

KASSON TOWNSHIP
MEDICAL MARIJUANA LICENSING ORDINANCE

Ordinance No. 2015-01

AN ORDINANCE TO REGULATE AND LICENSE, WITHIN KASSON TOWNSHIP, MEDICAL MARIJUANA CULTIVATION AND DISTRIBUTION, TO INSURE PUBLIC HEALTH, SAFETY AND WELFARE, AND TO PROVIDE PENALTIES FOR VIOLATIONS THEREOF

The Township of Kasson Ordains:

Section 1 - Intent.

It is the intent of this Ordinance to give effect to the intent of Michigan Medical Marijuana Act (initiated Law 1) of 2008, MCL 333.26421 et seq., (the Act) as approved by the electors of the State of Michigan and made effective December 4, 2008, and not to determine and establish an altered policy with regard to medical marijuana. The Act authorizes a narrow exception to the general rule and state policy that the cultivation, distribution, and use of marijuana amount to criminal acts. It is the further intent of this chapter to protect the public health, safety, and general welfare of persons and property, and to license certain locations as specified below. It is the further intent of this Ordinance to comply with the Act while concurrently attempting to protect the health, safety, and welfare of law enforcement officers and other persons in the community, and also to address and minimize reasonably anticipated secondary effects upon children, other vulnerable members of the public, and upon significant areas of the community, that would be reasonably expected to occur in the absence of the provisions of this Ordinance.

Section 2. - Definitions.

Act means the Michigan Marijuana Act (Initiated Law 1) of 2008, MCL 333.26421, et seq., and Michigan Administrative Rules, R 333.101, et seq.

Code Authority means the Leelanau County Construction Code Authority, and its designees.

Department means the State of Michigan Department of Community Health or a successor agency.

Facility means a primary caregiver's home occupation, as defined by the Kasson Township Zoning Ordinance, where the medical use of marijuana is to be conducted for the benefit of patients under the Act, or where three or more patients conduct the medical use of marijuana.

Marijuana means that term as defined in section 7106 of the Public Health Code, 1976 PA 368, MCL 333.7106.

Medical marijuana or medical use of marijuana as defined in MCL 333.26423. means the acquisition, possession, cultivation, manufacture, use, internal possession, delivery, transfer, or transportation of marijuana or paraphernalia relating to the administration of marijuana to treat or alleviate a registered qualifying patient's debilitating medical condition or symptoms associated with the debilitating medical condition.

Primary caregiver or caregiver means a person who is at least 21 years old, defined under MCL 333.26423(g) and who has agreed to assist with a patient's medical use of marijuana 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.

Principal residence means the place where a person resides more than half of the calendar year and otherwise meets the definition of a principal residence under real estate property tax laws.

Qualifying patient or patient means a person who has been diagnosed by a physician as having a debilitating medical condition as defined under MCL 333.26423.

Registry identification card means the document issued by the Michigan Department of Community Health or a successor agency that identifies a person as a registered qualifying patient or registered primary caregiver.

Section 3. - Requirement for license.

Any Primary Caregiver conducting the medical use of marijuana for the benefit of patient at a location under the Act shall obtain a license under this Ordinance. No medical use of marijuana by a primary caregiver for the benefit of a patient shall occur at a location until such location ("Facility") is licensed under this Ordinance. In addition, three or more patients conducting the medical use of marijuana also require a license under this Act.

Section 4. - Application for license.

- (a) The requirement of this Ordinance is to license a location, and not to license persons. A confidential application for a license under this section shall be submitted to the person appointed as the Medical Marijuana

Officer of Kasson Township or their designee, and shall conform to the following specifications. An application shall:

1. Not require the name, home address, or date of birth of a patient or primary caregiver.
2. Include the address and legal description of the Facility where the Primary caregiver, and three or more patients will conduct the medical use of marijuana.
3. Specify the name and address of the place where all unused portions of medical marijuana plants cultivated in connection with the use of medical marijuana or caregiver activity at the Facility shall be disposed.
4. Describe the enclosed, locked container in which any and all cultivation of medical marijuana is proposed to occur, or where medical marijuana is stored, with such description including:
 - i. the location in the building;
 - ii. exterior ventilation locations;
 - iii. precise measurements in feet of the floor dimensions and height; and
 - iv. the security devices for the container.
5. Specify the number of patients to be assisted, including the number of patients for whom medical marijuana 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 in the Facility.
6. 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 medical marijuana plants as such specifications relate to the need for the installation of the above. Information regarding the approved electrical, mechanical or plumbing permits required for the subject equipment by the Code Authority shall be provided.

(b) Application Fee

No application for a License hereunder shall be approved without payment of a non-refundable application fee to help defer a portion of the cost of administering and enforcing this Ordinance. The application fee shall be set by resolution of the Township Board and may be adjusted from time to time thereafter as the Township Board deems appropriate.

(c) Confidentiality

It is the intent of this Ordinance that the information acquired through the permitting procedure prescribed herein shall be accessible to the Township Enforcement officials, Michigan Construction Code and Fire Code enforcement officials, and law enforcement officials and their support personnel in the performance of their duties and shall otherwise remain confidential and not subject to public disclosure except as otherwise required by law.

(d) Code Compliance

Before the License is effective, the applicant shall confirm that the Code Authority has approved all necessary permits and, after inspection, has attested that all electrical, mechanical and plumbing equipment, and all other means to conduct the medical use of marijuana plants are Code compliant.

(e) Reasonable Conditions

The Township may approve other reasonable conditions as part of the approval of any License.

(f) Compliance with Conditions and Application

If approved, all use of property shall be in accordance with an approved application for the License and any conditions imposed.

(g) The Facility is subject to inspection annually to ensure that the operation is developed as presented in the application and that the operation is safe, not posing any threats to the occupants, or to neighboring properties and the community.

Section 5 - Requirements and standards for approval of a License and for the Activity Permitted

(a) There shall be no more than one primary caregiver operating upon the lot, parcel or site condominium unit for which a permit is requested (i.e. only one primary caregiver per licensed Facility). The primary caregiver shall reside within the dwelling located upon the lot/parcel or site condominium unit for which a permit is requested, which shall constitute the principal residence of the primary caregiver.

(b) The lot, parcel or site condominium unit for which a permit is requested shall not be located:

- (i) within 1,000 feet from sites where children are regularly present in large numbers not under the supervision of their parents, and specifically a recreational park, a private or public community

center, a church, a public or private pre- school, elementary school, middle school, high school, community college, and all other schools that have different name references but serve students of the same age.

- (ii) within 1,000 feet of a Family Child Care Home, Foster Family Home, Adult Foster Care Family Home, Adult Foster Care Group Home, or Group Child Care Home, as defined in the Zoning Ordinance.
 - (iii) within 1,000 feet of an Adult Entertainment Establishment, as defined in the Zoning Ordinance.
 - (iv) Measurements for purposes of this Subsection shall be made from parcel/lot/site condominium unit boundary to parcel/lot/site condominium unit boundary.
- (c) Subject to the exceptions set forth in Subsection e below, the medical marijuana primary caregiver activity shall occur only within the context of the primary caregiver's home occupation. The primary caregiver's medical marijuana activity shall at all times be subordinate and incidental to the use of the Facility. Not more than 25 percent of the gross finished floor area of the Facility shall be used for the growing, processing and handling of the medical marijuana.
- (d) There shall be no visible change to the outside appearance of the Facility and no other visible or olfactory evidence of the conduct of a medical marijuana growing, processing or distribution operation occurring inside the Facility.
- (e) No growing, processing, smoking, use or distribution of medical marijuana shall occur outdoors. All medical marijuana growing, processing and handling shall occur entirely within the Facility.
- (f) No more than one primary caregiver shall conduct the medical use of marijuana from a Facility.
- (g) Medical marijuana shall be delivered to the qualifying patient where the qualifying patient resides. Pick up of medical marijuana from the primary caregiver's Facility is prohibited. In addition, no compensation to a primary caregiver by a qualifying patient shall occur at a Facility.
- (h) All marijuana and marijuana plants shall, at all times, be contained inside the Facility except when being delivered by the primary caregiver to a qualifying patient off-site.
- (i) The primary caregiver shall not distribute or allow, *the use of* marijuana by the qualifying patients he/she is designated to serve upon the lot/parcel/site condominium unit for which a Facility license is issued unless the patient resides there.
- (j) If a residential room with windows is utilized as a marijuana growing

location, any lighting methods that exceed usual residential use between the hours of 10:00 p.m. and 6:00 a.m. shall employ shielding methods to prevent ambient light spillage that causes or creates a distraction or nuisance to any adjacent residential properties.

- (k) There shall be no sign identifying the premises as a site at which medical marijuana use is conducted.
- (l) All of the activities for the medical use of marijuana conducted either by a patient at his or her principal residence, or of a primary caregiver at his or her principal residence (licensed as a Facility under this Ordinance) shall be conducted in accordance with the Act and its Rules with respect to the number of plants and ounces of medical marijuana available. Accordingly, at a patient's principal residence used by such patient to cultivate medical marijuana for his or her personal use as permitted under the Act, there shall be not more than 12 medical marijuana plants being cultivated at any one time and 2.5 ounces of usable marijuana per patient. At a primary caregiver's licensed Facility, there shall not be more than 12 medical marijuana plants being cultivated at any one time per patient, and in no event more than 72 medical marijuana plants being cultivated at any one time (which assumes cultivation for five patients, plus an additional 12 plants if the primary caregiver is also a patient that has not designated a caregiver to assist in providing medical marijuana). In addition,

Section 6 – Exceptions to Licensing Requirement

This Ordinance shall not be deemed to prohibit or restrict or require a License for the following:

- (a) The cultivation, storage and/or use of marijuana by a qualifying patient solely for his/her personal use at his/her residence or at a hospital or hospice at which he/she is receiving care and in accordance with the provisions of the MMA and the MMA Rules as amended. If two patients share the same residence and are related by blood or law, then they are not required to be registered. If the residence contains three or more patients, it must be licensed as a Facility under this Ordinance.
- (b) The cultivation, storage and/or distribution of marijuana in accordance with the MMA and MMA Rules, as amended, by a primary caregiver solely to provide services to not more than one qualifying patient who is a member of the primary caregiver's household and whose residence dwelling is shared with the primary caregiver.

- (c) The provision of assistance to a qualifying patient by his/her designated primary caregiver relating to medical marijuana use, including distribution or other assistance, in accordance with the MMA and the MMA Rules as amended, at the residence of the qualifying patient or at a hospital or hospice at which the qualifying patient is receiving care.

Section 7 – Amendment of License

- (a) If a licensee wishes to amend an approved application, the licensee shall resubmit a license application as if it is an initial application.
- (b) Within 60 days following the effective date of this Ordinance, a Facility that exists on the effective date of the Ordinance must make application for and receive approval to continue to operate. Failure to make an application within this time constitutes acknowledgment that the Facility shall cease operations immediately.
- (c) If an application for licensure under this Ordinance is denied due to the minimum distance requirement standards, and a timely application has been filed seeking licensure under this chapter, such facility shall have 60 days from the date of application denial to cease operating at the denied site.

Section 8 - Penalty for violation.

- (a) Any use of land which is commenced or conducted, or any building or structure which is erected, moved, placed, reconstructed, raised, extended, enlarged, altered, maintained or changed, in violation of any provision of this Ordinance is hereby declared to be a nuisance per se. Any person who disobeys, omits, neglects or refuses to comply with any provision of this Ordinance or any permit, license or exception granted hereunder, or any lawful order of a Code Authority official, Zoning Administrator, or the Township Board issued in pursuance of this Ordinance shall be in violation of this Ordinance. Any such violation is hereby declared to be a nuisance per se.
- (b) A violation of this Ordinance is a municipal civil infraction, for which the fines shall not be less than \$100 nor more than \$500 for the first offense and not less than \$250 nor more than \$1,000 for subsequent offenses, in the discretion of the Court, and in addition to all other costs, damages, attorneys' fees, and expenses provided by law. For purposes of this section, "subsequent offense" means a violation of the provisions of this

