

TOWNSHIP OF COURTLAND
COUNTY OF KENT, MICHIGAN

At a regular meeting of the Township Board of the Township of Courtland, held at the Township Hall, on the 6th day of July, 2011, at 7:00 p.m.

PRESENT: Andersen, Brown, Crosby, Davis, Kinney, Porter, Shaw

ABSENT: None.

The following Ordinance was offered by Davis and supported by Crosby.

ORDINANCE NO. 2011-02Z

**AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF
THE TOWNSHIP OF COURTLAND**

[Medical Marihuana]

THE TOWNSHIP OF COURTLAND ORDAINS:

Section 1. Definition – Medical Marihuana Enterprise. The Zoning Ordinance of the Township of Courtland is hereby amended by the addition of the following to Section 1.14 thereof:

MEDICAL MARIHUANA ENTERPRISE.

A place at which marihuana, or paraphernalia relating to the administration of marihuana, is possessed, cultivated, processed, manufactured, delivered, or transferred by a primary caregiver (as that term is defined by the Michigan Medical Marihuana Act, Initiated Law 1 of 2008) in compliance with the Michigan Medical Marihuana Act. The term does not include the acquisition, possession, cultivation, manufacture, use, internal possession, delivery, transfer, or transportation of marihuana or paraphernalia related to administration of marihuana by a qualifying patient (as defined by the Medical Marihuana Act) for the qualifying patient's own use, or by a primary caregiver solely for use of not more than one qualifying patient who makes their permanent residence in the same single family dwelling with the primary caregiver, and in compliance with the Michigan Medical Marihuana Act.

For purposes of this Ordinance, a Medical Marihuana Enterprise shall not be considered an accessory use, agricultural use, farm, or home occupation.

Section 2. LC - Light Commercial District. Section 7A.02 of the Zoning Ordinance of the Township of Courtland is hereby amended by the addition of subsection I thereto as follows:

- I. Medical Marihuana Enterprise, subject to the specific standards of Section 2.37.

Section 3. C – General Commercial District. Section 7B.02 of the Zoning Ordinance of the Township of Courtland is hereby amended by the addition of subsection M thereto as follows:

- M. Medical Marihuana Enterprise, subject to the specific standards of Section 2.37.

Section 4. LI –Light Industrial District. Section 8.02 of the Zoning Ordinance of the Township of Courtland is hereby amended by the addition of subsection L thereto as follows:

- L. Medical Marihuana Enterprise, subject to the specific standards of Section 2.37.

Section 5. Standards for Medical Marihuana Enterprise. The Zoning Ordinance of the Township of Courtland is hereby amended by the addition of Section 2.37 thereto as follows:

Section 2.37. **SPECIFIC STANDARDS FOR MEDICAL MARIHUANA ENTERPRISE.**

A. Purpose and Findings; Definitions.

1. Findings. It is not the intent of this Ordinance to prohibit any use or activity allowed by the Michigan Medical Marihuana Act (the “Medical Marihuana Act”), Initiated Law 1 of 2008, MCL 333.26421, *et seq.*, but to enact regulations which address the land use effects of places used by primary caregivers for the cultivation, processing, sale, or distribution of medical marihuana. The regulations in this Ordinance are intended to ensure that such places are not covertly used for unlawful purposes not authorized by the Medical

Marihuana Act, and to ensure that these places do not create or cause adverse effects that might contribute to the blighting or downgrading of the surrounding area. The Township finds that these operations are commercial in character, and should be directed toward areas which are zoned for commercial types of uses. This Ordinance regulates the locations at which caregivers may operate, and is not intended to apply to a qualifying patient under the Medical Marihuana Act, unless a patient is acting also as a primary caregiver. This Ordinance is also not intended to apply to a primary caregiver who possesses or cultivates marihuana solely for the purpose of assisting not more than one qualifying patient who makes their permanent residence in the same single family dwelling as the primary caregiver.

2. Definitions. For the purposes of this Section, the words and phrases as contained herein shall have the same meanings as set forth in the Medical Marihuana Act and the regulations promulgated thereunder by the State of Michigan Department of Community Health.

B. Application; Information Submission. Any person proposing to establish a Medical Marihuana Enterprise shall apply or and obtain a zoning compliance permit, in addition to any site plan approval or building permit application, as applicable. In addition to the information and any documents required for site plan approval, a person seeking to establish a Medical Marihuana Enterprise shall also submit the following:

1. A floor plan of the premises showing the following:
 - (a) The location of any service counter, demonstrating that there is an unobstructed view of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms.

- (b) Location of all overhead lighting fixtures, along with demonstration that sufficient minimum interior illumination will be provided.
- (c) Identification of any portion of the premises to which patrons will not be permitted.
- (d) Identification of the use of each room or other area of the premises.
- (e) Identification of the area(s), if any, that will be used for the cultivation of marihuana, and the total floor area that will be used for this purpose. For each caregiver associated with the Medical Marihuana Enterprise, five separate enclosures meeting the requirements of subsections C.5. and D.5(b) shall be provided.
- (f) An outdoor lighting plan, along with demonstration that sufficient exterior illumination will be provided.
- (g) Proof that each of the maximum of two caregivers operating at the Medical Marihuana Enterprise has been issued a registry identification card to serve as a registered primary caregiver. Any information submitted regarding qualified patients shall be obscured or deleted from any record retained by the Township.
- (h) A description, including number, power requirements, types of chemicals, water use and disposal methods for

watering, and all other details regarding the plumbing, mechanical, electrical and structural facilities, if any, which will be installed for the purpose of cultivating marihuana on the premises.

- (i) Information treated as confidential under the Michigan Marihuana Act, including the associated primary caregiver, registry identification card, and any information about qualifying patients associated with that primary caregiver which is received by the Township shall be maintained separate from the public information submitted in support of the application, shall be kept confidential, and shall not be subject to disclosure under the Freedom of Information Act. The public record for review shall indicate only that proof of the registration has been submitted.

C. Standards for Approval. Any building, structure or lands proposed to be used for a Medical Marihuana Enterprise shall comply with the following provisions:

1. Location. A Medical Marihuana Enterprise shall be located only on a lot in a LC – Light Commercial District, C - General Commercial District or LI – Light Industrial District, with frontage on Wolverine Boulevard/Northland Drive or M-57/14 Mile Road. The property shall have frontage on those roads for a distance equal to the minimum required frontage in the zoning district, and shall have their primary means of access to those roads.

2. Spacing. A Medical Marihuana Enterprise shall not be located or operated:

- (a) Within 500 feet of another Medical Marihuana Enterprise.
- (b) Within 500 feet of a church, synagogue, mosque or other place of religious worship, or a park, playground, library or licensed daycare facility.
- (c) Within 1,000 feet of any school, to ensure community compliance with the federal "Drug-Free School Zone" requirements.
- (d) Within 150 feet of any dwelling measured from the nearest points of the two buildings.

For (a), (b) and (c) above, measurement of distances shall be made by extending a straight line from the property line of the Medical Marihuana Enterprise to the nearest property line occupied by such other use.

3. Limitation on Number of Caregivers and Plants. Not more than two primary caregivers shall engage in activities permitted under the Medical Marihuana Act at a Medical Marihuana Enterprise.

4. Building Permits. All necessary building, electrical, plumbing, mechanical and/or other permits shall be obtained, including as necessary for any equipment, wiring, lighting or watering devices that support the cultivation, growing or harvesting of marihuana.

5. Marihuana Storage. Marihuana and marihuana plants shall be kept in an enclosed, locked area consisting of a closet, room, or fully enclosed and roofed area located

within the principal building, and equipped with locks or other security devices to permit access only by the primary caregiver. One such separate enclosure shall be provided for each patient with whom a caregiver is associated. If the room has windows, shielding methods shall be employed, without alteration to the exterior of the building, to prevent escape of light from the interior of the building.

6. Fire and Hazardous Material Storage. Any portion of the building where energy usage and heat exceeds typical residential or light commercial use, such as a grow room, and areas for storage of any chemicals, such as herbicides, pesticides and fertilizers shall be subject to prior approval by the Fire Department and Building Inspector to ensure compliance with applicable standards, and inspection thereafter to ensure continued compliance.

7. Equipment. No equipment or process shall be used in growing, processing or handling marihuana which creates noise, vibration, glare, light, fumes, odors or electrical interference detectable to the normal senses outside the building. No equipment or process shall be used which creates visual or audible interference with any radio, television or similar receiver of the premises or which causes fluctuation of electrical line voltage off the premises.

D. Operational Requirements.

1. Age Requirement Regulations.

(a) No persons under the age of 18 shall be permitted in a Medical Marihuana Enterprise at any time, unless the person is a registered qualifying patient and is accompanied by a parent or legal guardian.

(b) It shall be the duty of the primary caregiver of each Medical Marihuana Enterprise to ensure that an attendant is

stationed at each public entrance to the business at all times during the business's regular business hours and to post notice at the entrance to the premises stating no person under 18 years of age is permitted on the premises, except as provided in subsection D.1(a) above. It shall be the duty of the attendant to not allow any person under the age of 18 years to enter the Medical Marihuana Enterprise, except as allowed by this Section.

2. Hours of Operation. Hours of operation of a Medical Marihuana Enterprise shall be not longer than 8:00 a.m. to 8:00 p.m.

3. Inspection. An applicant or owner shall permit all representatives of the Township, Kent County and the State of Michigan to inspect the premises of the Medical Marihuana Enterprise for the purpose of determining compliance with this Ordinance and other applicable laws. Access shall be granted at any time during regular business hours and at other times upon reasonable notice.

4. Exterior Requirements. The merchandise or activities of the Medical Marihuana Enterprise shall not be visible from any point outside the business.

5. Interior Structural Requirements.

- (a) The interior of the premises shall be configured in such a manner that there is an unobstructed view of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms.

- (b) Each separate enclosure provided for each patient with whom a caregiver is associated shall have an area not greater than reasonably necessary to support the cultivation of not more than 12 individual marihuana plants, and shall be located in a separate locked area that is not accessible to the general public. The separate enclosure shall have solid walls extending from the floor to a solid fixed ceiling.
- (c) The interior premises shall be equipped with 24-hour electronic, video surveillance equipment, sufficient in nature and scope to deter and detect unlawful theft of marihuana from the premises. Surveillance shall be actively monitored or archived and safeguarded for a sufficient time and manner so that it may be reviewed in the event of an incident.

6. Standards of Conduct. The following standards of conduct shall be adhered to on the premises of the Medical Marihuana Enterprise by all employees, managers, officers and agents of any Medical Marihuana Enterprise:

- (a) Marihuana shall not be consumed on the premises by the primary caregiver, qualifying patient, or any other person.
- (b) The possession, use, or sale of alcohol or controlled substances shall not be permitted on the premises.
- (c) An owner, manager, or an employee shall not illegally offer for sale or illegally allow to be consumed or possessed

upon the premises, or upon any parking areas, sidewalks, walkways, access ways or grounds of the premises, narcotics or dangerous drugs or fermented malt, malt, vinous or spirituous beverages.

- (d) A registered primary caregiver associated with the property shall be on duty at all times that the business is open to the public.
- (e) All doors to public areas on the premises shall remain unlocked during business hours.
- (f) All activity of the Medical Marihuana Enterprise, including but not limited to the cultivation, dispensing and sale of medical marihuana, shall be performed indoors.
- (g) The sale of items used in the administration of marihuana shall not be permitted on the premises, except to qualifying patients associated with the primary caregiver.
- (h) A Medical Marihuana Enterprise shall be operated in compliance with the applicable rules promulgated by the Michigan Department of Community Health or other State agency.

7. Other Regulations, Permits or Licenses. The provisions of this section do not waive or modify any other provision of this Ordinance, any other Ordinance of the Township, or any County, State or Federal law or regulation.

E. Proof of Continued Registration; Revocation of Permit.

1. Not less than annually after approval of the zoning compliance permit, the operator shall provide proof to the Township of renewal of the registered identification card for each primary caregiver associated with the premises.
2. If a different primary caregiver becomes associated with the Medical Marihuana Enterprise, that primary caregiver shall, before transfer of responsibility, produce proof of registration to the Township. The confidentiality of that proof of registration shall be maintained in the manner provided for information submitted in connection with an original application.
3. Special land use approval shall be revoked following notice and hearing if the caregiver associated with the Medical Marihuana Enterprise ceases to be registered, is convicted of illegally possessing, selling or providing marihuana or other controlled substance, or for violation of the operational or other requirements of the Zoning Ordinance or conditions of approval.

F. No Prior Nonconforming Use. Prior to adoption of the Ordinance which provided for Medical Marihuana Enterprises as a special land use, such uses were not lawful within the Township. Accordingly, no Medical Marihuana Enterprise or similar use shall be treated as a lawful nonconforming use.

G. Not Home Occupation. A Medical Marihuana Enterprise shall not be allowed or established as a home occupation, and shall not be considered as a use similar to a home

occupation, or any other use permitted by right or special land use in this Ordinance for purposes of Section 2.34.

H. No Immunity from Prosecution. No provision of this Ordinance is intended to grant, nor shall any such provision be construed as granting, immunity from prosecution for the cultivation, sale, consumption, use, distribution or possession of marihuana which is not in compliance with the Medical Marihuana Act, or the applicable rules of the Michigan Department of Community Health. Inasmuch as Federal law is not affected by the Medical Marihuana Act or this Ordinance, no provisions or ordinance is intended to grant, nor shall any such provisions be construed as granting, immunity from prosecution under the laws of the United States. The Medical Marihuana Act and this Ordinance does not protect qualifying patients, primary caregivers, or others from Federal prosecution or from seizure of their property by Federal authorities under the Federal Controlled Substances Act, in cases in which such statute may apply.

I. Savings Clause/Severability. Should any provision of this Section be declared, by a court of competent jurisdiction, to be preempted by the Medical Marihuana Act or to be otherwise invalid or unenforceable under state, county or federal law, such declaration shall not affect the validity of any other provision of this Section, which shall remain fully enforceable.

Section 6. Publication; Effective Date. This Ordinance shall become effective seven (7) days after its publication or seven (7) days after publication of a summary of its provisions in a local newspaper of general circulation in the Township.

AYES: Brown, Crosby, Davis, Kinney, Porter

NAYS: Andersen, Shaw

ORDINANCE DECLARED ADOPTED.

Marilynn Crosby
Marilynn Crosby, Township Clerk

I hereby certify that the foregoing is a true and complete copy of an Ordinance adopted by the Township Board of the Township of Courtland at a regular meeting held on the date first stated above, and I further certify that public notice of such meeting was given as provided by law.

Marilynn Crosby
Marilynn Crosby, Township Clerk