

**TOWNSHIP OF WILBER
IOSCO COUNTY, MICHIGAN
ORDINANCE NO. 13-01**

**ADOPTED: January 7, 2013
PUBLISHED: January 16, 2013**

EFFECTIVE: IMMEDIATELY UPON PUBLICATION AFTER ADOPTION

An Ordinance to impose a limited moratorium on the cultivation, sale and/or dispensation of marijuana for medical purposes within the Township of Wilber.

**THE TOWNSHIP OF WILBER
IOSCO COUNTY, MICHIGAN**

ORDAINS:

SECTION I FINDINGS

- A. The cultivation, sale and/or dispensation of marijuana for medical purposes was not envisioned when the current Wilber Township Zoning Ordinance and Wilber Township Master Land Use Plan were adopted.
- B. Processing requests for uses associated with the cultivation, sale and/or dispensation of medical marijuana would be detrimental to the public health, safety and welfare and would not ensure that the use is situated in appropriate locations and relationships and has the proper regulation.
- C. The Township of Wilber desires to ascertain the best and safest path to compliance with the Michigan Medical Marijuana Act, P.A. 2008 Initiated Law, MCL 333.26421 et seq (hereinafter "MMMA"), the Michigan Zoning Enabling Act, P.A. 2006, No. 110, MCL 125.3101 et seq, and all other applicable laws in order to best protect the public health, safety and welfare.
- D. The Attorney General of Michigan, on June 28, 2011, issued an opinion that prohibits the joint cooperative cultivation or sharing of marijuana plants (i.e., dispensaries) in the state of Michigan. This opinion has the force of law until and unless it is overturned by the courts.
- E. The Michigan legislature is introducing a series of bills designed to study and clarify the state's voter-approved 2008 law related to the growing, selling, and qualifying to use medical marijuana. This legislation currently is pending.
- F. The U.S. Justice Department has clarified an opinion rendered in a policy memo in 2009, and again on June 30, 2011, states that marijuana dispensaries and licensed growers in states with medical marijuana laws could face prosecution for violating federal drug and money-laundering laws.

- G. The Township of Wilber through its Township Board accordingly determines that it is desirable and in the public interest for the reasons set forth above that there be an immediate moratorium on the cultivation, sale and/or dispensation of medical marijuana for a period of one year from the effective date of this Ordinance or (2) until the effective date of a new Township ordinance or ordinances addressing this matter, whichever occurs first.

SECTION II DEFINITIONS

The following definitions shall apply for purposes of this Ordinance:

- A. "Marijuana" means the substance or material defined in Section 7106 of the Michigan Public Health Code, 1976 PA 368, MCL 333.7106.
- B. "Michigan Medical Marijuana Act" or "MMMA" means the Michigan Initiated Law 1 of 2008, MCL 333.26421, et seq.
- C. "Primary caregiver" means a person as defined under MCL 333.26423(g) of the Act, and who has been issued and possesses a Registry Identification Card under the Act.
- D. "Qualifying patient" means a person as defined under MCL 333.26423(h) of the Act, and who has been issued and possesses a Registry Identification Card under the Act.
- E. "Registry Identification Card" means the document defined under MCL 333.26423(i) of the Act.

SECTION III LICENSE REQUIREMENT

No person shall engage in the cultivation, storage, sale and/or dispensation of marijuana for medical purposes within the limits of Wilber Township without first having applied for and obtained a license to do so from the Township identifying the location at which such activity shall be conducted.

SECTION IV MORATORIUM

There is hereby imposed a moratorium upon the issuance of all Township permits, licenses and approvals (including but not limited to licenses required under Section III above, building permits and zoning permits) for the cultivation, storage, sale and/or dispensation of marijuana for medical purposes.

SECTION V
EXCEPTIONS TO LICENSING
REQUIREMENT AND MORATORIUM

The licensing requirement and moratorium imposed under this Ordinance shall not be deemed to apply to the following:

- A. The cultivation, storage and/or use of marijuana for medical purposes by a qualifying patient solely for his/her personal use and in accordance with the provisions of the MMMA and the administrative rules adopted thereunder.
- B. The cultivation, storage and/or dispensation of marijuana for medical purposes in accordance with the MMMA and the administrative rules adopted thereunder by a primary caregiver solely to provide services to not more than one qualifying patient who is a member of the qualifying primary caregiver's household and whose residence is shared with the primary caregiver.
- C. The provision of assistance to a qualifying patient by his/her designated primary caregiver relating to medical marijuana use, including distribution or other assistance, in accordance with the MMMA and the administrative regulations adopted thereunder, at the residence of the qualifying patient or at a hospital or hospice at which the qualifying patient is receiving care.
- D. The cultivation, storage, sale and/or dispensation of marijuana for medical purposes by not more than one primary caregiver per lot or parcel in accordance with the MMMA and the administrative rules adopted thereunder. This exception shall only apply to a primary caregiver that is operating in conformance with the MMMA as of the effective date of this Ordinance.

SECTION VI
SEVERABILITY

The provisions of this Ordinance are hereby declared to be severable and if any clause, sentence, word, section or provision is declared void or unenforceable for any reason, by any court of competent jurisdiction, it shall not affect any portion of the ordinance other than said part or portion thereof.

SECTION VII
SANCTIONS

Any person, firm, association, partnership, corporation or entity that violates any of the provisions of this ordinance shall be deemed responsible for a municipal civil infraction as defined by Michigan statutes which shall be punishable by a civil fine determined in accordance with the following schedule:

	Minimum Fine	Maximum Fine
-1st. Offense	-\$75.00	\$500.00
-2ndOffense	-\$150.00	\$500.00
-3rd Offense	-\$325.00	\$500.00
-4th Offense	-\$500.00	\$500.00

Additionally, the violator shall pay costs, which may include all expenses, direct and indirect, to which Wilber Township has been put in connection with the municipal civil infraction. In no case, however, shall costs of less than \$9.00 be ordered. In addition, the Township shall have the right to proceed in any court of competent jurisdiction for the purpose of obtaining an injunction, restraining order, or other appropriate remedy to compel compliance with this Ordinance. Each day that violation of this Ordinance continues to exist shall constitute a separate violation of this Ordinance.

**SECTION VIII TERM OF MORATORIUM
AND PROHIBITION**

This moratorium imposed hereunder shall expire upon (1) one year from the effective date of this Ordinance, unless extended by Board of Trustees action, or (2) the effective date of a new Township ordinance or ordinances addressing this matter, whichever occurs first. The intent of this Ordinance is to extend the six month moratorium that was published on June 13, 2012, and set to expire January 13, 2013; to extend to January 15, 2014.

**SECTION IX
EFFECTIVE
DATE**

This Ordinance shall take effect immediately upon publication following adoption. All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.

Moved by: Robert White
Supported by: Steve Ferguson

A roll call vote was held.	Aye	Nay: None
MaryPingot	X	
Sally Krueger	X	
Stephen Ferguson	X	
Robert D. White	X	
Howard Alverson	X	

Absent: None

Publication Date: January 16, 2013

I, Robert White, Wilber Township Clerk, hereby certify that the foregoing is a true copy of Ordinance Number 13-01 as adopted by the Board of Trustees of the Township of Wilber, County of Iosco, and State of Michigan.

Dated: January 7, 2013

_____/s/
By: Howard Alverson
Wilber Township Supervisor

Dated: January 7, 2013

_____/s/
By: Robert White
Wilber Township Clerk