

**RESOLUTION TO ADOPT AN ORDINANCE PLACING A TEMPORARY
MORATORIUM ON APPROVALS FOR MEDICAL MARIHUANA
PRIMARY CAREGIVER HOME OCCUPATIONS**

Cohoctah Township

WHEREAS, on November 4, 2008, the Michigan voters passed the MICHIGAN MEDICAL MARIJUANA ACT (MMMA), Initiated Law 1 of 2008, to allow under State of Michigan law, the medical use of marijuana; to provide protections for the medical use of marijuana; and to provide for a system of registry identification cards for qualifying patients and primary caregivers;

WHEREAS, on December 4, 2008, the MMMA, MCL 333.26421, et seq. ("Act"), took effect allowing both patients and/or their caregivers to cultivate medical marijuana within an enclosed, locked facility in order for those individuals to be entitled to the MMMA protections. As such, these enclosed locked facilities have turned up in various locations with and without appropriate governmental approvals and been constructed of varying materials using various public resources including electrical and water resources within various zoning districts;

WHEREAS, since the passage of the Act, caregiver cultivation of marijuana has resulted in problems including but not limited to insufficient or improper electrical supplies, dangerous structures, inadequate ventilation leading to mold, offensive odors, noise, use of materials and toxins that may enter drains or groundwater, and other health hazards and/or other hazards which are associated with the cultivation of marijuana in various zoning districts;

WHEREAS, the Township has been made aware through general reporting that these facilities are or have the potential to tax the electrical systems and transformers leading to fires related to growing and marijuana use implicating the health, safety, and welfare of the residents. This health and safety concern is in relation to structural strength, adequate egress facilities, sanitary equipment, light and ventilation, and fire safety and protecting the environment including wells, drains and other systems;

WHEREAS the Michigan Supreme Court, in *Deruiter v. Township of Byron*, 505 Mich 130 (2020), found that a township's zoning ordinance that geographically restricted such caregiver marijuana cultivation to a particular zoning district did not directly conflict with the Act and that a township has the authority under the Michigan Zoning Enabling Act, 110 of 2006 (MZEA), to require zoning permits and permit fees for the use of buildings and structures within its jurisdiction;

WHEREAS the Michigan Supreme Court, in the *Charter Township of Ypsilanti v. Pontius*, 506 Mich 916 (2020), in lieu of granting leave to appeal, vacated a judgment of and remanded to the Court of Appeals which, on December 29, 2020, affirmed a municipality's authority to enact zoning and regulatory ordinances related to locational restrictions for caregivers under the MMMA;

WHEREAS it is a fundamental responsibility of a municipality to provide by zoning for the regulation of land use under the MZEA, through compatibility of adjacent land use to ensure appropriate locations and relationships, and to limit nuisances in order to promote public health, safety, and welfare of the township residents;

WHEREAS, Cohoctah Township desires to amend its zoning ordinance relating to a primary caregiver's cultivation activities, which will require time to conduct a public hearing and consider amendments to address the health and safety issues under its authority of the MZEA;

WHEREAS, the Township Board has concluded that during the pendency of its consideration of possible amendments to the Township Zoning Ordinance, it would be counterproductive if home occupations permits and/or other approvals or applications for primary caregiver cultivation operations were allowed or permitted to move forward in any zoning districts and, therefore, the Township Board has concluded that during the course of review and consideration of the possible Zoning Ordinance amendments there should be a deferral of acceptance or review of all applications related to primary caregiver medical marijuana cultivation within any zoning district; and

WHEREAS, an amendment to the Zoning Ordinance, pertaining to land use as it relates to primary caregivers cultivating medical marijuana will require proceedings before the Township Planning Commission, the Livingston County Planning Commission, and the Township Board of Trustees under the process provided for in the MZEA which may take approximately One Hundred Twenty (120) days;

WHEREAS, the Township Board desires to establish an ordinance that provides for a 120 day moratorium on the Township's acceptance of applications or issuance of any permits or approvals for any use related to medical marijuana primary caregivers including but not limited to home occupations for this purpose;

WHEREAS, the Board has reviewed and wishes to adopt a general law ordinance entitled Ordinance to Place a Temporary Moratorium on Medical Marijuana Primary Caregiver Home Occupations to be numbered and known as general law Ordinance 21;

WHEREAS, authority is provided to the Board to establish such an ordinance pursuant to MCL 41.181;

NOW, THEREFORE, BE IT RESOLVED that:

1. The Board hereby enacts the Ordinance to Place a Temporary Moratorium on Medical Marijuana Primary Caregiver Home Occupations, which shall be known as General Law Ordinance No. 21, as presented.
2. All other ordinances, policies, and procedures that are in conflict are hereby repealed.

The foregoing resolution offered by Board Member _____.

Second offered by Board Member _____.

Upon roll call vote the board members voted as follows:

Fosdick:
Bock:
Fear:
Charette:
Torigian:

The Supervisor declared the resolution adopted at a regular meeting of the Township Board held on October 14, 2021.

Barbara Fear, Clerk