

NOTICE OF POSTING OF PROPOSED TEXT AMENDMENT ORDINANCE

PLEASE TAKE NOTICE that a Tallmadge Charter Township Zoning Text Amendment Ordinance had its first reading at a meeting of the Tallmadge Charter Township Board held on October 14, 2014.

The Zoning Text Amendment Ordinance will amend Section 3.15 – Home Occupations to permit home occupations as a permitted use and to provide provisions to regulate medical marijuana caregivers. The proposed language would eliminate special use references and related standards therein. The medical marijuana regulations include provisions to define marijuana, its medical use and the related Act; provisions to regulate location, setback, number of caregivers, shielding of windows, delivery of marijuana, inspection requirements, signage and registration.

The Zoning Text Amendment Ordinance will amend Section 5.04(g) – Uses Permitted After Special Approval, Section 6.03(b) – Uses Permitted After Special Approval, Section 7.03(b) – Uses Permitted After Special Approval, and Section 9A.03(b) – Uses Permitted After Special Approval to delete home occupations from the special use provisions of each subsection and reserve the subsection for future use. The proposed is scheduled for a second reading at the November 11, 2014 meeting of the Board of Trustees.

PLEASE TAKE FURTHER NOTICE that the Ordinance has been posted in the office of the Tallmadge Charter Township Clerk, Tallmadge Charter Township, 0-1451 Leonard Road, N.W., Grand Rapids, Michigan (telephone: 616-677-1248), and on the Township website at www.tallmadge.com.

Dated: October 26, 2014

Lenore Cook, Clerk
Tallmadge Charter Township

The following Zoning Text Amendment Ordinance was introduced and a first reading completed at the Tallmadge Charter Township Board meeting on October 14, 2014.

ORDINANCE NO. 10-14-14-1

ZONING TEXT AMENDMENT ORDINANCE

AN ORDINANCE TO AMEND THE TALLMADGE CHARTER TOWNSHIP ZONING ORDINANCE BY RESTATING SECTION 3.15 CONCERNING HOME OCCUPATIONS, SPECIFICALLY TO INCORPORATE PROVISIONS PERTAINING TO THE MEDICAL USE OF MARIHUANA; AND BY RESTATING SECTION 5.04(G), SECTION 6.03(B), SECTION 7.03(B), AND SECTION 9A.03(B) CONCERNING RESERVATION FOR FUTURE USE.

THE CHARTER TOWNSHIP OF TALLMADGE, COUNTY OF OTTAWA, AND STATE OF MICHIGAN ORDAINS:

Section 1. Home Occupations. Section 3.15 of the Zoning Ordinance shall be amended to state in its entirety as follows.

SECTION 3.15. HOME OCCUPATIONS.

- (a) Except as otherwise provided in subsection (b) below, all home occupations shall be subject to the following restrictions and regulations.
 - (1) The home occupation shall be conducted wholly within the home building by members of the family residing in such building.
 - (2) The home occupation shall occupy no more than twenty (20) percent of the usable floor area of the home building; provided, however, that in no event shall the home occupation occupy more than three hundred (300) square feet.
 - (3) No rooms which are constructed or erected as an addition to a home building, or constructed or erected by the conversion of a garage or other part of a home building not included in the usable floor area of the home building, shall be considered as part of the usable floor area until two (2) years after the date of the completion thereof as shown by the records of the Zoning Administrator.
 - (4) For purposes of identification, one (1) non-illuminated name plate not exceeding four (4) square foot in area shall be permitted in connection with the home occupation. Such identification name plate shall identify only the name and profession, vocation or trade of the person or persons operating the home occupation. No other sign shall be utilized in connection with such home occupation.

- (5) No motors other than electrically operated motors shall be used in conjunction with the home occupation. The total horsepower of all electrical motors utilized in the home occupation shall not exceed three (3) horsepower. No single electrical motor used in the home occupation shall exceed one (1) horsepower. All electrical motors and equipment used in the conduct of the home occupation shall be shielded so as not to cause radio or television interference for adjoining properties.
 - (6) In no event shall the use of a home building for a home occupation alter the residential character of the home building.
 - (7) No merchandise or articles for sale shall be displayed on the lot utilized for the home occupation.
 - (8) No article or material used in connection with the home occupation shall be stored other than in the home building.
 - (9) The home occupation may increase vehicular traffic flow and parking by no more than two (2) additional vehicles at a time. Any need for parking generated by the conduct of such home occupation shall be met off the street and in areas other than in the required front yard.
 - (10) There shall be no deliveries to or from a home occupation with a vehicle having more than two (2) axles.
 - (11) In no case shall a home occupation be open to the public earlier than 7:00 AM nor later than 9:00 PM.
 - (12) A home occupation shall not create noise, dust, vibration, smell, smoke, glare, electrical interference, fire hazard, or any other hazard or nuisance to any greater or more frequent extent than would normally be generated in the zoning district in which it is located.
 - (13) Certain uses, by the nature of their operation, have a pronounced tendency to increase in intensity beyond the limits permitted for home occupations, thereby impairing the reasonable use and value of surrounding residential properties. Therefore, the following uses shall not be permitted as home occupations: hospitals and medical clinics, nursing homes, mortuaries and funeral homes, tea rooms, barber shops, antique shops, bed and breakfast establishments, restaurants, private clubs, veterinary clinics, vehicle repair shops, landscape installation and maintenance businesses, snow removal businesses, construction contractors, trailer rentals, and repair shops in general.
- (b) Home occupations for the medical use of marihuana shall be subject to this Section 3.15. If there is a conflict between subsection (a) above and this subsection (b), or between any other provision of this Ordinance and this subsection (b), this subsection shall control. If there is no conflict, the medical marihuana home occupation must comply with both subsection (a) and this

subsection (b).

- (1) For purposes of this subsection, the following words and terms shall have the following definitions.
 - (i) General rules: the general rules of the Michigan Department of Community Health, issued in connection with the MMMA.
 - (ii) Marihuana: also known as marijuana, also known as cannabis; shall have the meaning given to it in section 7601 of the Michigan Public Health Code, Public Act 368 of 1978, MCL 333.7106, as referred to in section 3(d) of the MMMA, MCL 333.26423(d). Any other term pertaining to marihuana used in this Ordinance and not otherwise defined shall have the meaning given to it in the MMMA or in the general rules.
 - (iii) 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 MMMA.
 - (iv) MMMA: the Michigan Medical Marihuana Act; Public Act 2008, Initiated Law, as amended.
- (2) Medical marihuana. A registered primary caregiver, in compliance with the general rules, the MMMA, and the requirements of this section, shall be allowed as a home occupation in the AG Agricultural, RP Rural Preserve, R-1 Single Family Residential, R-2 Medium Density Residential, R-3 Multiple Family, and R-4 Mobile Home Districts as a matter of right, without obtaining a special use permit, because of the regulation established by and the confidentiality guaranteed by the MMMA.

Nothing in this section or in this Ordinance is intended to grant, nor shall this section or this Ordinance be construed as granting, immunity from criminal prosecution for growing, selling, consuming, using, distributing, or possessing marihuana not in strict compliance with the MMMA and the general rules.

Since federal law is not affected by the MMMA or the general rules, nothing in this section or in this Ordinance is intended to grant, nor shall this section or this Ordinance be construed as granting, immunity from criminal prosecution under federal law. The MMMA does not protect 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 federal law.

The following requirements for a registered primary caregiver shall apply.

- (i) The medical use of marihuana shall comply at all times and in all circumstances

with the MMMA and the general rules, as they may be amended from time to time

- (ii) A registered primary caregiver must be located outside of a one thousand (1,000) foot radius from any school, including any day care facility, to ensure community compliance with federal "Drug-Free School Zone" requirements.
- (iii) Not more than one registered primary caregiver shall be permitted to service qualifying patients from a dwelling unit.
- (iv) All necessary building, electrical, plumbing and mechanical permits shall be obtained for any portion of the dwelling unit in which electrical wiring, lighting or watering devices that support the cultivation, growing or harvesting of marihuana are located.
- (v) If a room with windows is utilized as a growing location for marihuana, any lighting between the hours of 9:00 PM to 7:00 AM shall employ shielding methods, without alteration to the exterior of the dwelling unit, to prevent ambient light spillage that may create a distraction for adjacent properties.
- (vi) That portion of the dwelling unit where energy usage and heat exceeds typical residential use, such as a grow room, and the storage of any chemicals such as herbicides, pesticides, and fertilizers shall be subject to inspection and approval by the fire department to ensure compliance with applicable standards.
- (vii) Registered primary caregivers shall deliver the allowed amount of marihuana to their qualifying patients, so that the transfers of marihuana from registered primary caregiver to qualifying patients shall not occur at the dwelling unit where the medical marihuana home occupation is conducted.
- (viii) The lot shall be open for inspection upon request by the building inspector, zoning administrator, fire department and law enforcement officials for compliance with all applicable laws and rules during the stated hours of operation/use and at such other times as anyone is present on the lot.
- (ix) No sign shall be permitted for the medical use of marihuana.
- (x) Registered primary caregivers shall annually provide evidence of an active State of Michigan registry identification card or be subject to revocation of the home occupation.

Section 2. Uses Permitted After Special Approval. Section 5.04(g) of the Zoning Ordinance shall be amended to state in its entirety as follows.

SECTION 5.04 – USES PERMITTED AFTER SPECIAL APPROVAL

...

(g) (Reserved for future use.)

Section 3. Uses Permitted After Special Approval. Section 6.03(b) of the Zoning Ordinance shall be amended to state in its entirety as follows.

SECTION 6.03 – USES PERMITTED AFTER SPECIAL APPROVAL

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(b) (Reserved for future use.)

Section 4. Uses Permitted After Special Approval. Section 7.03(b) of the Zoning Ordinance shall be amended to state in its entirety as follows.

SECTION 7.03 – USES PERMITTED AFTER SPECIAL APPROVAL

...

(b) (Reserved for future use.)

Section 5. Uses Permitted After Special Approval. Section 9A.03(b) of the Zoning Ordinance shall be amended to state in its entirety as follows.

SECTION 9A.03(b) – USES PERMITTED AFTER SPECIAL APPROVAL

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(b) (Reserved for future use.)

Section 6.Effective Date. This amendment to the Tallmadge Charter Township Zoning Ordinance was approved and adopted by the Township Board of Tallmadge Charter Township, Ottawa County, Michigan on _____, 2014, after a public hearing as required pursuant to Michigan Act 110 of 2006, as amended; after introduction and a first reading on October 14, 2014, and after posting and publication following such first reading as required by Michigan Act 359 of 1947, as amended. This Ordinance shall be effective on _____, 2014, which date is the eighth day after publication of a Notice of Adoption and Posting of the Zoning Text Amendment Ordinance in the _____, as required by Section 401 of Act 110, as amended. However, this effective date shall be extended as necessary to comply with the requirements of Section 402 of Act 110, as amended.

James VanEss, Township Supervisor

Lenore Cook, Township Clerk

CERTIFICATE

I, Lenore Cook, the Clerk for the Charter Township of Tallmadge, Ottawa County, Michigan, certify that the foregoing Tallmadge Charter Township Zoning Text Amendment Ordinance was adopted at a regular meeting of the Township Board held on _____, 2014. The following members of the Township Board were present at that meeting:

_____. The following members of the Township Board were absent:

_____.

The Ordinance was adopted by the Township Board with members of the Board _____

voting in favor and members of the Board _____

_____ voting in opposition. Notice of Adoption of the

Ordinance was published in the _____ on _____, 2014.

Lenore Cook, Clerk
Tallmadge Charter Township

AFFIDAVIT OF POSTING
(Text Amendment Ordinance)

STATE OF MICHIGAN)
)ss
COUNTY OF OTTAWA)

The undersigned, Lenore Cook, the Tallmadge Charter Township Clerk, being first duly sworn, deposes and says as follows:

1. That she posted a proposed Zoning Text Amendment Ordinance for Tallmadge Charter Township, after its first reading at a meeting of the Tallmadge Charter Township Board held on October 14, 2014 and its second reading on _____, 2014 in the Township Clerk's office and on the Township's website at www.tallmadge.com on _____, 2014

Lenore Cook, Clerk
Tallmadge Charter Township

Subscribed and sworn to before this
_____ day of _____, 2014.

Notary Public, Ottawa County, Michigan
Acting in Ottawa County, Michigan
My commission expires: _____

