

Medical Marijuana Ordinance

**TORCH LAKE TOWNSHIP, ANTRIM COUNTY  
Ordinance No. 01 of 2011**

**AN ORDINANCE TO AMEND THE TORCH LAKE TOWNSHIP ZONING ORDINANCE SECTIONS 2.12.5 AND 2.12.9: HOME OCCUPATIONS; ADD A NEW SECTION 2.23 HOME OCCUPATION, MEDICAL MARIJUANA; AMEND CHAPTER XII COMMERCIAL, SECTION 12.02.A.17 PERMITTED USES; AND AMEND SECTION XXIII: 23.01 DEFINITIONS, RESPECTIVELY.**

**TORCH LAKE TOWNSHIP HEREBY ORDAINS:**

**SECTION 1.** Amendment to Section 2.12.5

Section 2.12.5 of the Torch Lake Township Zoning Ordinance is hereby amended to read in its entirety as follows:

5. Home Occupations shall be incidental and subordinate to the principle use of the dwelling which is for residential purpose and shall not detract from the residential character of the premises or neighborhood. There shall be no exterior evidence of the Home Occupation other than an unlighted nameplate not to exceed nine (9) square feet in total area.

**SECTION 2.** Amendment to Section 2.12.9

Section 2.12.9 of the Torch Lake Township Zoning Ordinance is hereby amended to read in its entirety as follows:

9. No processes, chemicals or materials shall be used which are contrary to applicable State law.

**SECTION 3. Amendment of Chapter II.**

Chapter II of the Torch Lake Township Zoning Ordinance is hereby amended to add a new Section 2.23, which shall read in its entirety as follows:

**Section 2.23 HOME OCCUPATION, MEDICAL MARIJUANA.**

**1. Intent and Purpose.** The purpose of this section is to implement land use regulations to address medical marijuana as authorized by the Michigan Medical Marihuana Act (hereinafter referred to as the “MMMA”), Initiated Law 1 of 2008, MCL 333.26423 *et seq.*

**2. Conditions and Regulations.** Functioning as a registered primary caregiver of medical marijuana is allowed as a Home Occupation pursuant to Section 2.12 of the Torch Lake Township Zoning Ordinance provided that each of the following standards is met:

- A. No use, which purports to have functioned as a registered primary caregiver of medical marijuana prior to the enactment of this Section, shall be deemed to have been a legally established use under the provisions of the Zoning Ordinance and such use shall not be entitled to claim legal nonconforming status.
- B. The registered primary caregiver of medical marijuana shall be licensed in good standing and at all times in compliance with all applicable state laws, rules, and regulations.
- C. Functioning as a registered primary caregiver of medical marijuana shall not be allowed within 1,000 feet of any other home occupation functioning as a registered primary caregiver of medical marijuana or within one thousand (1,000) feet of any of the following uses:
  - 1. Any church or place of worship and its accessory structures.
  - 2. Any public or private school, having a curriculum including kindergarten or any one or more of the grades one through twelve, including accessory structures.
  - 3. Any preschool, child care or day care facility and accessory structures.
  - 4. Any public facility, such as libraries, museums, parks, play grounds, public beach, community centers, and other public space where children congregate.
- D. All marijuana plants or products must be contained within the main building in an enclosed, locked facility that permits access only by the registered primary caregiver of medical marijuana or registered qualifying patient. Functioning as a registered primary caregiver of medical marijuana and any associated activities, including but not limited to growing, storage, processing, and the sales of related items shall be done indoors.

- E. No more than one (1) registered primary caregiver of medical marijuana shall be permitted to function as a home occupation servicing qualifying medical marijuana patients within a dwelling.
- F. No more than two (2) qualifying patients are allowed at any one time within a dwelling at which a registered primary caregiver of medical marijuana is functioning as a home occupation.
- G. Qualifying medical marijuana patient visits are restricted to between the hours of 7 a.m. and 8 p.m.
- H. Consumption of medical marijuana shall not be allowed within a dwelling at which a registered primary caregiver of medical marijuana is functioning as a home occupation unless such consumption is by an occupant of a dwelling who is also a registered qualifying patient.
- I. No qualifying patients under the age of 18 (eighteen) shall be permitted at any time within a dwelling at which a registered primary caregiver of medical marijuana is functioning as a home occupation, except in the presence of his/her registered primary caregiver of medical marijuana, parent or guardian.
- J. A dwelling at which a registered primary caregiver of medical marijuana is functioning as a home occupation shall display indoors and in a manner legible and visible to the qualifying patients:
  - 1. Notice that qualifying patients under the age of eighteen (18) are not allowed in the dwelling except in the presence of his/her registered primary caregiver of medical marijuana, parent or guardian; and
  - 2. Notice that no consumption of medical marijuana shall occur at a dwelling at which a registered primary caregiver of medical marijuana is functioning as a home occupation, other than that allowed in Section 2.23.H. above.
- K. A dwelling at which a registered primary caregiver of medical marijuana is functioning as a home occupation shall not have any outdoor signage evidencing such home occupation.
- L. If a room with windows within a dwelling at which a registered primary caregiver of medical marijuana is functioning as a home occupation is utilized to grow medical marijuana, any artificial lighting shall be shielded to prevent glare, must not be visible from neighboring properties, must not be visible from adjacent streets or public ways, nor add to the visual light pollution of neighboring properties or the sky above.

- M. If the registered primary caregiver of medical marijuana is not the owner of record of the dwelling at which a registered primary caregiver of medical marijuana is functioning as a home occupation, written consent must be obtained from the property owner to ensure their knowledge and consent with the use.
- N. Relationship to Federal Law. Nothing within Section 2.23 of the Torch Lake Township Zoning Ordinance, or any companion regulatory provision, is intended to grant nor shall it be construed as granting immunity from federal law.

**SECTION 4.** Amendment of Subsection 12.02.A.17.

Subsection 12.02.A.17 of the Torch Lake Township Zoning Ordinance is hereby amended to read in its entirety as follows:

- 17. Fraternal organizations and halls.

**SECTION 5.** Amendment of Section 23.01.

Section 23.01 of the Torch Lake Township Zoning Ordinance is hereby amended to add the following terms and definitions in their appropriate alphabetical locations, which new terms and definitions shall read in their entirety as follows:

Enclosed, locked facility - A closet, room, or other area enclosed on all sides, equipped with locks or other security devices that permit access only by a registered primary caregiver of medical marijuana or registered qualifying patient.

Marijuana or marihuana – That term as defined in Section 7106 of Act No. 368 of the Public Acts of 1978, as amended (Michigan Public Health Code), being MCL 333.7106.

Occupant - a resident of a place or dwelling, and/or somebody who takes possession of a property with the intention of becoming its owner or otherwise making such property their residence.

Registered primary caregiver of medical marijuana – A primary caregiver as that term as defined in Section 3 of Initiated Law 1 of 2008, as amended (Michigan Medical Marihuana Act), being MCL 333.26423 who has registered with the Michigan Department of Community Health under the Michigan Medical Marihuana Act.

Registered qualifying patient – That term as defined in Section 3 of Initiated Law 1 of 2008, as amended (i.e. the Michigan Medical Marihuana Act), being MCL 333.26423.

**SECTION 6. Severability.**

If any section, clause, or provision of this Ordinance is declared unconstitutional or otherwise invalid by a court of competent jurisdiction, said declaration shall not affect the validity of the remainder of the Ordinance as a whole or any part thereof, other than the part so declared to be unconstitutional or invalid.

**SECTION 7. Effective Date.**

This Ordinance shall become effective eight (8) days after being published in a newspaper of general circulation within the Township.

**TORCH LAKE TOWNSHIP**

By: \_\_\_\_\_  
George Parker, Township Supervisor

By: \_\_\_\_\_  
Kathy Windiate, Township Clerk