

OSHTEMO CHARTER TOWNSHIP ORDINANCE NO. 522

Adopted: June 28, 2011

Effective: July 14, 2011

OSHTEMO CHARTER TOWNSHIP ORDINANCE

An Ordinance to amend the Oshtemo Charter Township Zoning Ordinance, by the revision of Section 11.000 Definitions to add various definitions relating to medical use of marihuana, the revision of Section 78.900 Home Occupations to add a registered medical marihuana primary caregiver as a home occupation, and the revision of notes #4 of Section 76.160, Schedule A, and Section 76.170, Schedule B and the addition of Paragraph D to Section 76.420 regarding signs. The Ordinance repeals all Ordinances or parts of Ordinances in conflict.

THE CHARTER TOWNSHIP OF OSHTEMO
KALAMAZOO COUNTY, MICHIGAN
ORDAINS:

SECTION I. AMENDMENT OF ZONING ORDINANCE COMPILED SECTION 11.000, DEFINITIONS. Section 11.365 Medical Use of Marihuana is hereby added to read as follows:

11.365 Medical use of marihuana.

The following definitions shall apply:

- a. *Dispensary* means any operation where marihuana is distributed to a qualifying patient by someone other than his or her designated primary caregiver.
- b. *Marihuana*, also known as Marijuana, also known as Cannabis. That term shall have the meaning given to it in Section 7601 of the Michigan Public Health Code, 1978 PAS 368, MCL 333.7106, as is referred to in Section 3(d) of The Michigan Medical Marihuana Act, P.A. 2008, Initiated Law, MCL 333.26423(d). Any other term pertaining to marihuana used in this section and not otherwise defined shall have the meaning given to it in the Michigan Medical Marihuana Act and/or in the General Rules of the Michigan Department of Community Health issued in connection with that Act.
- c. *Medical use of marihuana.* 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, as defined under The Michigan Medical Marihuana Act, P.A. 2008, Initiated Law, MCL 333.26423(d).
- d. *Michigan Medical Marihuana Act* or *Act* means the Michigan Initiated Law 1 of 2008, MCL 333.26421 *et seq.*
- e. *Primary caregiver* means a person as defined under MCL 333.26423(g) of the Act, 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 and who has been issued and possesses a Registry Identification Card under the Act.

- f. *Qualifying patient* means a person as defined under MCL 333.26423(h) of the Act, who has been diagnosed by a licensed physician as having a debilitating medical condition and who has been issued and possesses a Registry Identification Card under the Act.
- g. *Registry Identification Card* means the document defined as such under MCL 333.26423(i) of the Act and which is issued by the Michigan Department of Community Health to identify a person as a registered qualifying patient or registered primary caregiver.
- h. *Smoke house* means a facility that allows multiple qualifying patients to consume or ingest medical marihuana upon the premises. This term does not encompass (1) a primary caregiver facility at which medical marihuana is consumed or ingested on the premises solely by the designated qualifying patient(s) of the primary caregiver(s) operating within the facility or (2) the consumption or ingestion of medical marihuana by a qualifying patient at his/her residence or at a hospital or hospice at which the qualifying patient is receiving care.

SECTION II. AMENDMENT OF ZONING ORDINANCE COMPILED SECTION 78.000, MISCELLANEOUS PROTECTION REQUIREMENTS. Section 78.900 Home occupations, Subsection 78.910 of the Oshtemo Charter Township Zoning Ordinance is hereby amended to add Paragraph L as follows:

- L. **Medical Marihuana.** A registered primary caregiver, in compliance with the General Rules of the Michigan Department of Community Health, the Michigan Medical Marihuana Act, P.A. 2008, Initiated Law, MCL 333.26423(d) and the requirements of section, shall be allowed as a home occupation in the RR, Rural Residential District. Nothing in this section, or in any companion regulatory provision adopted in any other provision of the Township’s general Ordinances are intended to grant, nor shall they be construed as granting, immunity from criminal prosecution for growing, sale, consumption, use, distribution, or possession of marihuana not in strict compliance with that Act and the General Rules. Also, since Federal law is not affected by that Act or the General Rules, nothing in this section, or in any companion regulatory provisions adopted in any other provision of the Township’s general Ordinances are intended to grant, nor shall they be construed as granting immunity from criminal prosecution under Federal law. The Michigan Medical Marihuana Act does not protect users, caregivers or the owners of properties on which the medical use of marihuana is occurring from Federal prosecution, or from having their property seized by Federal authorities under the Federal Controlled Substances Act. The following requirements for a registered primary caregiver shall apply:
 - 1. The medical use of marihuana shall comply at all times and in all circumstances with the Michigan Medical Marihuana Act and the General Rules of the Michigan Department of Community Health, as they may be amended from time to time.
 - 2. No registered primary caregiver shall be located:
 - (i) Within a one-thousand (1,000)-foot radius from any school, child care or day care facility, to insure community compliance with Federal “Drug-Free School Zone” requirements.
 - (ii) Within a one-thousand (1,000)-foot radius of another primary caregiver’s facility.
 - (iii) Within a five-hundred (500)-foot radius from any house of worship.

(iv) Within a five-hundred (500)-foot radius of a public park.

Measurements for purposes of this subsection shall be made from parcel/lot/building site unit boundary to parcel/lot/building site unit boundary.

3. Not more than one (1) primary caregiver shall be permitted to service qualifying patients on a property.
4. Not more than five (5) qualifying patients shall be assisted with the medical use of marihuana within any given calendar week, and all such assistance shall occur between the hours of 8 a.m. and 6 p.m.
5. All medical marihuana shall be contained within the main building in an enclosed, locked facility inaccessible on all sides and equipped with locks or other security devices that permit access only by the registered primary caregiver or qualifying patient, as reviewed and approved by the Township Building Official and the Kalamazoo County Sheriff's Department.
6. All necessary building, electrical, plumbing and mechanical permits shall be obtained for any portion of the residential structure in which electrical wiring, lighting and/or watering devices that support the cultivation, growing or harvesting of marihuana are located.
7. All medical marihuana shall be grown by the primary caregiver in the home from which the primary caregiver operates.
8. If a room with windows is utilized as a growing location, any lighting methods that exceed usual residential periods between the hours of 11 p.m. to 7 a.m. shall employ shielding methods, without alteration to the exterior of the residence, to prevent ambient light spillage that may create a distraction for adjacent residential properties.
9. That portion of the residential structure where energy usage and heat exceeds typical residential use, such as a grow room, and the storage of any chemicals such as herbicides, pesticides, and fertilizers shall be subject to inspection and approval by the Oshtemo Charter Township Fire Department to insure compliance with the Michigan Fire Protection Code.
10. Nothing in this Ordinance shall be deemed to allow dispensaries, compassion clubs or smoke houses which are strictly prohibited in all zoning districts.
11. All primary caregivers shall annually be registered, inspected and licensed by the Township in accordance with Ordinance No. 521.

SECTION III. AMENDMENT OF ZONING ORDINANCE COMPILED SECTION 76.160, SCHEDULE A. Section 76.000 Signs and Billboards, Section 76.160 Agricultural and residential land uses, Schedule A, Note #4 of the Oshtemo Charter Township Zoning Ordinance is hereby amended as follows:

76.160 Agricultural and residential land uses.

In all agricultural and residential uses, the requirements of Schedule A shall govern sign use, area, type, height and number, in addition to the requirements elsewhere in this Ordinance.

* * *

⁴ Functioning farms and farm markets may install up to four (4) signs with combined sign areas totaling no more than the maximum display area allowed for a single sign (30 square feet)

SECTION IV. AMENDMENT OF ZONING ORDINANCE COMPILED SECTION 76.170, SCHEDULE B. Section 76.000 Signs and Billboards, Section 76.170 Commercial and office land uses, Schedule B Note #4 of the Oshtemo Charter Township Zoning Ordinance is hereby amended as follows:

76.170 Commercial and office land uses.

In all commercial and office uses the requirements of Schedule B shall govern sign use, area, type, height and numbers in addition to requirements elsewhere in this Ordinance.

* * *

⁴ Individual commercial establishments and multi-tenant commercial centers with 400 or more feet of frontage shall be allowed one additional sign (ground sign or pole sign). Additional sign(s) shall not have a sign area or height greater than what is permitted in Schedule B.

SECTION V. AMENDMENT OF ZONING ORDINANCE COMPILED SECTION 76.420. Section 76.420 Required sign setbacks for all zoning districts, of the Oshtemo Charter Township Zoning Ordinance is hereby amended to add paragraph D as follows:

76.420 Required sign setbacks for all zoning districts.

- D. Where a property is permitted to have more than one freestanding sign under Section 76.170, the distance between such freestanding signs shall not be less than 150 feet.

SECTION VI. EFFECTIVE DATE AND REPEAL. All Ordinances or parts of Ordinances inconsistent with this amendment are hereby repealed. This Ordinance shall take effect eight (8) days after publication.

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 28th 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 amended the Oshtemo Charter Zoning Ordinance, by adding or revising the following sections to read, in summary, as follows:

SECTION I. AMENDMENT OF ZONING ORDINANCE COMPILED SECTION 11.000, DEFINITIONS. Section 11.365 Medical Use of Marihuana is hereby added to read as follows:

11.365 Medical use of marihuana.

The following definitions are fully set forth in the Ordinance:

- a. *Dispensary.*
- b. *Marihuana.* known as Marijuana.
- c. *Medical use of marihuana.*
- d. *Michigan Medical Marihuana Act or Act.*
- e. *Primary caregiver.*
- f. *Qualifying patient.*
- g. *Registry Identification Card.*
- h. *Smoke house.*

SECTION II. AMENDMENT OF ZONING ORDINANCE COMPILED SECTION 78.000, MISCELLANEOUS PROTECTION REQUIREMENTS. Subsection 78.910 is hereby amended to add Paragraph L as follows:

L. Medical Marihuana. A registered primary caregiver, in compliance with the General Rules the Act, P.A. 2008, Initiated Law shall be allowed as a home occupation in the RR, Rural Residential District. The following requirements for a registered primary caregiver shall apply:

- 1. The medical use of marihuana shall comply at all times and in all circumstances with the Act and the Rules .
- 2. No registered primary caregiver shall be located:
 - (i) Within a 1,000-foot radius from any school, child care or day care facility.
 - (ii) Within a 1,000-foot radius of another primary caregiver's facility.
 - (iii) Within a 500-foot radius from any house of worship.

- (iv) Within a 500-foot radius of a public park.
- 3. Not more than one primary caregiver shall be permitted to service qualifying patients on a property.
- 4. Not more than five qualifying patients shall be assisted with the medical use of marihuana within any given calendar week, and all such assistance shall occur between the hours of 8 a.m. and 6 p.m.
- 5. All medical marihuana shall be contained within the main building in an enclosed, locked facility.
- 6. All necessary building, electrical, plumbing and mechanical permits shall be obtained.
- 7. All medical marihuana shall be grown by the primary caregiver in the home.
- 8. Any lighting methods that exceed usual residential periods between the hours of 11 p.m. to 7 a.m. shall employ shielding methods.
- 9. That portion of the residential structure where energy usage and heat exceeds typical residential use subject to inspection and approval by the Fire Department.
- 10. Nothing in this Ordinance shall be deemed to allow dispensaries, compassion clubs or smoke houses which are strictly prohibited in all zoning districts.
- 11. All primary caregivers shall annually be registered, inspected and licensed by the Township in accordance with Ordinance No. 521.

SECTION III. AMENDMENT OF ZONING ORDINANCE COMPILED SECTION 76.160, SCHEDULE A. Section 76.000 Signs and Billboards, Section 76.160 Agricultural and residential land uses, Schedule A, Note #4 of the Oshtemo Charter Township Zoning Ordinance is hereby amended as follows:

76.160 Agricultural and residential land uses.

In all agricultural and residential uses, the requirements of Schedule A shall govern sign use, area, type, height and number, in addition to the requirements elsewhere in this Ordinance.

* * *

⁴ Functioning farms and farm markets may install up to four (4) signs with combined sign areas totaling no more than the maximum display area allowed for a single sign (30 square feet)

SECTION IV. AMENDMENT OF ZONING ORDINANCE COMPILED SECTION 76.170, SCHEDULE B. Section 76.000 Signs and Billboards, Section 76.170 Commercial and office land uses, Schedule B Note #4 of the Oshtemo Charter Township Zoning Ordinance is hereby amended as follows:

76.170 Commercial and office land uses.

In all commercial and office uses the requirements of Schedule B shall govern sign use, area, type, height and numbers in addition to requirements elsewhere in this Ordinance.

* * *

⁴ Individual commercial establishments and multi-tenant commercial centers with 400 or more feet of frontage shall be allowed one additional sign (ground sign or pole sign). Additional sign(s) shall not have a sign area or height greater than what is permitted in Schedule B.

SECTION V. AMENDMENT OF ZONING ORDINANCE COMPILED SECTION 76.420. Section 76.420 Required sign setbacks for all zoning districts, of the Oshtemo Charter Township Zoning Ordinance is hereby amended to add paragraph D as follows:

76.420 Required sign setbacks for all zoning districts.

- D. Where a property is permitted to have more than one freestanding sign under Section 76.170, the distance between such freestanding signs shall not be less than 150 feet.

SECTION VI. EFFECTIVE DATE AND REPEAL. All Ordinances or parts of Ordinances inconsistent with this amendment are hereby repealed. This Ordinance shall take effect eight (8) days after publication.

PLEASE TAKE FURTHER NOTICE that the full text of the proposed Ordinance has been posted in the Office of the Township Clerk and on the Township's Website.

PLEASE TAKE FURTHER NOTICE that this Ordinance will take effect July 14, 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 stated address.

DEBORAH L. EVERETT, CLERK
OSHTEMO CHARTER TOWNSHIP
7275 West Main Street
Kalamazoo, MI 49009
Telephone: (269) 375-4260