

TOWNSHIP OF BIRCH RUN
SAGINAW COUNTY, MICHIGAN
ORDINANCE NO. 2021-02

CAREGIVER MARIHUANA PERMIT MORATORIUM ORDINANCE

ADOPTION: December 14, 2021

PUBLISHED: December 22, 2021

EFFECTIVE: December 23, 2021

An ordinance of the Township of Birch Run, Saginaw County, Michigan, to enact a 120-day moratorium on the issuance of building permit(s), zoning permit(s), and other similar permit(s) and/or licenses(s) related to the operation of Medical Marihuana Caregivers operating under the Michigan Medical Marihuana Act (or the property and/or structures on which/in which such operation occurs), Initiated Law 1 of 2008, MCL 333.26421 *et seq.*, as amended, in the Township of Birch Run; to protect the health, safety and general welfare of Birch Run Township's residents and property owners through this Ordinance; to provide a name for this Ordinance; to provide definitions; to provide for a purpose and findings; to provide a moratorium; to provide direction to the Birch Run Township Planning Commission; to provide that pending proceedings are not affected; to provide for severability, to repeal all Ordinances or parts of Ordinances in conflict herewith; to provide for an Effective Date and to direct the publication of this Ordinance or a legally-permissible summary.

**THE TOWNSHIP OF BIRCH RUN
SAGINAW COUNTY, MICHIGAN**

ORDAINS:

SECTION I
NAME

This Ordinance shall be known and may be cited as the "Birch Run Township Caregiver Marihuana Permit Moratorium Ordinance."

SECTION II
DEFINITIONS

A. Any undefined word(s) or term(s) used in this Ordinance shall be given its/their plain and ordinary meaning. A dictionary may be consulted in the interpretation of an undefined word or term used in this Ordinance.

B. The following words/terms used in this Ordinance shall have the following specific definitions:

1. "This Ordinance" means the Birch Run Township Caregiver Marihuana Permit Moratorium Ordinance
2. "The Act" or "the MMMA" means the Michigan Medical Marihuana Act, MCL 333.26421, *et seq.*, as amended.
3. "Applicant" means an individual or entity who/which applies for any permit or license related to the operation of a Person operating as a Medical Marihuana Caregiver or any property or structure related to the operation of a Medical Marihuana Caregiver.

4. "Marijuana" means the meaning given to it in Section 7601 of the Michigan Public Health Code, 1978 PA 368, as amended, MCL 333.7106 et seq., as is referred to in section 3(d) of the Michigan Medical Marihuana Act, PA 2008, Initiated Law 1, MCL 333.26423(d).
5. "Medical use of Marijuana" means the acquisition, possession, cultivation, manufacture, use, internal possession, delivery, transfer or transportation of Marijuana or paraphernalia relating to the administration of Marijuana to treat or alleviate a registered qualifying patient's debilitating medical condition or symptoms associated with the debilitating medical condition, as defined under the Michigan Medical Marihuana Act, PA 2008, Initiated Law 1, MCL 333.26421 *et seq.*
6. "Medical Marihuana Caregiver" means a "caregiver" as defined by the Michigan Medical Marihuana Act, MCL 333.26423, as amended.
7. "Permitted Premises" means the location for which any permit contemplated by this Ordinance is sought.
8. "Person" means an individual, corporation, company, partnership, or entity.
9. "Registered primary caregiver" means a registered primary caregiver, as defined in the Michigan Medical Marihuana Act, PA 2008, Initiated Law 1, MCL 333.26421 et seq.
10. "Registered primary caregiver operation" or "caregiver operation" means a registered primary caregiver in possession of a valid registry identification card is permitted to assist a qualifying patient to whom he or she is connected through the Michigan Department of Community Health's registration process with the medical use of Marijuana in certain industrial and residential districts, subject to the restrictions contained in this Order, the Birch Run Township Zoning Ordinance, as well as other applicable state, Saginaw County, or Township statutes, ordinances, regulations, resolutions, and/or other applicable law.
11. "Qualifying Patient" means a qualifying patient defined as such in MCL 333.26423 of the Act and who has been issued and possesses a registry identification card under the Act.
12. "Registry Identification Card: means the document defined as such in MCL 333.26423 of the Act and which is issued by the state of Michigan to identify a person as a registered qualifying patient or registered primary caregiver.
13. "Enclosed Locked Facility" means a facility defined as such in MCL 333.26423 of the Act where Marijuana plants may be kept under the Act.
14. "Planning Commission" means the Birch Run Township Planning Commission.
15. "Township" means the Township of Birch Run.
16. "Township Board" means the Birch Run Township Board of Trustees.

SECTION III
PURPOSE AND FINDINGS

A. The purpose of this moratorium is to provide sufficient time for the Birch Run Township Planning Commission and Birch Run Township Board to fully explore, analyze, research, make recommendations, and codify regulations regarding potential regulations applicable to the operation of Medical Marihuana Caregivers and the property and structure(s) on which Medical Marihuana Caregivers occur or are proposed to occur. In support of this Ordinance, the Birch Run Township Board has determined the following:

1. The Township has become aware of an increase of the operation of Medical-Marihuana Caregivers in the region, which is a more-recent and emerging land use. It is clear that interest in these operations is increasing across the state, and that the location of additional Medical Marihuana Caregiver operations within the Township may be imminent.
2. The integration of these Medical Marihuana Caregiver operations within the Township's existing land uses requires suitable regulations and controls for the protection of the health, safety and welfare of all of the Township's residents and property owners.
3. Pursuant to the Michigan Zoning Enabling Act (Act 110 of 2006, MCL 125.3101 *et seq.*) the Township has adopted a Zoning Ordinance, which is a comprehensive land-use plan.
4. The Township wishes to consider whether amendments to its Zoning Ordinance to regulate the establishment and use of Medical Marihuana Caregiver operations is necessary in order to better protect the public health, safety, and welfare of Township's residents and property owners.
5. The Township also wishes to consider whether a police-power ordinance regulations the activities and actions of Medical Marihuana Caregiver operations is necessary in order to better protect the public health, safety, and welfare of Township's residents and property owners.
6. Imposing a moratorium on the siting, establishing, maintenance, and/or improvement of Medical Marihuana Caregiver operations as well as the real property and structures related to Medical Marihuana Caregiver operations on a limited temporary basis, is reasonable and necessary to allow the Township Planning Commission and Township Board time to fully explore, analyze, research and develop proposed zoning amendments and a police-power ordinance applicable to Medical Marihuana Caregiver operations and the related real property/properties and structures.
7. A moratorium should and shall be imposed upon the issuance of any building permit(s), zoning permit(s), and other similar permit(s) and/or licenses(s) related to the operation of Medical Marihuana Caregivers operating under the Michigan Medical Marihuana Act (or the property and/or structures on which/in which such operation occurs), as well as any and all permits, licenses, and/or approvals for any property subject to or under the jurisdiction of the Township's Zoning Ordinance for the establishment or improvement of Medical-Marihuana Caregiver operations (or the establishment or improvement of any real property or structure(s) on which/in which Medical Marihuana operations occur or are proposed to occur) for 120 days from the effective date of this Ordinance or until this Ordinance is repealed, whichever occurs first.

SECTION IV
MORATORIUM

A moratorium is hereby imposed on the issuance of any building permit(s), zoning permit(s), and other similar permit(s) and/or licenses(s) related to the operation of Medical Marihuana Caregivers operating under the Michigan Medical Marihuana Act (or the property and/or structures on which/in which such operation occurs or is proposed to occur), as well as any and all permits, licenses, and/or approvals for any property subject to or under the jurisdiction of the Township's Zoning Ordinance for the establishment or improvement of Medical-Marihuana Caregiver operations (or the establishment or improvement of any real property or structure(s) on which/in which Medical Marihuana operations occur or are proposed to occur) for 120 days from the effective date of this Ordinance or until this Ordinance is repealed, whichever occurs first. Before this moratorium expires, the Township may by Ordinance extend the moratorium for up to six (6) months to allow sufficient time to complete amendments to its Zoning Ordinance and the adoption of a police-power ordinance, if necessary.

SECTION V
DIRECTION TO TOWNSHIP PLANNING COMMISSION

The Birch Run Township Planning Commission is hereby directed to research and consider regulations relating to Medical Marihuana Caregiver operations (and the real property and/or structure(s) on which/in which said operations are occurring/are proposed to occur) and, if appropriate, develop proposed amendments to the Birch Run Township Zoning Ordinance which address, among other things, the design, location, setbacks, and other matters deemed appropriate to regulate the real property and/or structure(s) on which/in which any Medical Marihuana Caregiver operations are occurring/are proposed to occur in Birch Run Township.

SECTION VI
PENDING PROCEEDINGS NOT AFFECTED.

Nothing in this ordinance shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired, or affected by this ordinance.

SECTION VII
SEVERABILITY

Should any section, clause, or provision of this Ordinance be declared to be invalid by a court of competent jurisdiction, the same shall not affect the validity of the Ordinance as a whole or any other part thereof other than the parts so declared to be invalid. The Birch Run Township Board of Trustees hereby declares that it would have enacted this Ordinance even without whatever provision may be declared invalid by a court of competent jurisdiction.

SECTION VIII
REPEAL OF CONFLICTING ORDINANCES

All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

SECTION IX
EFFECTIVE DATE

This Ordinance and the rules, regulations, provisions, requirements, orders, and matters established and adopted hereby shall take effect the day following publication as required by law following adoption by the Township Board.

SECTION X
TOWNSHIP PUBLICATION

The Township Clerk is hereby ordered and directed to cause this Ordinance to be published, either in full or in the form of a legally-permitted summary, in a newspaper of general circulation within Birch Run Township.

This Ordinance is hereby declared to have been adopted by the Birch Run Township Board of Trustees, County of Saginaw, State of Michigan, at a regular meeting held on the 14th day of December 2021 and ordered to be given publication in the manner prescribed by law.

YEAS: Kiessling, Letterman, Parlberg, Sheridan, D. Trinklein Jr
NAYS: None
ABSENT: Watts

TOWNSHIP OF BIRCH RUN:

By:

RAY LETTERMAN, Township Supervisor

By:

COREY TRINKLEIN, Township Clerk

Date of Publication: December 22, 2021

Newspaper: Birch Run/Bridgeport Herald

CERTIFICATION

STATE OF MICHIGAN)
) SS
COUNTY OF SAGINAW)

I, the undersigned, the fully qualified and acting Clerk of the Township of Birch Run, Saginaw County, Michigan, do hereby certify that the foregoing is a true and complete copy of an ordinance adopted at a regular meeting of the Township Board of the Township of Birch Run, Michigan, held on the 14th day of December, 2021, was recorded in full in the Minutes of the Meeting of the Township Board of Trustees on said date, notice of said meeting was given and said meeting was held in compliance with Act 267, Public Acts of Michigan, 1976. The Ordinance was signed by the Supervisor and Clerk of the Township.

IN WITNESS WHEREOF, I have hereunto fixed my official signature on this 21st day of December, 2021.

Corey Trinklein, Clerk
Birch Run Township