

**KINROSS CHARTER TOWNSHIP
ORDINANCE NO. 1.135**

An Ordinance to Regulate the Growth of Medical Marihuana
In the Charter Township of Kinross
Adopted: July 1, 2013
Published: June 28, 2013
Effective: July 1, 2013

THE CHARTER TOWNSHIP OF KINROSS, CHIPPEWA COUNTY, MICHIGAN, ORDAINS:
that this ordinance shall be known as the Medical Marihuana Ordinance.

Section 1: Scope, Purpose and Intent

An ordinance to regulate the growing of Medical Marihuana within the Charter Township of Kinross in a manner that promotes public health, safety and welfare, mitigates potential impacts on surrounding properties and persons, and that conforms with the policies and requirements of the Michigan Medical Marihuana Act, MCL 333.26421, et seq. (herein called the Act). The Act 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 the Federal Control Substances Act.

Section 2: Definitions

The following definitions shall apply in this ordinance:

- a. Patient – (or registered patient) a person registered with the State of Michigan in accordance with the Act to grow and use Medical Marihuana
- b. Caregiver - a person registered with the State of Michigan in accordance with the Act to grow Medical Marihuana for designated patients
- c. Growing Facility – a facility established and maintained in accordance with the Act, by a caregiver, to produce Medical Marihuana for registered patients of the caregiver

Section 3: Restrictions on Patients

Registered patients shall be allowed to assert an affirmative defense for violations of the Zoning Ordinance (#1.100) within the residentially zoned districts (R-1 and R-2) within the Charter Township of Kinross.

Section 4: Restrictions on Caregivers

Caregivers shall not maintain growing facilities inside the residentially zoned districts (R-1 and R-2) within the Charter Township of Kinross. Caregivers operating growing facilities in Commercial, Industrial, or Agriculturally zoned areas of the Charter Township of Kinross shall

be allowed to assert an affirmative defense for violations of the Zoning Ordinance (#1.100) insomuch as they are in compliance with the policies and requirements of the Michigan Medical Marihuana Act.

Section 5: Restrictions on Growing Facilities

While the growth/manufacture of marihuana is prohibited by Federal law and the Act does not protect users, caregivers or the owners of properties on which the medical use of marihuana is occurring from Federal prosecution, insomuch as property owners, patients and caregivers are in compliance with the Act, and the following conditions are met, an affirmative defense may be asserted to violations of the Zoning Ordinance (#1.100)

1. Separation of 1,000 feet must be maintained between growing facilities and schools, churches, child care facilities, and residential areas.
2. There shall be no other accessory uses permitted within the same building that violate state of federal statutes.

Section 6: Severability

The provisions of this ordinance are hereby declared to be severable, and if any part is declared invalid for any reason by a court of competent jurisdiction, it shall not affect the remainder of the ordinance, which shall continue in full force and effect. Further, in construing and applying this ordinance, the terms of Public Act 33 of 2008 shall apply in the event of a conflict between the Act and this ordinance.

Section 7: Repeal of Conflicting Ordinances

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

Section 8: Penalty

Violation of any provision of this ordinance will be subject to penalty as provided in Kinross Charter Township's Municipal Civil Infractions Ordinance #1.132, or criminal prosecution as provided in Michigan or United States statutes.

Section 9: Existing Facilities

Growing facilities that can document existence prior to August 2, 2010, the date that the Township Board of the Charter Township of Kinross first imposed a moratorium upon the establishment of new growing facilities, will be allowed to assert an affirmative defense to zoning ordinance (#1.100) violations referenced in this ordinance insomuch as they are in

compliance with the policies and requirements of the Michigan Medical Marihuana Act. Any growing facility established after August 2, 2010, and before the effective date of this ordinance will be considered in violation of the current zoning ordinance (#1.100) and will be required to conform with all provisions of this ordinance before the establishment will be able to assert an affirmative defense to any zoning ordinance (#1.100) violations.

Section 10: Effective Date

This ordinance shall take effect on the date of its publication.

CERTIFICATE

The undersigned, as the duly elected and acting clerk of the township, hereby certifies that this ordinance was duly adopted by the township board at a regular meeting of said board, at which a quorum was present, held on July 1, 2013, by roll call vote with all present voting yea, and that copies of the ordinance were transmitted and published as directed.

Sheila M. Gaines, Township Clerk

James R. Moore, Township Supervisor