

**TOWNSHIP OF FREMONT**  
**MEDICAL MARIJUANA ORDINANCE**

**ORDINANCE NO. 104**

An Ordinance to regulate the use and possession of medical marijuana and the operation of medical marijuana facilities within the Township.

**THE TOWNSHIP OF FREMONT ORDAINS:**

**Section 1: Findings, Intent and Purpose of Ordinance.**

The Township of Fremont adopts this Ordinance based on the following findings:

A. In 2008, the voters of the State of Michigan adopted by initiative election a statute authorizing the limited use, growing, and distribution of marijuana for certain medical conditions.

B. The stated intent of the statute approved by the voters was to enable certain specified persons who comply with the registration provisions of the law to legally obtain, possess, grow, use and distribute marijuana and to assist specifically registered individuals identified in the statute without fear or criminal prosecution under limited, specific circumstances.

C. Despite the provisions of the medical marijuana legislation, marijuana is still a controlled substance under Michigan and federal law.

D. Pursuant to the rules adopted (R333.125) under the Michigan Medical Marijuana Act, additional felony penalties apply to any patient or caregiver who is convicted of selling marijuana to someone not allowed to use marijuana for medical purposes.

E. It is the intention of the Township that nothing in this Ordinance be construed to allow persons to engage in conduct that endangers others or causes a public nuisance, or to allow the use, possession, growing, distribution or consumption of marijuana for non-medical purposes that is otherwise illegal.

F. It is the purpose of this Ordinance to impose specific requirements for those individuals registering with the State of Michigan as "qualifying

patients” or “primary caregivers” as those terms are defined by the Michigan Medical Marijuana Act so as to protect the public health, safety and welfare.

## **Section 2: Definitions.**

The definition of words and terms used in this Ordinance shall be the definitions contained in the Michigan Medical Marijuana Act, MCL 333.26421 et seq.

In addition, for purposes of this Ordinance, a “medical marijuana facility” is defined as any location from which medical marijuana is grown or provided to legally qualified patients.

## **Section 3: Prohibited Conduct.**

### **A. Medical Marijuana Compensation Restrictions:**

No person shall receive or share in compensation for the costs associated with assisting a qualifying patient with the medical use of marijuana to a qualifying patient except for a registered caregiver who is distributing marijuana to a qualifying patient that the registered caregiver is connected to through the Michigan Department of Community Health’s registration process and the transaction is otherwise in compliance with the Michigan Medical Marijuana Act. No qualifying patient shall receive compensation for costs associated with assisting other qualifying patients with the medical use of marijuana unless the qualifying patient providing the assistance is a registered primary caregiver connected to the qualifying patient receiving the marijuana through the Michigan Department of Community Health’s registration process and the transaction is otherwise in accordance with the Michigan Medical Marijuana Act.

### **B. Medical Marijuana Possession Limits.**

No primary caregiver or qualifying patient shall possess marijuana or marijuana plants in excess of the amount he or she is allowed to possess under MCL 333.26424(b). No more than 5 patients shall be connected to or served by a single caregiver.

(1) The possession limits for a registered caregiver under the Michigan Medical Marijuana Act are as follows:

(a) 2.5 ounces of usable marijuana for each qualifying patient that is connected to the caregiver.

- (b) 12 marijuana plants kept in an enclosed, locked facility, for each registered qualifying patient who has specified that the qualified caregiver will be allowed to cultivate marijuana for the qualifying patient.
  - (c) Any incidental amount of seeds, stalks, and usable roots.
- (2) The possession limits for a qualifying patient under the Michigan Medical Marijuana Act are as follows:
  - (a) 2.5 ounces of usable marijuana.
  - (b) 12 marijuana plants kept in an enclosed, locked facility provided that the qualifying patient has not specified that a primary caregiver will be allowed to cultivate marijuana for the qualifying patient.
  - (c) Any incidental amount of seeds, stalks, and unusable roots shall also be allowed under state law and shall not be included in this amount.

C. Entity Restrictions.

The following entities are expressly prohibited from receiving compensation for costs associated with assisting a registered qualifying patient in the medical use of marijuana: corporations, limited liability companies, partnerships, or any other entity other than an individual registered caregiver.

D. Common Facilities Prohibited.

It shall be a violation of this Ordinance for any person to participate as a registered primary caregiver in a facility where primary caregivers share building space which is used in common in violation of the separation requirements of the Michigan Medical Marijuana Act.

E. Restrictions Against Delegation of Caregiver Functions.

It shall be a violation of this Ordinance for a primary caregiver to delegate to an employee, a patient, or any other person not independently authorized by the Michigan Medical Marijuana Act to provide assistance with the medical use of marijuana to a qualifying patient.

F. Continued Illegality of Non-Medical Marijuana.

The sale, distribution, cultivation, possession and use of marijuana or marijuana plants is prohibited to the extent it is in violation of the Michigan Medical Marijuana Act or other state or federal statutes.

G. No medical marijuana caregiver or patient shall:

- (1) Undertake any task under the influence of marijuana, when doing so would constitute negligence or professional malpractice.
- (2) Possess or engage in the use of medical marijuana:
  - (a) In a school bus.
  - (b) On the grounds of any preschool or primary or secondary school.
- (3) Smoke marijuana in any public place.
- (4) Operate or be in actual physical control of any motor vehicle, while under the influence of marijuana.

**Section 4: Medical Marijuana Facilities.**

It shall be unlawful for any "primary caregiver," as defined by the Michigan Medical Marijuana Act, to dispense or grow medical marijuana within any retail store, storefront, office building, manufacturing building, processing facility, any other type of commercial or industrial building, apartment building or residential apartment. A medical marijuana caregiver shall only operate out of a single-family dwelling where the caregiver resides. In no event shall a medical marijuana facility be located within one thousand (1,000) feet of any school property line or within five hundred (500) feet from the property line of any church, library, or licensed child daycare facility.

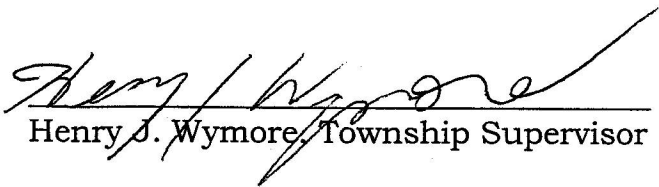
**Section 5: Severability.**

Sections of this Ordinance shall be severable. Should any provision of this Ordinance be declared invalid, it shall not affect the validity of the Ordinance as a whole or any part other than the part declared to be invalid.

## **Section 6: Penalty and Enforcement.**

Any person, firm, or corporation who shall violate any provision of this Ordinance shall be deemed responsible for violating a municipal civil infraction and shall, upon finding thereof, be subject to a fine of not more than Five Hundred and 00/100 (\$500.00) Dollars, plus court costs and costs of prosecution at the discretion of the Court. Each day that a violation occurs shall be considered a separate offense. The Township may also seek injunctive relief in which case the violator shall be responsible for all attorney fees, expert fees, and all other costs incurred by the Township in enforcing this Ordinance.

The undersigned Supervisor and Clerk of the Township of Fremont hereby certify that this Ordinance was adopted by the Township Board on the 10 day of March, 2011 and was published in the Tuscola Co. Advertiser on the 30 day of March, 2011. This Ordinance shall become effective thirty (30) days after said date of publication.

  
Henry J. Wymore, Township Supervisor

  
Amy Holbrook, Township Clerk