationship to Federal Law.

Nothing within this section is intended to grant, nor shall it be construed as granting, immunity from federal law.

SECTION 2. Renumbering of Article XI thru Article XVII.

Articles XI thru XVII are hereby renumbered as Articles XII thru XVIII. All text remains the same.

SECTION 3. Renumbering of sections 11.1 thru 13.5.

Sections 11.1 thru 13.5 are hereby renumbered as Sections 12.1 thru 14.5. All text remains the same.

SECTION 4. Severability.

No other portion, paragraph or phrase of the Charlevoix Township Zoning Ordinance shall be affected by this Ordinance except as to the above sections, and in the event any portion, section or subsection of this Ordinance shall be held invalid for any reason, such invalidation shall not be construed to affect the validity of any other part or portion of this ordinance or of the Charlevoix Township Zoning Ordinance

SECTION 5. Effective Date.

This Ordinance shall become effective thirty (30) days after its enactment by the Township Board.

Ordinance No. 1.78-2012 was enacted on the 14th day of January, A.D. 2013, by the Charlevoix Township Board as follows:

Motion by: Nancy Rajewski, Trustee

Seconded by: Theda Williams, Treasurer

Yeas: Rajewski, Williams, Martin, Christiansen, Center

Nays: none

Absent: none

STATE OF MICHIGAN }
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 } ss
TOWNSHIP OF CHARLEVOIX}

Carol Martin, Township Clerk

H. Dale Glass, Township Supervisor