

**NOTICE OF POSTING OF
PROPOSED ZONING TEXT AMENDMENT ORDINANCE;
AND PUBLIC WATER AND SANITARY SEWER CONNECTION ORDINANCE**

PLEASE TAKE NOTICE that a Tallmadge Charter Township Zoning Text Amendment Ordinance and a Tallmadge Charter Township Public Water and Sanitary Sewer Connection Ordinance had their first readings at a meeting of the Tallmadge Charter Township Board held on January 10, 2012.

The Zoning Text Amendment Ordinance will amend the Zoning Ordinance for Tallmadge Charter Township by revising the surface requirements for parking lots related to excavators, composting operations and similar uses. The Zoning Text Amendment Ordinance will restate home occupations to include provisions to regulate medical marihuana including words defined, registered caregivers, setbacks to schools and day care facilities, hours of operation, building code requirements, inspections, signage and delivery of the marihuana.

The Public Water and Sanitary Sewer Connection Ordinance will establish requirements for the safe disposal of waste and to provide for the safe access of drinkable water.

PLEASE TAKE FURTHER NOTICE that the Ordinances have 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: January 17, 2012

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 January 10, 2012.

ORDINANCE NO. 01-10-12-1

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; TO AMEND SECTION 15.05(e) – PARKING LOT LAYOUT AND CONSTRUCTION.

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 Inspector.
 - (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.
- (14) When considering a special use application for a home occupation, the Township Board or Planning Commission, or both, as the case may be, shall consider the following standards:
 - (i) the nature of the home occupation;
 - (ii) the effect of the home occupation on the surrounding neighborhood;

- (iii) the environmental effects of the home occupation;
 - (iv) the nature of the surrounding neighborhood;
 - (v) potential traffic congestion caused by the home occupation; and
 - (vi) adequacy of parking for customers or clients of the home occupation.
- (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.

Section 2. Parking Lot Layout and Construction. Section 15.05(e) of the Zoning Ordinance shall be amended to state in its entirety as follows.

SECTION 15.05. PARKING LOT LAYOUT AND CONSTRUCTION.

Off-street parking facilities containing five (5) or more spaces shall be designed, constructed, and maintained in accordance with the following requirements:

- (e) Surfacing. All parking and loading facilities and access drives for uses other than one and two family residential uses, active farms, and accessory farm produce sales shall be provided with a pavement surface consisting of bituminous concrete or concrete. Commercial driveways shall be constructed with materials equal to or better than the standards set forth by the Ottawa County Road Commission for driveways.

This subsection shall not apply to a new outdoor processing area or an increase in the size of an existing outdoor processing area related to the raw processing of materials by excavators, composting operations or similar uses.

Gravel, crushed concrete or another alternative and equally supportive surface, as determined by the Planning Commission, may be used in lieu of bituminous concrete or concrete.

The following Public Water and Sanitary Sewer Connection Ordinance was introduced and a first reading completed at the Tallmadge Charter Township Board meeting on January 10, 2012.

ORDINANCE NO. 01-10-12-2

ADOPTED: _____

EFFECTIVE: _____

PUBLIC WATER AND SANITARY SEWER CONNECTION ORDINANCE

An ordinance to promote the safe disposal of waste and to provide for the safe access of drinkable water.

Section 1 Definitions.

For the purpose of this Ordinance, certain terms are defined as follows:

- 1.1 Public Water System – shall mean all water mains, water supply facilities, metering facilities, storage facilities, pumping stations, and their appurtenances which the Township has or shall have possession of and operating responsibility for (whether owned by the Township or not; whether operated directly by the Township or by contract with another party) either now in existence in the Township or hereafter acquired or constructed in the Township, together with all works, plants, instrumentalities, and properties used or useful in connection therewith in obtaining a water supply or in the treatment or distribution of water, and all extensions, enlargements, and improvements thereto in the Township.
- 1.2 Sanitary Sewer System– shall mean all sewer lines, lift stations, pumping facilities, sewer collection facilities, and their appurtenances which the Township has or shall have possession of and operating responsibility for (whether owned by the Township or not; whether operated directly by the Township or by contract with another party), either now in existence in the Township or hereafter acquired or constructed in the Township, together with all works, plants, instrumentalities, and properties used or useful in connection therewith in collecting sewage and transmitting and conveying such collected sewage to sewage disposal facilities, and all extensions, enlargements and improvements thereto in the Township.
- 1.3 Township – The Charter Township of Tallmadge, Ottawa County, Michigan.

Section 2 Installation and Connection to Water System Required.

- 2.1 For reasons of public health, any structure for which water is necessary lying within the Township shall be connected to the public water system within 18 months after (i) written notice is given to the owner by certified mail by the Township of availability of the public water system and (ii) compliance with any notice or other requirements specified by state law.

For purposes of this subsection, the public water system shall be considered to be available when it is located in a right-of-way, easement, highway, street, or public way which crosses,

adjoins or abuts upon the property in question and passes not more than 200 feet at the nearest point from a structure for which water is necessary.

For purposes of this subsection, "structure for which water is necessary" shall mean any structure which depends upon the flow of either public or private water to be usable, and which does not have an operational private well which meets the structure's requirements and which complies with all applicable statutory and regulatory requirements.

If the structure for which water is necessary has not been connected to the public water system within such 18 month period, then the Township shall proceed in accordance with applicable state law or this Ordinance to require connection to be made forthwith. In so proceeding, the Township shall have the rights and remedies provided in the applicable state law, as well as all rights and remedies provided by this Ordinance.

- 2.2 The property owner is responsible for the cost of installation, maintenance, repair and liability of public water connections from the public water system to the structure.

Section 3 Installation and Connection of Toilet Facilities to Sanitary Sewer.

- 3.1 For reasons of public health, any structure in which wastewater originates lying within the Township shall be connected to the sanitary sewer system within 18 months after (i) written notice is given to the owner by certified mail by the Township of the availability of the sanitary sewer system and (ii) compliance with any notice or other requirement specified by state law.

For purposes of this subsection, the sanitary sewer system shall be considered to be available when it is located in a right-of-way easement, highway, street, or public way which crosses, adjoins, or abuts upon the property in question and passes not more than 200 feet at the nearest point from a structure in which wastewater originates.

For purposes of this subsection, the phrase "structure in which wastewater originates" shall mean a structure in which toilet, kitchen, laundry, bathing, or other facilities that generate wastewater are used or are available for use for household, commercial, industrial, or other purposes, and which does not have an operational septic tank which meets the structure's requirements and which complies with all applicable statutory and regulatory requirements.

If the structure in which wastewater originates has not been connected to the sanitary sewer system within such 18 month period, then the Township shall proceed in accordance with applicable state law or this Ordinance to require connection to be made forthwith. In so proceeding, the Township shall have the rights and remedies provided in the applicable state law, as well as all rights and remedies provided by this Ordinance.

- 3.2 The property owner is responsible for the cost of installation, maintenance, repair and liability of sewer service leads from the sanitary sewer system main to the structure.

Section 4 Penalties for Violation.

Any person (including an individual, corporation, partnership, or any other legally created entity) who shall violate any of the provisions of this Ordinance shall be guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine of not to exceed \$500.00 or by imprisonment in the County Jail of Ottawa County, Michigan, not to exceed 90 days, or both such fine and imprisonment, together with Court costs in the discretion of the Court. Each day that such violation occurs shall constitute a separate offense.

Section 5 Severability.

Should any section, clause, or provision of this Ordinance be declared by the Courts to be invalid, the same shall not affect the validity of this Ordinance as a whole or any part thereof other than the part declared to be invalid.

Section 6 Administrative Liability.

No officer, agent, or employee of the Township shall be personally liable for any damages that may occur to any person as a result of any act required or permitted in the discharge of duties under and in the enforcement of this Ordinance, or any rules and regulations, specifications, or policies and procedures adopted pursuant to this Ordinance. In the event of any conflict between this Ordinance and any rule, regulation, specification, policy or procedure, the provisions of this Ordinance shall control.

Section 7 Effective Date.

This Ordinance was approved and adopted by the Township Board on _____, 2011, after introduction and a first reading on _____, 2011, and publication after such first reading as required by Public Act 359 of 1947, as amended. This Ordinance shall be effective on _____, 2011, which date is at least 30 days after publication of this Ordinance.

James VanEss
Township Supervisor

Lenore Cook
Township Clerk

