

CHARTER TOWNSHIP OF SPRINGFIELD

ADOPTION OF ORDINANCE 2021(4)

THE CHARTER TOWNSHIP OF SPRINGFIELD, OAKLAND COUNTY, MICHIGAN, ORDAINS:

CHARTER TOWNSHIP OF SPRINGFIELD AN ORDINANCE TO AMEND SPRINGFIELD TOWNSHIP CODE OF ORDINANCES CHAPTER 40 ZONING BY AMENDING SECTION 40-2 – DEFINITIONS, SECTION 40-652 – MEDICAL USE OF MARIJUANA, AND SECTION 40-653 – MARIJUANA ESTABLISHMENTS PROHIBITED

Springfield Township Code of Ordinances, Chapter 40—Zoning is hereby amended as follows:

SECTION ONE-AMENDMENTS

SECTION 40-2 DEFINITIONS

Marijuana: Marijuana, also known as Marihuana, also known as Cannabis. The term shall have the meaning given to it in Section 7601 of the Michigan Public Health Code, 1978 PA 368, as amended, MCL 333.7106 et seq., as is referred to in Section 3(d) of the Michigan Medical Marihuana Act, PA 2008, Initiated Law 1 (“MMMA”), MCL 333.26423(d). Any other term pertaining to marijuana used in this Ordinance and not otherwise defined shall have the meaning given to it in the MMMA and/or in the rules adopted by the department of licensing and regulatory affairs or the Michigan marijuana regulatory agency, issued in connection with the MMMA.

Marijuana Collective, Cooperative or Dispensary: Any facility, structure, dwelling or other location where medical marijuana 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 caregiver or a registered qualifying patient, as defined by the MMMA, or a person in possession of an identification card issued under the MMMA or in possession of an application for such an identification card. The term “collective” or “cooperative” shall not apply to an individual registered primary caregiver that provides necessary care and medical marijuana for medical use exclusively to his/her five or fewer designated qualifying patients in strict accordance with the MMMA or and/or in the rules adopted by the department of licensing and regulatory affairs or the Michigan marijuana regulatory agency, issued in connection with the MMMA. A “marijuana collective, cooperative or dispensary” shall not include the following uses: a State-licensed health care facility; a State-licensed residential care facility for the elderly or infirm; or a residential hospice care facility, as long as any such use complies strictly with applicable laws and rules of the State of Michigan.

Marijuana Cultivation Building: An accessory structure, on a lot owned by a registered primary caregiver, within which the medical use of marijuana is conducted.

Marijuana Dispensary or Dispensary: See Marijuana Collective, Cooperative or Dispensary.

Medical Use of Marijuana: 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, as defined under the MMMA.

Michigan Medical Marihuana Act or MMMA: PA 2008, Initiated Law 1, MCL 333.26421 et seq.

SECTION 40-652 MEDICAL USE OF MARIJUANA

The acquisition, possession, cultivation, use, delivery, or distribution of marijuana to treat or alleviate a debilitating medical condition is prohibited except in compliance with the MMMA and applicable provisions of this ordinance.

1. **Authorization for use and findings.** A registered primary caregiver, operating in compliance with the MMMA General Rules, the MMMA, the requirements of this section, and other applicable requirements of the Code shall be permitted as regulated by this section. The Township makes the following findings, in support of its determination that the regulation of registered primary caregivers as provided in this section is consistent with the purposes and intent of the MMMA:
 - a. The MMMA does not create a general right for individuals to use, possess, or deliver marijuana in Michigan.
 - b. The Township has previously adopted Code Section 22-2, prohibiting recreational marijuana establishments in the Township.
 - c. The MMMA's protections are limited to individuals suffering from serious or debilitating medical conditions or symptoms, to the extent that the individuals' marijuana use is carried out in compliance with the provisions of the MMMA, including the provisions related to the operations of registered primary caregivers.
 - d. The MMMA's definition of "medical use" of marijuana includes the "transfer" of marijuana "to treat or alleviate a registered qualifying patient's debilitating medical condition or symptoms associated with the debilitating medical condition," but only if such "transfer" is performed by a registered primary caregiver who is connected with the same qualifying patient through the registration process established by the Department of Licensing and Regulatory Affairs, and who is otherwise operating in strict compliance with the MMMA and the MMMA General Rules.
 - e. The MMMA provides that a registered primary caregiver may assist no more than five qualifying patients with their medical use of marijuana.
 - f. The MMMA does not, therefore, create a new vocation for entrepreneurs or others who wish to engage in the sale of marijuana to more than five persons in a commercial setting. Instead, the MMMA is directed at improving the health and welfare of qualifying patients.
 - g. The health and welfare of qualifying patients is improved by permitting the operations of registered primary caregivers as provided in this section, because

this allows qualifying patients who suffer from serious or debilitating medical conditions or symptoms to obtain the benefits of the medical use of marijuana in a residential setting, without having to unnecessarily travel into commercial areas.

- h. By permitting the operations of registered primary caregivers in a residential setting, rather than in a commercial setting, this promotes the MMMA's purpose of ensuring that:
 - (i) A registered primary caregiver is not assisting more than five qualifying patients with their medical use of marijuana, and
 - (ii) A registered primary caregiver does not unlawfully expand its operations beyond five qualifying patients, so as to become an illegal commercial operation, in the nature of a marijuana collective, cooperative or dispensary.
 - i. By requiring the minimum lot size and setback requirements in this ordinance, adverse impacts on nearby property shall be minimized.
 - 2. Permit required.** A registered primary caregiver shall secure a permit from the Township pursuant to Section 22-5 prior to engaging in the medical use of marijuana.
 - 3. Standards for location of marijuana cultivation buildings.** The medical use of marijuana shall only be conducted within a marijuana cultivation building which meets the following standards:
 - a. The structure must be located on a lot on which is also located the principal residential dwelling of the primary caregiver.
 - b. The lot must be at least 4 acres in size.
 - c. The structure must be located no nearer than 200 feet to any dwelling which exists on an adjacent lot, and no nearer than 100 feet to any lot line.
 - d. The structure must be an "enclosed locked facility", as defined by the MMMA
 - e. The structure must meet all of the requirements for accessory structures pursuant to the township Zoning Chapter.
 - f. The structure must comply with all applicable building codes and regulations.
 - 4. Standards and requirements for operation of marijuana cultivation buildings.** The following standards and requirements shall apply to marijuana cultivation buildings.
 - a. The medical use of marijuana shall comply at all times with the MMMA and the MMMA General Rules, as amended.
 - b. Not more than two registered primary caregivers, who shall also be full-time residents of the dwelling located on the lot, shall be permitted to operate at any one lot.
 - c. If the residential primary caregiver does not own the lot, then written authorization from the property owner to allow use of the property for a marijuana cultivation building shall be provided.

- d. All activities allowed by this ordinance shall be conducted entirely within the marijuana cultivation building, except that (i) a qualifying patient may transport marijuana from the premises; and (ii) a registered primary caregiver may keep and cultivate, in an “enclosed, locked facility” up to 12 additional marijuana plants for personal use if the primary caregiver is also registered as a qualifying patient under the MMMA.
- e. A sign identifying the medical use of marijuana by word, image or otherwise, or indicating that the medical use of marijuana is taking place on the lot shall not be permitted; nor shall any vehicle having such a sign be parked anywhere on the lot.
- f. Outdoor storage is prohibited on the lot on which the marihuana cultivation building is located.
- g. Odors generated by the marihuana cultivation shall be contained within the marihuana cultivation building. An air filtration system shall be maintained and operated within the marihuana cultivation building to control vapors and odors that result from marihuana so that no vapors or odors are detectible outside the marihuana cultivation building.
- h. Except for lighting, heating, watering, drying or other equipment, or fertilizers, herbicides or other chemicals directly related to the medical use of marijuana, no other materials or equipment not generally associated with normal ownership, use, and maintenance of a dwelling shall be permitted.
- i. Distribution of marijuana or use of items in the administration of marijuana shall not occur in the residential dwelling of the primary caregiver. A qualifying patient shall not visit, come to, or be present at the residential dwelling of the primary caregiver to purchase, smoke, consume, obtain or receive possession of any marijuana.
- j. Except for the primary caregiver, no other person shall deliver marijuana to the qualifying patient.
- k. No one under the age of 18 years shall have access to medical marijuana.
- l. No on-site consumption or smoking of marijuana shall be permitted, the marijuana cultivation building, or on the property of a primary caregiver, except for lawful medical marijuana consumption by the primary caregiver if registered as a qualifying patient under the MMMA.
- m. Medical marijuana shall not be grown, processed, handled, or possessed at the marijuana cultivation building beyond that which is permitted by law.
- n. All necessary building, electrical, plumbing, and mechanical permits shall be obtained for any portion of the marijuana cultivation building in which equipment and devices that support the cultivation, growing or harvesting of marijuana are located or used.
- o. If marijuana is grown or located in a room with windows, all interior lighting shall be shielded to prevent ambient light from creating a distraction for adjacent properties.

- p. Related merchandise or products shall not be sold or distributed from the marijuana cultivation building or the dwelling or property of the primary caregiver, apart from the permitted quantity of medical marijuana.
- q. To ensure compliance with all applicable requirements and laws, the portion of the marijuana cultivation building, where energy use and heating requirements exceed typical residential limits and chemical storage occurs, are subject to inspection and approval by the zoning administrator or other authorized official.
- r. The lot, residential dwelling, and marijuana cultivation building shall be available for inspection upon request by the zoning administrator, building official or law enforcement official.

5. Prohibitions for registered primary caregivers.

- a. A registered primary caregiver shall not possess marijuana, or otherwise engage in the medical use of marijuana, in a school bus, on the grounds of any preschool or primary or secondary school, or in any correctional facility.

6. Marijuana dispensaries, collectives, or cooperatives prohibited. It is unlawful to establish or operate a for-profit or nonprofit marijuana dispensary, collective or cooperative within the Township, even if such use is intended for the medical use of marijuana.

7. Section not applicable to personal use of marijuana by qualifying patients.

- a. The use of the permitted facility of a qualifying patient to cultivate medical marijuana in accordance with the MMMA, solely for personal use, is not subject to this section; however, all applicable state and Township ordinance requirements must be met.
- b. The provisions of this subsection do not apply to the personal use and/or internal possession of marijuana by a qualifying patient in accordance with the MMMA.

8. Penalties.

- a. Any violation of this section shall be a nuisance per se and shall be a civil infraction with a fine of not more than \$500, as determined by the court, plus court costs and expenses. Recoverable expenses may include all expenses, direct and indirect, which the township incurs in connection with the municipal civil infraction violation.
- b. The penalties set forth herein are non-exclusive and cumulative, and nothing herein shall be deemed to prevent the Township from enforcing any other applicable ordinance.
- c. Each separate day on which a violation occurs shall be a separate offense. Uncorrected violations may be ticketed every twenty-four hours.
- d. In addition to the penalties provided herein, the Township may file for injunctive relief to abate any violation hereof.

SECTION 40-653 MARIHUANA ESTABLISHMENTS PROHIBITED

1. The township reaffirms Code Section 22-4. Any and all types of a “marihuana establishment,” as that term is defined and used in Michigan Initiated Law 1 of 2018, commonly known as the Michigan Regulation and Taxation of Marihuana Act, are completely prohibited in the Township, and may not be established or operated in any zoning district, by any means.
2. Any and all types of “marihuana facilities” as described in Act 281 of 2016, the Medical Marihuana Facilities Licensing Act are completely prohibited in the Township and may not be established, licensed, or operated in any zoning district, by any means.
3. Nothing in this Section 40-653 shall limit any privileges, rights, immunities, or defenses of a person as provided in the MMMA.

SECTION TWO—Balance of Ordinance Remains in Effect

The balance of the Springfield Township Code of Ordinances shall remain in full force and effect, except as specifically modified herein.

SECTION THREE—Repealer

All ordinances and portions of ordinances inconsistent with this Ordinance are hereby repealed.

SECTION FOUR—Savings Clause

Nothing in this ordinance shall be construed to affect any suit or proceeding pending in any court or any rights acquired or any liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in Section Three of this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired, or affected by this ordinance.

SECTION FIVE—Severability

Should any provision or part of this Ordinance be declared by any court of competent jurisdiction to be invalid or unenforceable, the same shall not affect the validity or enforceability of the balance of this Ordinance, which shall remain in full force and effect.

SECTION SIX—Effective Date

This Ordinance shall take effect following publication in the manner prescribed by law. This Ordinance shall be published in the manner provided by law.

CHARTER TOWNSHIP OF SPRINGFIELD

1st Reading: August 12, 2021
Emergency Adoption: August 12, 2021
Adoption Publication: August 19, 2021
Effective: August 26, 2021

By: _____
Laura Moreau, Supervisor

By: _____
Sean R. Miller, Clerk