

**ONTWA TOWNSHIP
CASS COUNTY, MICHIGAN**

**ORDINANCE NO. ____
ONTWA TOWNSHIP MEDICAL MARIHUANA ORDINANCE**

Adopted: July 11, 2011
Effective: August 21, 2011

An Ordinance to regulate medical marihuana cultivation, use and distribution and provide for penalties; and to provide for an effective date of said Ordinance.

**ONTWA TOWNSHIP,
CASS COUNTY, MICHIGAN**

ORDAINS:

**SECTION I
MEDICAL MARIHUANA USE AND PROHIBITION**

- 1. Medical Marihuana Use and Prohibition.** Medical marihuana use by patients and primary caregivers and the lawful cultivation and distribution of medical marihuana shall be in compliance with the Michigan Medical Marihuana Act, PA 208, Initiated Law, MCL 333.26421 and the Administrative Rules of the Michigan Department of Community Health as both may be amended from time to time. No medical marihuana dispensaries, collectives or cooperatives, smokehouses, collective ingestion facilities or the like shall be conducted, commenced, operated or utilized in any zoning district or on or from any property within the Township.
2. A primary caregiver must be located outside of a one-thousand (1,000) foot radius from any real property as follows: a church, synagogue or other place of religious worship; a recreational park, public community center, public swimming pool, a public or private preschool, elementary school, middle school, high school, community college, vocational or secondary school; a public or private college, junior college, university; any and all other schools that have different name references but serve students of the same age. Measurements for purposes of this section shall be made from parcel/lot/site condominium unit boundary to parcel/lot/site condominium unit boundary.
3. Not more than one (1) primary caregiver within a single-family dwelling shall be permitted to service qualifying patients who do not reside with the primary caregiver. A primary caregiver shall not operate within an apartment building, multi-family residential building, cooperative building or similar housing, or commercial or multi-use building.

4. **Delivery.** The primary caregiver shall deliver medical marihuana to their patients. Patients shall not visit the caregiver's premises.
5. All medical marihuana shall be contained in an enclosed, locked facility equipped with locks or other security devices that permit access only by the primary caregiver or qualifying patient. No part of a detached accessory structure shall be utilized.
6. All necessary building, electrical, plumbing and mechanical permits shall be obtained for any portion of the structure in which electrical wiring, lighting, and/or watering devices are located, installed or modified that support the cultivation, growing or harvesting of marihuana.
7. If a room with windows is utilized as a marihuana growing location, any lighting methods that exceed usual residential use shall employ shielding methods to prevent ambient light spillage that causes or creates a distraction or nuisance to adjacent properties.
8. Nothing in this subsection or in any companion regulatory provision adopted in any other provision of this Ordinance is 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 Administrative Rules and this subsection. Neither this ordinance nor the Michigan Medical Marihuana Act protects 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.

SECTION II **DEFINITIONS**

1. **Collective Ingestion Facility.** Collective ingestion facility 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 operating within the facility or (2) the consumption or ingestion of medical marihuana by a qualifying patient at his/her residence.
2. **Marihuana.** This term shall have the meaning given to it in the Michigan Public Health Code, 1978 PA 368, MCL 333.7106, as is referred to in Section 3(d) of the Michigan Medical Marihuana Act, PA 2008, Initiated Law, MCL 333.26423(d).
3. **Marihuana Collective or Cooperative.** Any facility, structure, dwelling or other location where medical marihuana is grown, cultivated, processed, stored, transmitted, dispensed, consumed, used, given, delivered, provided, made

available to and/or distributed that is formed by a group or individuals in a group acting together as a collective enterprise or by an organization owned collectively by members who share in the benefits owned as a cooperative or in any way structured like a collective or a cooperative.

4. **Marihuana Dispensary or Dispensary.** Any facility, structure, dwelling or other location where medical marihuana is grown, cultivated, processed, stored, transmitted, dispensed, consumed, used, given, delivered, provided, made available to and/or distributed by two or more of the following: a registered primary care giver, a registered qualifying patient, or a person with an identification card or in possession of an application for an identification card. The term "dispensary" shall not apply to a registered primary caregiver that provides necessary care and marihuana for medical use exclusively to his/her five (5) or fewer designated qualifying patients in strict accordance with the Michigan Medical Marihuana Act, Initiated Law 1 of 2008; and the Administrative Rules of the Michigan Department of Community Health.

5. **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, PA 2008, Initiated Law, MCL 333.26423(d).

6. **Primary Caregiver.** Primary caregiver or caregiver means a person as defined under MCL 333.7106(g) of the Act, and who has been issued and possesses a Registry Identification Card under the Act.

7. **Qualifying Patient or Patient.** Qualifying patient or patient means a person as defined under MCL333.7106(h) of the Act, and who has been issued and possesses a Registry Identification Card under the Act.

8. **Smoke House.** 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); 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 received care.

SECTION III **PENALTIES**

1. Any person, firm, association, partnership or corporation who violates any of the provisions of this Ordinance shall be deemed to be responsible for a municipal civil infraction as defined by Michigan Statute which shall be

punishable by a civil fine determined in accordance with the following schedule:

	<u>Minimum</u> <u>Fine</u>	<u>Maximum</u> <u>Fine</u>
- 1st Offense within 1-year period*	\$ 250.00	\$ 500.00
- 2nd Offense within 1-year period*	\$ 350.00	\$ 500.00
- 3rd Offense or more within 1-year period*	\$ 500.00	\$ 500.00

* Determined on the basis of the date of commission of the offense(s).

2. Additionally, the violator shall pay costs which may include all expenses, direct and indirect, to which Ontwa Township has been put in connection with the municipal civil infraction. In no case, however, shall costs of either less than \$9 or more than \$500 be ordered. In addition, 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 exists shall constitute a separate offense.

SECTION IV **SEVERABILITY**

1. The various sections and provisions of this Ordinance shall be deemed to be severable, and should any section or provision of this Ordinance be declared by any court of competent jurisdiction to be unconstitutional or invalid the same shall not affect the validity of the Ordinance as a whole or any section or provision of this Ordinance other than the section or provision so declared to be unconstitutional or invalid.

SECTION V **ENFORCEMENT**

1. The Township of Ontwa is hereby authorized to appoint by resolution any person or persons to the office of ordinance enforcement officer for such term or terms as designated in said resolution. Said enforcement officer or any police officer from the Ontwa Township – Edwardsburg Police Department or deputy sheriff for Cass County is hereby designated as the authorized local official and duties shall include such things as the investigation of any complaints about an ordinance violation; serving notice of violations; serving appearance tickets; municipal civil infraction citations, appearance in court or other judicial proceedings; to assist in the prosecution of any ordinance violation and such other enforcing duties as may be delegated by the Township supervisor or assigned by the Township board.

SECTION VI
REPEAL AND EFFECTIVE DATE

This ordinance shall take effect thirty (30) days after its publication following its adoption. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

ONTWA TOWNSHIP
Paula Ralph, Clerk
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