

**EAST CHINA CHARTER TOWNSHIP
PLANNING COMMISSION**

PUBLIC HEARING

FEBRUARY 8, 2011

CALL TO ORDER – Chairperson Street called the Public Hearing to order at 7:15 p.m., with Commissioners, Barna, Bober, Blackstock and Jones. Commissioners Carey and Freehan excused.

No one in the audience.

The purpose of the Pubic Hearing is to consider amendments to the Zoning Ordinance and to grant any interested persons the right to be heard upon the proposed amendment to the zoning ordinance.

The purpose of this Ordinance is to amend the Code of Ordinances, Chapter 480, Zoning, Section 480-5, Definitions and add Section 480-77.2 MEDICAL MARIJUANA.

Commissioner Blackstock, supported by Commissioner Bober, moved to adjourn the Public Hearing at 7:25 pm. Carried.

Herbert Blackstock, Acting Secretary

**EAST CHINA CHARTER TOWNSHIP
PLANNING COMMISSION**

FEBRUARY 8, 2011

CALL TO ORDER – Chairperson Street called the meeting to order at 7:30 p.m., with Commissioners, Barna, Bober, Blackstock and Jones. Commissioners Carey and Freehan excused.

MINUTES – Commissioner Jones, supported by Trustee Bober, moved to approve the minutes of the January 11, 2011 meeting. Carried.

Trustee Bober, supported by Commissioner Barna, moved to recommend approval by the Township Board of the following Ordinance amendments. Carried.

ORDINANCE

CHARTER TOWNSHIP OF EAST CHINA
ST. CLAIR COUNTY, MICHIGAN

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, CHAPTER 480, ZONING, TO REGULATE MEDICAL MARIJUANA.

THE CHARTER TOWNSHIP OF EAST CHINA ORDAINS:

SECTION 1. PURPOSE.

The purpose of this Ordinance is to amend the Code of Ordinances, Chapter 480, Zoning, Section 480-5, Definitions and add Section 480-77.2 MEDICAL MARIJUANA.

SECTION 2. AMENDMENTS.

1. The Code of Ordinances, Chapter 480, Article II, Construction of Language and Definitions, Section 480-5, Definitions, is hereby amended by adding the following definition:

Medical Marijuana Dispensary, Grow Facility, Compassion Club or Similar Operation is any facility or location where medical marijuana is grown or possessed for the purpose of distributing to a registered primary caregiver who does not reside at or own the location where the medical marijuana is grown or cultivated, or any facility or location where medical marijuana is grown, processed, possessed or cultivated for the purpose of distributing the medical marijuana to more than the cumulative total of five (5) qualified patients.

2. The Code of Ordinances, Chapter 480, Article II, Construction of Language and Definitions, Section 480 is hereby amended by adding the following:

SECTION 480-77.2 MEDICAL MARIJUANA

A. Intent.

1. Voters in the State of Michigan approved a referendum authorizing the use of marijuana for certain medical conditions, being the Michigan Medical Marijuana Act, MCL 333.26421, et seq. ("The Act").
2. The specified intent of The Act is to enable certain specified persons who comply with the registration provisions of the law to acquire, possess, cultivate, grow and use marijuana as well as to assist specifically registered individuals identified in the statute without being subject to criminal prosecution under state law in limited, specific circumstances.
3. Despite the specific provisions of The Act and the activities identified in The Act, marijuana remains a controlled substance (Schedule 1 Drug) under Michigan law. The activities set forth in The Act have a potential for abuse. Such activities should be closely monitored and, to the extent permissible, regulated by local authorities.
4. If not closely monitored or regulated, the presence of marijuana, even for the purposes specified by The Act, may present an increase for illegal conduct and/or activity which adversely affects the health, safety and welfare of the residents of East China Township.
5. Nothing in this Ordinance shall be construed to allow persons to engage in conduct that endangers others or causes a public nuisance, or to allow use, possession or control of marijuana for non-medical purposes or allow any other activity relating to cultivation/growing, distribution or consumption of marijuana that is otherwise illegal.

B. Medical Marijuana Dispensary, Grow Facility, Compassion Club and Similar Operations. It shall be unlawful for any person or entity to own, manage, conduct, or operate a medical marijuana dispensary, grow facility, compassion club or similar operation, or to participate as an employee, contractor, agent or volunteer, or in any other manner or capacity, in any medical marijuana dispensary, grow facility, compassion club or similar establishment in East China Township.

C. Registered Primary Caregiver. A registered primary caregiver, in compliance with the General Rules of the Michigan Department of Community Health, the Michigan Medical Marijuana Act P.A. 2008, Initiated Law, MCL 333.26423(d) and the requirements of this Chapter, shall be permitted to grow marijuana.

Nothing in the Chapter, or in any companion regulatory provision adopted in any other provision of the Code, is intended to grant, nor shall they be construed as granting, immunity from criminal prosecution for growing, sale, consumption, use, distribution, or possession of marijuana not in strict compliance with the Act and the General Rules. Also, since Federal Law is not affected by the Act or General Rules, nothing in this chapter, or in any companion regulatory provision adopted in any other provision of this Code, is intended to grant, nor shall they be construed as granting, immunity from criminal prosecution under Federal Law. The Michigan Medical Marijuana Act does not protect users, caregivers or the owners of properties on which the medical use of marijuana is occurring from Federal Prosecution, or from having their property seized by Federal authorities under the Federal Controlled Substances Act. The following requirements for a registered primary caregiver shall apply:

1. A primary caregiver shall be prohibited from engaging in the distribution, cultivation, growing or processing of medical marijuana in any commercial or industrial zoning district.
2. A primary caregiver shall be required to occupy the site where medical marijuana is grown as their principle residence;
3. The medical use of marijuana shall comply at all times and in all circumstances with the Michigan Medical Marijuana Act and the General Rules of the Michigan Department of Community Health, as they may be amended from time to time;
4. A registered primary caregiver must be located outside of a one thousand (1,000) foot radius from any school, including childcare or day care facility, to insure community compliance with Federal "Drug-Free School Zone" requirements. The radius shall be measured from a point beginning at the property line of the school site;
5. A registered primary caregiver must be located outside of a one thousand (1,000) foot radius from any public or private park property or public library property (as measured from the property lines);
6. Not more than one (1) primary caregiver shall be permitted to service qualifying patients on a parcel or within an approved livable dwelling unit;
7. All medical marijuana shall be contained within the building in an enclosed, locked facility inaccessible on all sides and equipped with locks or other security devices that permit access only by the registered primary caregiver or qualifying patient;

8. All necessary building, electrical, plumbing and mechanical permits, as required by the building code, shall be obtained for any portion of the structure or accessory building in which electrical wiring, lighting and/or watering devices that support the cultivation, growing or harvesting of marijuana are located;
9. That portion of the structure or accessory building where energy usage and heat exceeds typical use, such as a grow room, and the storage of any chemicals such as herbicides, pesticides, and fertilizers shall be subject to inspection and approval by the appropriate Fire Code Enforcement Officer to insure compliance with the Michigan Fire Protection Code;
10. The premises shall be open for inspection upon request by the appropriate Fire Code Enforcement Officer and law enforcement officials for compliance with all applicable laws and rules;
11. The disposal of plant material shall be done in a safe and secure manner which does not permit those without the proper permits to access or obtain any disposed plant material.
12. Lights utilized in the growing process that are visible from the exterior of a structure, shall not be permitted to operate between the hours of 11:00 PM and 6:00 AM.

SECTION 3. SEVERABILITY.

The provisions of this Ordinance are hereby declared to be severable. If any clause, sentence, paragraph, rule, regulation, section or subsection is declared void or inoperable for any reason by any Court, it shall not affect any other part or portion thereof, other than the part declared void or inoperable.

SECTION 4. REPEAL.

All Ordinances in conflict herewith are hereby repealed.

SECTION 5. EFFECTIVE DATE.

This Ordinance shall become effective upon publication after adoption.

SECTION 6. INSPECTION OF ORDINANCE.

A copy of this Ordinance may be inspected or purchased at the Township Hall, 5111 River Road, East China, Michigan 48054, during regular posted office hours.

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I hereby certify that the foregoing constitutes a true and complete copy of Ordinance Number _____, duly adopted by the Township Board of the Charter Township of East China, St. Clair County, Michigan, at a regular meeting held on the ___ day of _____, 2011 at which all members were present except _____, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that minutes of said meeting were kept and have been or will be made available as required by said Act.

I further certify that Member _____ moved adoption of said Ordinance and that Member _____ supported said Motion.

I further certify that the following Members voted for adoption of said Ordinance: _____, and that the following Members voted against adoption of said Ordinance: _____ .

I further certify that the following events and dates occurred in the adoption of this Ordinance.

DATE OF PUBLIC HEARING:

DATE INTRODUCED:

DATE PUBLISHED:

DATE ADOPTED AFTER INTRODUCTION:

DATE PUBLISHED AFTER ADOPTION:

EFFECTIVE DATE:

Gary J. Arnold, Clerk
Charter Township of East China

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ADJOURN – Trustee Bober, supported by Commissioner Barna, moved to adjourn at 7:55 pm. Carried.

Herbert Blackstock, Acting Secretary