

**TOWNSHIP OF LEXINGTON,
SANILAC COUNTY, MICHIGAN**

ZONING ORDINANCE AMENDMENT

Ordinance No. 23 – 012

An ordinance to amend the Lexington Township Zoning Ordinance, Ordinance No ~~02-01~~ 11-01-02, adopted 11-31-02, as amended, to zone and provide regulation for the cultivation of medical marijuana by a registered primary caregiver for registered qualifying patients, as well as to add new definitions pertaining to the cultivation of medical marijuana regulations.

THE TOWNSHIP OF LEXINGTON HEREBY ORDAINS:

SECTION 1. CHAPTER 2: DEFINITIONS, Section 2.2.0 – General Definitions of the Lexington Township Zoning Ordinance is hereby amended to add the following definitions:

CULTIVATION. The act of preparing, growing, tending to, caring for and/or harvesting a particular plant or crop.

MARIJUANA (ALSO KNOWN AS MARIHUANA). That term as defined in Section 7106 of the Public Health Code, PA 368 of 1978, MCL 333.7106, as amended.

MEDICAL MARIJUANA. Marijuana, marijuana-infused products or paraphernalia that is acquired, possessed, cultivated, manufactured, used, internally possessed by, or transferred to, a registered qualifying patient for medical use.

MEDICAL USE OF MARIJUANA (ALSO KNOWN AS MEDICAL USE). The acquisition, possession, cultivation, manufacture, use, internal possession, delivery, transfer, or transportation of marijuana, marijuana-infused products, 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.

MICHIGAN MEDICAL MARIJUANA ACT (ALSO KNOWN AS MMA). This refers to the Michigan Medical Marihuana Act, Initiated Law 1 of 2008, MCL 333.26421 et seq currently or as amended.

PRINCIPAL RESIDENCE. The dwelling unit that is a person's permanent residence which has the same address that appears on a person's State of Michigan driver's license or state identification card in addition to the person's voter registration card. Vacation homes, seasonal homes and income property shall not be considered a person's principal residence. If a person owns residential property, their principal residence shall be that piece of property for which they have filed a principal residence exemption with a local municipality.

REGISTERED PRIMARY CAREGIVER (ALSO KNOWN AS PRIMARY CAREGIVER OR CAREGIVER). A person who is at least 21 years old and who has agreed to assist with a patient's medical use of marihuana and who has not been convicted of any felony within the past 10 years and has never been convicted of a felony involving illegal drugs or a felony that is an assaultive crime as defined in section 9a of chapter X of the code of criminal procedure, 1927 PA 175, MCL 770.9a consistent with the term "Primary Caregiver" as defined and used in the Michigan Medical Marihuana Act, Initiated Law 1 of 2008, MCL 333.26421 et seq. (as amended).

REGISTERED QUALIFYING PATIENT (ALSO KNOWN AS QUALIFYING PATIENT OR PATIENT). A person who has been diagnosed by a physician as having a debilitating medical condition.

REGISTRY IDENTIFICATION CARD. A document issued by the Michigan Department of Licensing and Regulatory Affairs that identifies a person as a registered qualifying patient or registered primary caregiver.

SECTION 2. CHAPTER 6: AGRICULTURE ENTERPRISE DISTRICT (A-1), Section 6.3.0 – Special Land Uses, Subsection .01 of the Lexington Township Zoning Ordinance is hereby amended to add the following:

W. Cultivation of medical marijuana by a registered primary caregiver for registered qualifying patients.

SECTION 3. CHAPTER 7: AGRICULTURE/RESIDENTIAL DISTRICT (A-2), Section 7.3.0 – Special Land Uses, Subsection .01 of the Lexington Township Zoning Ordinance is hereby amended to be revised as follows:

DP. Cultivation of medical marijuana by a registered primary caregiver for registered qualifying patients.

SECTION 4. CHAPTER 14: SPECIAL LAND USES, Section 14.7.0 – Agricultural (A-1) District Special Land Uses, of the Lexington Township Zoning Ordinance is hereby amended to be revised as follows:

.04 MEDICAL MARIJUANA CULTIVATION BY A REGISTERED PRIMARY CAREGIVER

Registered primary caregivers, as defined and authorized by the State of Michigan under the Michigan Medical Marihuana Act, Initiated Law 1 of 2008, MCL 333.26421 et seq (as amended), hereinafter referred to as the MMMA, that intend to cultivate medical marijuana for a registered qualifying patient to whom they are connected through the Department of Licensing and Regulatory Affairs or its bureaus, hereinafter referred to as LARA, shall be required to comply with the following standards in order to conduct legal activities. Registered primary caregivers growing twelve (12) or less plants for their personal use in compliance with the requirements of the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, MCL 333.27951 et seq. and all applicable Township ordinances shall not be required to comply with the following standards.

A. Setback Requirements.

Any lot upon which a registered primary caregiver cultivates medical marijuana for a qualifying patient to whom they are connected through LARA shall comply with the following setbacks. The distance between the lot upon which the cultivation of medical marijuana takes place and the following cited facilities shall be measured from the nearest point on the lot line of the caregiver medical marijuana cultivation use to the nearest point on the lot line of the cited facility.

1. All lots upon which caregiver cultivation of medical marijuana takes place shall be located at least one-thousand (1,000) feet from the nearest lot line of any child care center, licensed day care facility, preschool program center, primary, intermediate or secondary school, or like facility, established pursuant to and in accordance with the Revised School Code, P.A. 451 of 1976, being M.C.L.A. §§ 380.1 through 380.1853, as amended, and/or the State School Aid Act of 1979, P.A. 94 of 1979, being M.C.L.A. §§ 388.1601 through 388.1772, as amended.
2. All lots upon which caregiver cultivation of medical marijuana takes place shall be located at least one thousand (1,000) feet from the nearest lot line of any public park.
3. All lots upon which caregiver cultivation of medical marijuana takes place shall be located at least one thousand (1,000) feet from the nearest lot line of any other lot upon which caregiver cultivation of medical marijuana takes place.

B. Number of Registered Primary Caregivers.

No more than one (1) registered primary caregivers shall be permitted to operate on a lot upon which caregiver cultivation of medical marijuana takes place. A primary caregiver's principal residence shall be located on the lot upon which they are cultivating medical marijuana for registered qualifying patients.

C. Number of Registered Qualifying Patients and Plants.

1. A registered primary caregiver shall cultivate medical marijuana for no more than five (5) registered qualifying patients to whom they are connected through LARA.
2. A registered primary caregiver shall cultivate no more than twelve (12) marijuana plants for each registered qualifying patient to whom they are connected through LARA.

D. Use Requirements.

1. All caregiver medical marijuana cultivation uses shall be designed and operated so as to minimize the amount of pesticides, fertilizers, nutrients, marijuana, and any other potential contaminants from being discharged into any adjacent lake, river, stream, drain or waterway and any public wastewater and/or stormwater systems and shall be subject to review and approval by the Township Engineer.
2. All caregiver medical marijuana cultivation uses conducted within a building shall be equipped with an operable filtration, ventilation, and exhaust system that effectively confines odors to the interior of the building from which the odor is generated.
3. The caregiver medical marijuana cultivation use shall be conducted entirely within an enclosed, locked facility (as defined under the MMMA) that permits access only by a registered primary caregiver or registered qualifying patient.
4. The caregiver medical marijuana cultivation use shall be clearly accessory, incidental, and subordinate to the principal use of the lot upon which it is located. If the primary caregiver medical marijuana cultivation use is located within a residential dwelling, the medical marijuana cultivation use shall not occupy more than 49% of the total floor area of the dwelling.
5. The caregiver medical marijuana cultivation use shall not change the outside appearance of any dwelling or structure nor shall there be any other visible evidence to the unaided eye from an adjacent property when viewed by an individual at ground level or from a permanent structure.
6. No outdoor storage or display of equipment, merchandise and/or materials used in the caregiver cultivation of medical marijuana shall be allowed on the premises.
7. Traffic generated by the caregiver medical marijuana cultivation use shall not be greater than would be normally expected for a residential or agricultural land use.
8. Any necessary parking spaces for vehicles generated by the caregiver medical marijuana cultivation use shall be provided on the site in a driveway or designated parking area and not within any required yard area.
9. The caregiver medical marijuana cultivation use shall not utilize any equipment or process which creates noise, vibration, glare, fumes, light or odor detectable to the normal senses off the lot upon which the caregiver medical marijuana cultivation use is located.

E. Zoning Compliance Certificate Requirement.

A registered primary caregiver shall obtain a zoning compliance certificate after obtaining approval for a special land use permit and prior to beginning any operations associated with the cultivation of medical marijuana. A zoning compliance certificate issued by the zoning administrator shall expire one (1) year after the date of issuance. A registered primary caregiver shall apply for renewal of the zoning compliance certificate a minimum of thirty (30) days prior to the expiration of a valid zoning compliance certificate. Each registered primary caregiver located on a lot shall be required to obtain their own individual zoning compliance certificate. A registered primary caregiver and the medical marijuana cultivation use at the time of application for either their initial consideration or their renewal, shall comply with the standards of Section 23.3.0 and the following standards:

1. A registered primary caregiver shall submit a copy of their valid registry identification card issued by LARA.
2. A registered primary caregiver shall ~~submit~~ maintain on the premises a copy of the registry identification cards issued by LARA for each registered qualifying patient to whom they are connected through and for which they will be cultivating medical marijuana.
3. A registered primary caregiver shall submit a copy of their valid State of Michigan driver's license, state identification card or voter registration card. The address that appears on the items above shall be the address of the lot upon which they intend to cultivate medical marijuana.
4. A registered primary caregiver shall submit proof of their ownership of the lot upon which the caregiver intends to cultivate medical marijuana in the form of a deed registered with the county. If the caregiver does not own the lot upon which they intend to cultivate medical marijuana, the caregiver must submit a signed and notarized statement from the property owner specifically affirming that the owner grants permission to the caregiver to cultivate medical marijuana on the lot. Proof of property ownership in the form of a deed registered with the county shall also be submitted with the signed and notarized statement.
5. A registered primary caregiver shall submit a floor plan to verify the location and type of hazardous materials, including but not limited to herbicides, pesticides, and fertilizers, proposed to be stored or used on site. Material Data Sheets shall be provided for all chemicals on site. An inventory of the chemicals, including quantities and location, shall be provided to the Township. The applicant shall provide the Township with an updated inventory as changes occur, but at a minimum the inventory shall be updated on a quarterly basis.
6. The primary caregiver medical marijuana cultivation use shall be in compliance with all standard and conditions of the approved special land use permit.
7. A registered primary caregiver shall maintain in good standing a valid caregiver registration with LARA and must be at all times in compliance with the laws of the State of Michigan and ordinances of the township. Any violation of state law or local regulations shall be grounds for the Township to make void any issued zoning compliance certificate.

SECTION 5. CHAPTER 14: SPECIAL LAND USES, Section 14.8.0 – Agricultural/Residential (A-2) District Special Land Uses, of the Lexington Township Zoning Ordinance is hereby amended to be revised as follows:

.04 MEDICAL MARIJUANA CULTIVATION BY A REGISTERED PRIMARY CAREGIVER

Same requirements as Section 14.8.0.04.

SECTION 6. Application Fee.

Application fees made pursuant to this Section shall be paid at the time of application for a permit. The amount of such fees shall be established by the Township Board by resolution and shall cover the costs necessary to conduct and complete said reviews and inspections, including any needed engineering or other consultant participation on behalf of the Township.

SECTION 7. AUTHORITY TO ENFORCE, PENALTY AS A MUNICIPAL CIVIL NOTICE VIOLATION OR CIVIL INFRACTION OR OTHER INJUNCTIVE RELIEF

The Township Supervisor, the Code Enforcement Officer, or Zoning Official are authorized to enforce this Ordinance. In addition to any remedy at law or equity, a person or entity that violates any provision of this Ordinance Section is responsible for a municipal civil infraction pursuant to the Revised Judicature Act of 196, Act 236 of 1961, Chapter 87, Municipal Civil Infractions, subject to civil violation notice fine amounts payable to the Lexington Violation Bureau as set forth in the Lexington Township Ordinances, Chapter 23 Administration and Enforcement.

Municipal Notice Violation: The penalty for a notice of violation under the authority of MCL 600.8707, Section (6), shall be as described in the Township schedule of notice violation fines set forth by the Township Board of Trustees under Chapter 23, Administration and Enforcement, and payable at the Township Violation Bureau.

Municipal Civil Infraction: The sanction and penalty for a municipal civil infraction shall be payable at the Court. The sanction for a municipal civil infraction shall be a Class C fine, plus additional costs, damages, expenses and other sanctions and injunctive relief, as authorized under the Municipal Civil Infraction Statute Chapter 87 of Act No. 236 of the Public Acts of 1961, as amended. This Ordinance shall be enforceable to the fullest extent allowed under the Municipal Civil Infraction enabling statute as authorized under Chapter 87 of Act No. 236 of the Public Acts of 1961, Section 600.8701 et. seq. as amended.

Nothing in this Ordinance shall prevent an action in equity, damages, nuisance, or nuisance per se in a circuit court or other court of competent jurisdiction.

SECTION 68. Severability.

If any section, subsection, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent portion of this Ordinance and such holding shall not affect the validity of the remaining portions of this Ordinance.

SECTION 79. Repeal.

All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.

SECTION 810. Effective Date.

This Ordinance shall be effective thirty (30) days from the date of publication hereof.

SECTION 911. Inspection of Ordinance.

A copy of this Ordinance may be inspected at Township Hall, 7227 Huron Avenue, Suite 200, Lexington, MI 48540, during regular office hours.

SECTION 12. Regulatory Effect.

This ordinance regulates medical marijuana caregivers as a special land use and the entire geographic area of Lexington Township is affected.

SECTION 1013. Certification.

The foregoing is a true and complete copy of an Ordinance adopted by the Township Board of Lexington Township, County of Sanilac, State of Michigan, at a regular meeting held on the 20 day of July, 2023 and public notice of said meeting was given pursuant to and in accordance with the requirements of the Michigan Zoning Enabling Act, PA 110 of 2006, MCL 125.3101, et seq., as amended and the Open Meetings Act, PA 267 of 1976, MCL 15.261 et seq., as amended, and the minutes of said meeting have or will be made available as required by said Act.


Lexington Township Clerk

ADOPTED: July 20, 2023
PUBLISHED: August 4, 2023
EFFECTIVE: August 11, 2023