

ORDINANCE NO. 4 of 2011
Effective Date: October 14, 2011

**An Interim Ordinance Extending a Temporary Moratorium on
 Certain Land Uses Connected with the Use of Marihuana for Medical Purposes**

WHEREAS, the State of Michigan, by voter referendum of November, 2008, approved the use of medical marihuana; and

WHEREAS, this law has been identified as Initiated Law 1 of 2008, MCL 333.26421 et seq., and executive reorganization order numbers 1996-1, 1996-2 and 2003-1, MCL 330.3101, MCL 445.2001 and MCL 445.2011; and

WHEREAS, such laws and state regulations have not addressed the appropriate land uses associated with these activities; and

WHEREAS, the present ordinances of the Township do not address the proper locations of such activities, since many of the activities were illegal until the recent referendum and were not permitted anywhere in the Township; and

WHEREAS, on April 12, 2011, the Township adopted Ordinance No. 01 of 2011 imposing a moratorium on certain uses related to medical marihuana in order to review and implement revised ordinances addressing the proper location(s) and regulations for such activities; and

WHEREAS, Ordinance No. 01 of 2011 provides that the moratorium was to remain in effect until the effective date of a permanent ordinance regulating such activities or after six months from the effective date of the moratorium, whichever shall first occur; and

WHEREAS, the Township staff and Planning Commission have diligently investigated and pursued the determination of appropriate regulations for medical marihuana related activities; and

WHEREAS, recent court decisions with respect to other municipalities' approaches to regulating medical marihuana activities, including appellate decisions interpreting the above state law have created uncertainty as to the state of the law, but have begun to provide guidance on the scope of permitted municipal regulation; and

WHEREAS, additional uncertainty is being created by introduction of multiple bills in the State Legislature, with more on the way in coming months, proposing Amendments to the Michigan Medical Marihuana Law; and

WHEREAS, in order to enact regulations that are consistent with

the state law and the decisions of the Michigan Courts, the Township deems it appropriate and necessary to extend the moratorium established by Ordinance No. 01 of 2011; and

WHEREAS, absent this moratorium, unregulated land uses could likely cause substantial issues for the Township such as mixed commercial, agricultural and residential uses, quasi-industrial uses in residential or commercial areas, uses that could be incompatible with public uses such as schools; and

WHEREAS, the Township has a legitimate purpose in addressing the proper locations and land uses for this new activity in appropriate areas; and

WHEREAS, this review process will take at least several months to properly accomplish; and

WHEREAS, the Township is legitimately concerned that uses may be established in inappropriate or inadvisable locations before revised ordinances can be drafted and enacted, thereby defeating the purpose of the township's ordinances; and

WHEREAS, it is a routine and appropriate method to forestall such problems to enact a reasonable moratorium on all land uses for medical marihuana until new ordinances can be drafted and enacted.

NOW, THEREFORE, BE IT RESOLVED by the Township Board of Elk Rapids Township as follows:

ELK RAPIDS TOWNSHIP ORDAINS:

Section 1: Elk Rapids Township hereby continues to temporarily prohibit the use of land or buildings for the following activities and uses:

1. Cultivation or processing of marihuana;
2. Distribution or dispensing of marihuana;
3. Smoking or other administration of marihuana;
4. Stores for specialized equipment for cultivating, processing, distributing, or administering marihuana; and
5. Specialized schools or training for cultivating, processing, distributing, or administering marihuana.

Section 2: Nothing in this moratorium ordinance shall deny a properly licensed person from exercising his or her rights under Initiated Law 1 of 2008 with respect to the personal use of

marihuana for medical purposes. Further, the provisions of this extension of the moratorium ordinance are declared to be severable and if any section, provision or clause of this Ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect any remaining portions or application of this Ordinance, which can be given effect without the invalid portion or application.

Section 3: This moratorium ordinance extension forbidding such land use shall terminate and be of no further effect upon the effective date of an ordinance regulating such activities or after six months from the effective date of this ordinance, whichever shall first occur, unless such Moratorium is extended by further ordinance of the Elk Rapids Township Board.

Section 4: The Clerk of the Elk Rapids Township shall publish this ordinance in the manner prescribed by law.

Section 5: This ordinance shall take effect on October 14, 2011 following its publication in a newspaper of general circulation within the Township, as required by law.

At a regular meeting of the Township Board held on the 13th day of September, 2011, it was moved by T. Palmer and supported by D. Amos that this Ordinance No. 4 of 2011 be introduced and adopted.

AYES: B. White, C. Boals, M. Szymanski, T. Palmer, D. Amos
 NAYS: NONE

I, Carolyn Boals, Clerk of Elk Rapids Township, hereby certify this to be a true and complete copy of Ordinance No. 4 of 2011, duly adopted at a regular meeting of the Township Board held on the 13th day of September, 2011.

*Carolyn Boals, Elk Rapids Township Clerk
 315 Bridge Street
 Elk Rapids, Michigan 49629
 Phone: 231-264-9333*

A complete copy of the Ordinance may be purchased or inspected at the Township Clerk's office during regular office hours, or by appointment, or a copy may be viewed and downloaded from the internet at: <http://elkrapids.com/Township/Input>.