

OSHTEMO CHARTER TOWNSHIP ORDINANCE NO. 521

Adopted: June 28, 2011

Effective: July 6, 2011

OSHTEMO CHARTER TOWNSHIP ORDINANCE

An Ordinance to register, inspect and license medical marihuana operations, and to repeal any Ordinance or parts of Ordinances or resolutions in conflict with this Ordinance.

THE CHARTER TOWNSHIP OF OSHTEMO  
KALAMAZOO COUNTY, MICHIGAN  
ORDAINS:

SECTION I. TITLE.

This Ordinance shall be known and may be cited as the Oshtemo Charter Township Medical Marihuana Operations Registration, Inspection and Licensing Ordinance.

SECTION II. INTENT.

It is the intent of this Ordinance to give effect to the intent of the Initiated Act 1 of 2008, MCL 333.26421, *et seq.* (the Act) as approved by the electors, and not to determine and establish an altered policy with regard to marihuana. The Act authorizes a narrow exception to the general rule and state policy that the cultivation, distribution, and use of marihuana amount to criminal acts. This Ordinance also recognizes that marihuana continues to be a violation of federal law, specifically the Federal Controlled Substance Act.

It is the further intent of this Ordinance to protect the public health, safety and general welfare of persons and property and to register, inspect and license certain locations as specified below. While this Ordinance is designed to recognize the intent of the Act to allow the creation and maintenance of a private and confidential patient/caregiver relationship and to facilitate the statutory authorization of limited cultivation, distribution, and use of marihuana for medical purposes, this Ordinance also

recognizes the fact that the community needs to address the issues that would otherwise expose the community and its residents to significant adverse conditions including substantial serious criminal activity, danger to law enforcement, discouragement and impairment of effective law enforcement, as well as the creation of purportedly lawful commercial enterprises which involve the cultivation, distribution and/or use of marihuana that is not reasonably susceptible of being distinguished from serious criminal enterprises and uninspected installation of all unlawful plumbing and electrical facilities that create dangerous health, safety and fire conditions.

It is not the intent of this Ordinance to specify the approved location for any facilities referenced hereunder, nor to address all the specific criteria under which they may or may not be authorized under the Oshtemo Charter Township Zoning Ordinance.

It is the intent of this Ordinance to provide for registration, inspection and licensing of the facilities.

Nothing in this Ordinance shall be construed as allowing persons to engage in conduct that endangers others or causes a public nuisance, or to allow use, cultivation, growth, possession or control of marihuana not in strict accordance with the express authorizations of the Act and this Ordinance. Nothing in this Ordinance shall be construed to provide immunity from federal law as it may be enforced by the federal government relative to the cultivation, distribution, or use of medical marihuana. Thus, the registration and inspection provided for under this Ordinance shall not have the effect of superseding or nullifying federal or state law applicable to the cultivation, use, and possession of marihuana, and all applicants and those registered and licensed under this Ordinance are on notice that they may be subject to prosecution and civil penalty, including forfeiture of property.

SECTION III. DEFINITIONS.

- ◆ *Act* means Initiated Law of 2008, MCL 333.26421, *et seq.*, and Michigan Administrative Rules, R 333.101, *et seq.*
- ◆ *Department* means the State of Michigan Department of Community Health.

- ◆ *Qualifying patient or patient* means a person as defined under MCL 333.26423(h) of the Act.
- ◆ *Primary caregiver or caregiver* means a person as defined under MCL 333.26423(g) of the Act, and who has been issued and possesses a Registry Identification Card under the Act.
- ◆ *Registry Identification Card* means the document defined under MCL 333.26423(i) of the Act.
- ◆ *Distribution* means the physical transfer of any amount of marihuana in any form by one person to any other person or persons, whether or not any consideration is paid or received.
- ◆ *Distributor* means any person, including but not limited to a caregiver, patient or any other person, who engages in any one or more acts of Distribution.
- ◆ *Facility or Premises* means one (1) commercial business premises having a separate or independent postal address, one (1) private office premises having a separate or independent postal address, one (1) single-family residence having a separate or independent postal address, one (1) apartment unit having a separate or independent postal address, one (1) condominium unit having a separate or independent postal address, or one (1) free-standing industrial building having a separate or independent postal address.
- ◆ *Marihuana* means the substance or material defined in Section 7106 of the Public Health Code, 1976 PA 368, MCL 333.7106.

SECTION IV.        REQUIREMENT FOR REGISTRATION, INSPECTION AND LICENSURE.

The requirements for registration, inspection and licensing are based on the following findings:

1. Law enforcement officers are required to investigate and pursue prosecution with regard to the *unlawful* cultivation, distribution or consumption of marihuana. Yet, the Act concurrently authorizes as lawful undertakings the same actions by those who meet the terms of the Act. This places a burden on law enforcement to make a distinction relating to very similar conduct, and the Act expressly denies law enforcement officials advanced access to the identity and location of those authorized to lawfully engage in the cultivation, distribution or consumption of marihuana for medical purposes, making it difficult to distinguish between lawful and unlawful operations with the possible presence of significant quantities of unlawful controlled substances along with quantities of cash and weapons used to protect the controlled substances and cash. Therefore, interaction between law enforcement and persons engaged in unlawful drug activity can be extremely dangerous. Accordingly, the inspection, registration and licensing of a particular facility as the site for cultivation and distribution which need not undermine the privacy and confidentiality of the patient/caregiver relationship is critical to law enforcement in order to identify and distinguish sites of lawful activity from sites of unlawful activity.

2. The experience in the State of California, a state that approved the medical use of marihuana more than a decade ago, is that concentrations of marihuana distribution activity lead to the following significant and serious secondary effects:
  - a. California law enforcement reported in 2009 (White Paper), that nonresidents in pursuit of marihuana, and out of area criminals in search of prey, are commonly encountered just outside marihuana dispensaries, as well as drug-related offenses in the vicinity – like resales of products just obtained inside – since these marihuana centers regularly attract marihuana growers, drug users, and drug traffickers. Sharing just purchased marihuana outside dispensaries also regularly takes place resulting in increased incidents of crime including murder and armed robbery.
  - b. In a 2009 California law enforcement PowerPoint presentation, referring again to the existence of a concentration of distribution activities, the Los Angeles Police Department reported:
    - (1) 200% increase in robberies.
    - (2) 52.2% increase in burglaries.
    - (3) 57.1% rise in aggravated assaults.
    - (4) 130.8% rise in burglaries from autos near cannabis clubs in Los Angeles.
    - (5) Use of armed gang members as armed “security guards.”
  - c. California law enforcement reported in 2009 (White Paper) that besides fueling marihuana dispensaries, some monetary proceeds from the sale of harvested marihuana derived from plants grown inside houses are being used by organized crime syndicates to fund other legitimate businesses for profit and the laundering of money, and to conduct illegal business operations like prostitution, extortion, and drug trafficking.
  - d. California law enforcement reported in 2009 (White Paper) that other adverse secondary impacts from the operation of marihuana dispensaries include street dealers lurking about dispensaries to offer a lower price for marihuana to arriving patrons; marihuana smoking in public and in front of children in the vicinity of dispensaries; loitering and nuisances; acquiring marihuana and/or money by means of robbery of patrons going to or leaving dispensaries; an increase in burglaries at or near dispensaries; a loss of trade for other commercial businesses located near dispensaries.

(The findings are based upon the “White Paper – A Local Government View of the Michigan Medical Marihuana Act,” by Gerald A. Fisher, October 5, 2010.)

3. The Act requires that information concerning identity and location of caregivers is to be confidential, and that caregivers authorized under the Act are not to be punished. However, the Act does not expressly and implicitly specify an intent to pre-empt all local enforcement efforts. Just as with the adult entertainment industry, which is protected by the First Amendment, these marihuana operations also have negative secondary effects including criminal

activity associated with that reported above, and therefore, reasonable regulation is authorized in order to oversee and mitigate against the negative secondary effects.

4. The inability of law enforcement officials to access relevant and often critical information concerning those cultivating, distributing and consuming marihuana amounts to a material barrier to the effective investigation/enforcement model. Without critical information to distinguish those operating under the Act from those engaged in illegal trafficking, law enforcement is impeded in the effort of undertaking adequate operational planning, and this, in turn, exposes law enforcement, and innocent third parties, to substantial and unnecessary risks.
5. Absent the requirements for registration, inspection and licensure of a premises at which substantial facilities have been installed to facilitate the cultivation of marihuana plants, including plumbing and electrical inspections, there have been reports that unauthorized installations relating to the cultivation of marihuana plants have been made, including unauthorized power lines that by-pass meters. These installations create a threat to public health and safety, and result in a substantial fire risk.
6. The fundamental intent of the Act is the creation of a private and confidential patient-caregiver relationship to facilitate the lawful cultivation, distribution, and use of marihuana strictly for medical purposes.
7. It is the intent of this Ordinance that the requirements for registration, inspection and licensure shall be administered by the Township and contracted County law enforcement officials, and that the information acquired by the Township and its law enforcement officials shall be deemed *per se* confidential, and not subject to public disclosure by law enforcement, by FOIA or otherwise.
8. The requirement to identify sites at which medical marihuana is cultivated and/or distributed, while not requiring identification of names and addresses of the caregivers, is not in conflict with the terms of the Act, and is deemed to be the minimum requirement necessary in order to protect the public and permit safe and effective enforcement of the Act and the general laws relating to marihuana. To the extent that such identification impacts upon confidentiality, such confidentiality must be strictly construed as an exception to the general criminality of marihuana cultivation, distribution and use, and must be weighed in relation to impacts upon the health, safety, and welfare of the general public at large and the feasibility of enforcing applicable law in the absence of site identification.

SECTION V. REGISTRATION, INSPECTION AND LICENSURE  
REQUIREMENTS.

The registration, inspection and licensure requirements are based on the following findings:

1. The cultivation and/or distribution of marihuana by a primary caregiver or any other person permitted under the Act, and the provision of caregiver services relating to medical marihuana use shall be permitted in accordance with the Act. No cultivation, distribution, or other assistance to patients shall be lawful in this community at a location unless and until such location for such cultivation, distribution or other assistance has been approved under the Township Ordinance, and further, the facility is required to be inspected, registered and licensed under this Ordinance. Registration shall be subject to and in accordance with the following:
  - a. The location of a Facility used for the cultivation of marihuana by caregivers or by other persons permitted under the Act.
  - b. The location of a Facility used for distribution.
  - c. The location of a Facility used to provide any other assistance to patients by caregivers or any other persons permitted under the Act relating to medical marihuana.
  - d. By way of exception, it is not the intent of this Ordinance to require registration for a principal residence of a patient where marihuana is cultivated or used exclusively for such patient's personal consumption; however, a location other than a patient's principal residence where a patient cultivates or uses marihuana shall be subject to the registration and inspection requirements of this Ordinance.
2. Application for registration, inspection and licensure.
  - a. The requirement of this Ordinance is to register, inspect and license a location, not to license persons or facilities. A confidential application for registration under this section shall be submitted to the person designated as the medical marihuana officer of the Township, and shall conform to the following: An application shall:
    - (1) Not require the name, home address, or date of birth of a patient or caregiver.
    - (2) Include the address and legal description of the precise premises, other than a patient's principal residence, at which there shall be possession, cultivation, distribution or other assistance in the use of marihuana. The fact that a caregiver or other person providing assistance to patients also has an ID Card as a patient shall not relieve the obligation to provide this information.
    - (3) Specify the name and address of the place where all unused portions of marihuana plants cultivated in connection with the use of marihuana or caregiver activity at the premises shall be disposed.
    - (4) Describe the enclosed, locked facility in which any and all cultivation of marihuana is proposed to occur, or where marihuana is stored, with such description

including: location in building; precise measurements in feet of the floor dimensions and height; the security device for the facility.

- (5) Describe all locations in the premises where a caregiver or other person authorized under the Act shall render assistance to a qualifying patient.
- (6) Specify the number of patients to be assisted, including the number of patients for whom marihuana is proposed to be cultivated, and the number of patients to be otherwise assisted on the premises, and the maximum number of plants to be grown or cultivated at any one time. If the location at which patients will be assisted is different from the licensed premises, the application shall provide the address of all such other locations (other than the address of a patient being assisted).
- (7) For safety and other code inspection purposes, it shall describe and provide detailed specifications of all lights, equipment, and all other electrical, plumbing, and other means proposed to be used to facilitate the cultivation of marihuana plants as such specifications relate to the need for the installation of facilities.
- (8) The annual registration, inspection and license fee shall be established by the Township Board.

3. Requirements and standards for licensure.

- a. Location of the facility used for the cultivation and/or distribution of marihuana by caregivers and any other person permitted under the Act, shall be in compliance with the Oshemo Charter Township Zoning Ordinance.
- b. The location of the facility in which a caregiver or any other person permitted under the Act cultivates marihuana, or distributes marihuana, or assists patients in the use of marihuana shall not be the same facility at which any other caregiver or person cultivates marihuana, distributes marihuana or assists a patient in the use of marihuana. Accordingly, all such facilities registered may have no more than twelve (12) marihuana plants being cultivated at any one (1) time per patient, and in no event, more than sixty (60) marihuana plants being cultivated at any one time, (which assumes cultivation for five (5) patients as provided by the Act, plus an additional twelve (12) plants if the caregiver is also a patient that has not designated a caregiver to assist in providing medical marihuana).
- c. All medical marihuana cultivation, distribution or assistance of a patient in the use of medical marihuana by a caregiver shall occur within the confines of a building registered under this section, and such activities shall occur only in locations not visible to the public and adjoining uses, provided, this subsection shall not prohibit a caregiver from assisting a hospice patient at the patient's principal residence, hospice or at a hospital.

- d. Electrical and plumbing inspectors (and other inspector(s) within whose expertise an inspection is deemed necessary by the Township Building Inspector) must annually inspect and provide a report confirming that all lighting, plumbing, equipment, and all other means proposed to be used at a Facility to grow, cultivate or distribute marihuana is in accordance with applicable codes.
- e. Considering that the distribution of marihuana is generally unlawful, and that the Act authorizes caregivers and does not authorize any activity such as a dispensary (authorized by statutes in other states), and reading the Act as a whole, the activities of caregivers are interpreted as being limited to private and confidential endeavors. Moreover, the location and identity of a caregiver is known to patients. Accordingly:
  - (1) There shall be no signage identifying a caregiver use or place at which medical marihuana is distributed.
  - (2) Unless conducted as part of a related licensed professional medical or pharmaceutical practice, caregiver activity shall not be advertised as a “clinic,” “hospital,” “dispensary,” or other name customarily ascribed to a multi-patient professional practice.
  - (3) An approval for registration and inspection may include reasonable conditions requested in writing during the application and review process.
  - (4) Use of land in accordance with approved application. If the property is registered and inspected in accordance with the limitations and specifications submitted by the applicant, the use of the land shall be considered approved for purposes of registration and inspection.
  - (5) A Facility that exists on the effective date of this Ordinance must make application for and receive approval to continue to operate; provided, an application shall be filed within thirty (30) days following the effective date of this Ordinance. If a location registers under this Ordinance and is not granted a license to operate due to inability to comply with the Township Zoning Ordinance or shall fail to meet any of the other limitations provided for proper licensure, the Facility shall have one hundred and eighty (180) days from the date of the licensure denial to cease operating at the denied site.

SECTION VI. RESTRICTION ON DISTRIBUTION.

- 1. The restrictions in this section are based on the following findings:
  - a. The Act was passed by the initiative process. The ballot containing the proposal did not include, and as a practical matter could not have included, the full statute. Thus, electors approved the initiative proposal based upon a reading of a mere summary of the Act. Both the summary

and the Act as a whole reflect the intent to have a private and confidential patient-caregiver relationship to facilitate the lawful cultivation, distribution, and use of marihuana strictly for medical purposes, that is, an authorization for confidential and private use of marihuana by patients, and for confidential and private assistance in such use by caregivers with whom individual patients are connected through the Department's registration process. That is, the Act does not authorize the broad legalization of the cultivation, distribution, or use of marihuana, and a reading that permits such broad legalization is inconsistent with the fundamental intent of the Act read as a whole in context with generally applicable Michigan law. Thus, it would be reasonable to expect and require that all undertakings of caregivers and other persons in assisting a patient are intended to occur on a confidential and private one-to-one basis.

- b. The Act does not reflect the intent for distributions of marihuana by more than one caregiver or other person to one patient, or by one or more caregivers or other persons to more than one patient at any given time and place.
- c. The confidentiality provisions of the Act reflect the intent for all caregivers and patients to remain anonymous in terms of their name and address, thus further reflecting the private and confidential nature of the activities contemplated between a caregiver and the patient he or she is assisting.
- d. In view of the fact that the Act effectively requires law enforcement officers to seek to prevent unlawful cultivation, distribution or consumption of marihuana, while concurrently permitting substantially the same actions by those who meet the terms of the Act, and considering that law enforcement officials are prohibited from having access to important information that could be used to distinguish unlawful and lawful actors, it is deemed necessary by the legislative body of the community to maintain by registration and inspection an environment that seeks to promote the protection, efficiency, and effectiveness of law enforcement officers and their work performed in connection with the cultivation, distribution or consumption of marihuana.
- e. All of the findings stated in Section IV above, in support of the requirements for registration, inspection and licensure are incorporated by reference to this section of the Ordinance.

2. Restrictions:

- a. A caregiver and any other person authorized under the Act to assist patients, if any, shall distribute medical marihuana only on a confidential, one-to-one basis with no other caregiver being present at the same Facility at the same time, and no other patient or other person being present at the same Facility at the same time, provided that a patient's immediate family members or guardian may be present within the patient's private residence, and one (1) family member or guardian may be present in any Facility other than the patient's private residence. For purposes of this

subsection, the phrase “same time” shall mean and include concurrently as well as within a time interval of one (1) hour.

- b. Considering the health issues presented, no food shall be sold from the Facility used for the distribution of medical marihuana.

SECTION VII. PENALTY, FINES AND/OR REVOCATION.

Any person, firm, association, partnership, corporation or entity that violates any of the provisions of this Ordinance shall be deemed responsible for a municipal civil infraction which shall be punishable by a civil fine of \$1,000.00 (or the maximum permitted by law if less than \$1,000) for each violation.

In the event of two (2) or more violations, increased civil penalty (if permitted by law), and grounds for revocation, following hearing by the Township Board.

Additionally, the violator shall pay costs which may include all expenses direct and indirect to which the Township has been put in connection with the municipal civil infraction.

Notwithstanding any other remedy, the Township shall have the right to proceed in any court of competent jurisdiction for the purpose of obtaining an injunction, restraining order or other appropriate remedy to compel compliance with this Ordinance.

Each day that a violation of this Ordinance continues to exist shall constitute a separate violation of this Ordinance.

SECTION VIII. NO VESTED RIGHTS.

A property owner shall not have vested rights or nonconforming use rights that would serve as a basis for failing to comply with this Ordinance or any amendment to this Ordinance.

SECTION IX. EFFECTIVE DATE; REPEAL ANY CONFLICTING PROVISIONS

This Ordinance shall take effect upon publication after adoption. All Ordinances or parts of Ordinances inconsistent with the provisions of this Ordinance are hereby repealed.

DEBORAH L. EVERETT, CLERK  
OSHTEMO CHARTER TOWNSHIP

CHARTER TOWNSHIP OF OSHTEMO  
KALAMAZOO COUNTY, MICHIGAN

**NOTICE OF ORDINANCE ADOPTION**

TO: THE RESIDENTS AND PROPERTY OWNERS OF THE CHARTER TOWNSHIP OF OSHTEMO, KALAMAZOO COUNTY, MICHIGAN, AND ANY OTHER INTERESTED PERSONS:

PLEASE TAKE NOTICE that on the 28<sup>th</sup> day of June, 2011, at a regular meeting of the Township Board of the Charter Township of Oshtemo, Kalamazoo County, Michigan, the Township Board of said Township adopted the Oshtemo Charter Township Medical Marihuana Operations Registration, Inspection and Licensing Ordinance, which provides as follows:

SECTION I. TITLE.

This Ordinance shall be known and may be cited as the Oshtemo Charter Township Medical Marihuana Operations Registration, Inspection and Licensing Ordinance.

SECTION II. INTENT.

It is the intent of this Ordinance to give effect to the intent of the Initiated Act 1 of 2008, MCL 333.26421, *et seq.* (the Act) as approved by the electors, and not to determine and establish an altered policy with regard to marihuana. It is the further intent of this Ordinance to protect the public health, safety and general welfare of persons and property and to register, inspect and license certain locations as specified below.

It is not the intent of this Ordinance to specify the approved location for any facilities referenced hereunder, nor to address all the specific criteria under which they may or may not be authorized under the Oshtemo Charter Township Zoning Ordinance. It is the intent of this Ordinance to provide for registration, inspection and licensing of the facilities.

SECTION III. DEFINITIONS.

The following are defined as more fully set forth in the Ordinance:

- ◆ *Act.*
- ◆ *Department.*
- ◆ *Qualifying patient.*
- ◆ *Primary caregiver.*
- ◆ *Registry Identification Card.*
- ◆ *Distribution.*
- ◆ *Distributor.*
- ◆ *Facility or Premises.*
- ◆ *Marihuana.*

SECTION IV. REQUIREMENT FOR REGISTRATION, INSPECTION AND LICENSURE.

The requirements for registration, inspection and licensing are based on the following findings:

1. Interaction between law enforcement and persons engaged in unlawful drug activity can be extremely dangerous. The inspection, registration and licensing of a particular facility as the site for cultivation and distribution which need not undermine the privacy and confidentiality of the patient/caregiver relationship is critical to law enforcement in order to identify and distinguish sites of lawful activity from sites of unlawful activity.
2. The experience in the State of California is that concentrations of marihuana distribution activity lead to the following significant and serious secondary effects:
  - a. Nonresidents in pursuit of marihuana, and out of area criminals in search of prey, are commonly encountered just outside marihuana dispensaries, as well as drug-related offenses in the vicinity – like resales of products just obtained inside – since these marihuana centers regularly attract marihuana growers, drug users, and drug traffickers.
  - b. Per the California White Paper, concentration of distribution activities results in:
    - (1) 200% increase in robberies.
    - (2) 52.2% increase in burglaries.
    - (3) 57.1% rise in aggravated assaults.
    - (4) 130.8% rise in burglaries from autos near cannabis clubs in Los Angeles.
    - (5) Use of armed gang members as armed “security guards.”
  - c. Proceeds from the sale of harvested marihuana derived from plants grown inside houses are being used by organized crime syndicates to fund other legitimate businesses for profit and the laundering of money.
  - d. Other adverse secondary impacts include street dealers lurking about dispensaries to offer a lower price for marihuana to arriving patrons; marihuana smoking in public and in front of children in the vicinity of dispensaries; loitering and nuisances.

(The findings are based upon the “White Paper – A Local Government View of the Michigan Medical Marihuana Act,” by Gerald A. Fisher, October 5, 2010.)

3. The Act requires that information concerning identity and location of caregivers is to be confidential. However, these marihuana operations also have negative secondary effects including criminal activity associated with that reported above, and therefore, reasonable regulation is authorized in order to oversee and mitigate against the negative secondary effects.
4. Without critical information to distinguish those operating under the Act from those engaged in illegal trafficking, law enforcement is impeded in the effort of undertaking adequate operational planning, and this, in turn, exposes law enforcement, and innocent third parties, to substantial and unnecessary risks.
5. Absent the requirements for registration, inspection and licensure of a premises at which substantial facilities have been installed to facilitate the cultivation of marihuana plants, including plumbing and electrical inspections, creates a threat to public health and safety, and result in a substantial fire risk.
6. The fundamental intent of the Act is the creation of a private and confidential patient-caregiver relationship to facilitate the lawful cultivation, distribution, and use of marihuana strictly for medical purposes.
7. The requirements for registration, inspection and licensure shall be administered by the Township and contracted County law enforcement officials, and the information acquired shall be deemed *per se* confidential.
8. The requirement to identify sites at which medical marihuana is cultivated and/or distributed, while not requiring identification of names and addresses of the caregivers, is not in conflict with the terms of the Act, and is deemed to be the minimum requirement necessary in order to protect the public and permit safe and effective enforcement of the Act and the general laws relating to marihuana.

SECTION V. REGISTRATION, INSPECTION AND LICENSURE REQUIREMENTS.

The registration, inspection and licensure requirements are based on the following findings:

1. No cultivation, distribution, or other assistance to patients shall be lawful in this community at a location unless and until such location for such

cultivation, distribution or other assistance has been approved under the Township Ordinance, and further, the facility is required to be inspected, registered and licensed under this Ordinance. Registration shall be subject to and in accordance with the following:

- a. The location of a Facility used for the cultivation of marihuana.
- b. The location of a Facility used for distribution.
- c. The location of a Facility used to provide any other assistance to patients by caregivers.
- d. By way of exception, it is not the intent of this Ordinance to require registration for a principal residence of a patient where marihuana is cultivated or used exclusively for such patient's personal consumption.

2. Application for registration, inspection and licensure.

- a. A confidential application for registration under this section shall be submitted to the person designated as the medical marihuana officer of the Township. An application shall:
  - (1) Not require the name, home address, or date of birth of a patient or caregiver.
  - (2) Include the address and legal description of the precise premises at which there shall be possession, cultivation, distribution or other assistance in the use of marihuana.
  - (3) Specify the name and address of the place where all unused portions of marihuana plants cultivated in connection with the use of marihuana or caregiver activity at the premises shall be disposed.
  - (4) Describe the enclosed, locked facility in which any and all cultivation of marihuana is proposed to occur.
  - (5) Describe all locations in the premises where a caregiver or other person authorized under the Act shall render assistance to a qualifying patient.
  - (6) Specify the number of patients to be assisted, including the number of patients for whom marihuana is proposed to be cultivated, and the number of patients to be otherwise

assisted on the premises, and the maximum number of plants to be grown or cultivated at any one time.

(7) For safety and other code inspection purposes, it shall describe and provide detailed specifications of all lights, equipment, and all other electrical, plumbing, and other means proposed to be used to facilitate the cultivation of marihuana plants.

(8) The annual registration, inspection and license fee shall be established by the Township Board.

3. Requirements and standards for licensure.

a. Location of the facility shall be in compliance with the Oshtemo Charter Township Zoning Ordinance.

b. Facilities registered may have no more than 12 marihuana plants being cultivated at any one time per patient, and in no event, more than 60 marihuana plants being cultivated at any one time, (which assumes cultivation for 5 patients as provided by the Act.

c. All medical marihuana cultivation, distribution or assistance of a patient in the use of medical marihuana by a caregiver shall occur within the confines of a building registered under this section.

d. Electrical and plumbing inspectors (and other inspector(s) within whose expertise an inspection is deemed necessary by the Township Building Inspector) must annually inspect and provide a report confirming that all lighting, plumbing, equipment.

e. The Act authorizes caregivers and does not authorize any activity such as a dispensary. Moreover, the location and identity of a caregiver is known to patients. Accordingly:

(1) There shall be no signage identifying a caregiver use or place at which medical marihuana is distributed.

(2) Caregiver activity shall not be advertised as a “clinic,” “hospital” or “dispensary.”

(3) An approval for registration and inspection may include reasonable conditions requested in writing during the application and review process.

- (4) Use of land in accordance with approved application.
- (5) A Facility that exists on the effective date of this Ordinance must make application for and receive approval to continue to operate; provided, an application shall be filed within thirty (30) days following the effective date of this Ordinance. If a location registers under this Ordinance and is not granted a license to operate due to inability to comply with the Township Zoning Ordinance or shall fail to meet any of the other limitations provided for proper licensure, the Facility shall have one hundred and eighty (180) days from the date of the licensure denial to cease operating at the denied site.

## SECTION VI.

### RESTRICTION ON DISTRIBUTION.

1. The restrictions in this section are based on the following findings:
  - a. The Act was passed by the initiative process. Both the summary and the Act as a whole reflect the intent to a private and confidential patient-caregiver relationship to facilitate the lawful cultivation, distribution, and use of marihuana strictly for medical purposes, that is, an authorization for confidential and private use of marihuana by patients. The Act does not authorize the broad legalization of the cultivation, distribution, or use of marihuana, and a reading that permits such broad legalization is inconsistent with the fundamental intent of the Act read as a whole in context with generally applicable Michigan law.
  - b. The Act does not reflect the intent for distributions of marihuana by more than one caregiver or other person to one patient, or by one or more caregivers or other persons to more than one patient at any given time and place.
  - c. The confidentiality provisions of the Act reflect the intent for all caregivers and patients to remain anonymous in terms of their name and address, thus further reflecting the private and confidential nature of the activities contemplated between a caregiver and the patient he or she is assisting.
  - d. In view of the fact that the Act effectively requires law enforcement officers to seek to prevent unlawful cultivation, distribution or consumption of marihuana, while concurrently permitting substantially the same actions by those who meet the terms of the Act. It is important to have information that could be

used to distinguish unlawful from lawful actors, and therefore necessary to maintain by registration and inspection an environment that seeks to promote the protection, efficiency, and effectiveness of law enforcement officers.

- e. All of the findings stated in Section IV above, in support of the requirements for registration, inspection and licensure are incorporated by reference to this section of the Ordinance.

2. Restrictions:

- a. A caregiver and any other person authorized under the Act to assist patients, if any, shall distribute medical marihuana only on a confidential, one-to-one basis with no other caregiver being present at the same Facility at the same time, and no other patient or other person being present at the same Facility at the same time, provided that a patient's immediate family members or guardian may be present within the patient's private residence, and one family member or guardian may be present in any Facility other than the patient's private residence. For purposes of this subsection, the phrase "same time" shall mean and include concurrently as well as within a time interval of one hour.
- b. Considering the health issues presented, no food shall be sold from the Facility used for the distribution of medical marihuana.

SECTION VII. PENALTY, FINES AND/OR REVOCATION.

Any person, firm, association, partnership, corporation or entity that violates any of the provisions of this Ordinance shall be deemed responsible for a municipal civil infraction which shall be punishable by a civil fine of \$1,000.00 (or the maximum permitted by law if less than \$1,000) for each violation.

SECTION VIII. NO VESTED RIGHTS.

A property owner shall not have vested rights or nonconforming use rights that would serve as a basis for failing to comply with this Ordinance or any amendment to this Ordinance.

SECTION IX. EFFECTIVE DATE; REPEAL ANY CONFLICTING PROVISIONS

This Ordinance shall take effect upon publication after adoption. All Ordinances or parts of Ordinances inconsistent with the provisions of this Ordinance are hereby repealed.

PLEASE TAKE FURTHER NOTICE that the full text of the Ordinance has been posted for public inspection at the Township Hall located at 7275 West Main Street, Kalamazoo, Michigan, 49009, and on the Township's Web Page of [www.oshtemo.org](http://www.oshtemo.org)

PLEASE TAKE FURTHER NOTICE that said Ordinance will take effect July 6, 2011. A copy of this Ordinance may be purchased or inspected at the office of the Township Clerk at any time during regular business hours of regular business days at the following address.

DEBORAH L. EVERETT, Clerk  
Oshtemo Charter Township Hall  
7275 West Main Street  
Kalamazoo, MI 49009  
Telephone: (269) 375-4260