

Village of Lake Isabella

1010 Clubhouse Drive
Lake Isabella, MI, 48893
989-644-8654

ORDINANCE 2010 – 04
HOME OCCUPATIONS & MEDICAL MARIJUANA

The Village of Lake Isabella hereby ordains:

SECTION 1 PURPOSE

The purpose of this Ordinance is to adopt a comprehensive update of the requirements set forth in the zoning code relating to home occupations and home businesses, along with adopting regulations pertaining to the Michigan Medical Marihuana Act.

SECTION 2 CHAPTER 1272 OF THE CODIFIED ORDINANCES CREATED:

Chapter 1272 of the Codified Ordinances of the Village of Lake Isabella is created as shown in “***Exhibit A***” of this Ordinance. With the adoption of Chapter 1272, subsection 1262.09(11) is hereby repealed and subsection 1262.09 renumbered to reflect the deletion.

SECTION 3 : MEDICAL MARIJUANA DISPENSARIES AND CULTIVATION FACILITIES PROHIBITED

Chapter 1212 of the Codified Ordinances of the Village of Lake Isabella is hereby amended to include two new subsections as shown in “***Exhibit B.***”

SECTION 4 SEVERABILITY

If any section, subsection, paragraph, sentence, clause, or portion of this Ordinance is found for any reason to be invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION 5 ORDINANCES REPEALED

All ordinances and/or parts of ordinances inconsistent with this Ordinance are hereby repealed.

SECTION 6 EFFECTIVE DATE

This Ordinance shall take effect and be in force upon the expiration of 7 days of the date when the notice of adoption for this Ordinance is published in a newspaper of general circulation in the Village of Lake Isabella. This Ordinance

and attached document shall be codified, edited for typos and grammatical errors, and enumerated in accordance with the codification procedure of the Village of Lake Isabella.

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We, the undersigned, President and Clerk of the Village of Lake Isabella, Isabella County, State of Michigan, do hereby certify that the above and foregoing Ordinance, known as Ordinance # 2010-04 "*Home Occupations & Medical Marijuana*" of the Village of Lake Isabella, was adopted in the following manner with at least two weeks elapsing between the introduction of the Ordinance before the Village Council and the enactment by the Village Council at _____ meeting of the Lake Isabella Council, offered by councilmember _____, and seconded by councilmember _____.

Planning Commission Introduction	July 13, 2010
Planning Commission Public Hearing	August 2, 2010
Planning Commission Recommendation	
Village Council Introduction	
Village Council Public Hearing	
Village Council Enactment	

The vote on this Ordinance was taken by roll-call with the "yeas" and "nays" recorded as such.

YEAS: _____

NAYS: _____

ABSTAIN: _____

ABSENT: _____

Dated at Lake Isabella, Michigan, this _____ day of _____.

 Village Council President
 Dave Torgerson

 Village Clerk
 Jeffrey P. Grey

EXHIBIT A

1272.01 USE/APPROVAL TABLE:

District	Home Occupation	Level 1 Home Business	Level 2 Home Business
Lake Residential 1	O	Z	S
Lake Residential 2	O	Z	S
Airport Residential	O	Z	S
Multi-Family Residential	O	X	X
Airport Commercial	O	O	Z
West Coldwater Business	O	O	Z
East Coldwater Business: Ground Floor	X	X	X
East Coldwater Business: Above ground floor	O	X	X
Agriculture	O	O	Z
Commercial	O	O	Z
Light Industrial	X	X	X
Open Space Recreational	X	X	X

O = Permitted by right (No additional review or approval required)

Z = Permitted by Approval of the Zoning Administrator

S = Special Land Use (Planning Commission Approval)

X = Not Permitted

1272.03 CLASSIFICATION TABLE

The following series of criteria are established to determine what classification a home based activity falls into. Based on upon the responses to the criteria in the table below, the activity will be classified by the most intense use with Home Occupation being the least intense and a Level 2 Home Business being the most intense:

Criteria	Home Occupation	Level 1 Home Business	Level 2 Home Business
I will prepare food for sale in my home	N	N	Y
I will have customers or clients visit my home	N	Y	Y
I will have a sign advertising my business at my home	N	Y	Y
On average I will have 3 or more delivery visits to my house per week	N	N	Y
I will have employees working from my home.	N	Y	Y
I will have at least 1 employee, but not more than 2 employees working from	N	Y	N

my home			
I will have more than 2 employees, but not more than 5 employees working from my home	N	N	Y
The only business use of my home will be that of an office for my off-site business activity.	Y	N	N
Not more than 20% of the habitable floor space of my dwelling will be used for business or non-residential purposes	Y	Y	N
At least 20%, but not more than 40% of the habitable floor space of my dwelling will be used for business or non-residential purposes	N	N	Y
I will use an accessory structure in the operation of my business	N	N	Y
My business is that of an art studio and gallery where my work is created, displayed and sold; or where I provide instruction in arts, crafts, or music to not more than 2 students at a time	Y	N	N

1272.05 PROHIBITED HOME OCCUPATIONS AND HOME BUSINESSES:

The following occupations are prohibited as home occupation or as a home business:

1. Animal Processing or Butchering (This does not include Taxidermy)
2. The repair, painting, detailing or sale of motorized vehicles. This includes but is not limited to the following items; automobiles, trucks, motorcycles, snowmobiles, watercraft, tractors, and lawn equipment.
3. Kennels
4. Animal training or grooming
5. Barber shops, beauty salons, nail salons, and tanning salons
6. Medical or dental offices.
7. Restaurants
8. Welding or machine shops
9. Bed & Breakfasts

1272.07 PROHIBITED ACTIVITIES FOR HOME OCCUPATIONS AND HOME BUSINESSES:

The conditions and activities are prohibited for all home occupations and home businesses:

1. The maximum amount of habitable floor space allowed for non-residential purposes shall be 40%.
2. Commercial grade lawn equipment, construction equipment, heavy equipment, farm machinery, and landscaping supplies are not permitted to be stored at the home unless the following conditions are met:
 - A. The parcel size is 2 acres or greater
 - B. All equipment and supplies are stored inside a primary or accessory structure.

- C. Equipment repairs and maintenance shall be done inside and be limited to those items owned by the business.
3. There will be no changes to exterior of the home to lessen the residential character of the structure.
 4. To establish a home occupation or home business, the home must be the primary residence of the proprietor of the business.
 5. Home occupations and home businesses shall not make noise, vibration, smoke, dust, odor, heat, or electrical interference with surrounding structures.
 6. No home occupation or home business shall have deliveries or customer/client visits between the hours of 8 PM and 8 AM.
 7. Walk-in retail or trade is not permitted.
 8. The outdoor storage or display of items supportive of the home occupation or home business is prohibited.
 9. All parking associated with the home occupation or home business shall occur off-street.

1272.09 CONDITIONS OF REVIEW

For home businesses which require the review and approval of either the Zoning Administrator or the Planning Commission, the following conditions of review shall apply:

1. Adequate off-street parking has been provided for with independent spaces for each employee.
2. A floor plan has been submitted which shows the area of the home to be used for non-residential purposes.
3. For businesses which require additional inspections from health, safety, or building officials final approval by the Village of Lake Isabella shall not occur until all other inspections and approvals have been obtained a documentation submitted to the Zoning Administration.
4. For home businesses which require review as a Special Land Use, the conditions of review of Chapter 1262, in addition to the conditions of this Chapter, shall apply. This includes the Planning Commission's requirement to hold a public hearing, notify surrounding properties as required in the Michigan Zoning Enabling Act, the Planning Commission's right to impose conditions on approval, and the Planning Commission's ability to require a performance guarantee of the applicant.

1272.11 MEDICAL MARIJUANA REGISTERED PRIMARY CAREGIVERS

A registered primary caregiver, in compliance with the General Rules of the Michigan Department of Community Health as established under the Michigan Medical Marijuana Act (MMMA) is hereby classified as a home occupation and exempted from the requirements of the use classification table found in this Chapter, and shall be allowed to operate as a home occupation with no additional review and approval by the Village of Lake Isabella provided the following conditions are met:

1. The use of marijuana shall at all times comply with the conditions and circumstances established by the MMMA.
2. The registered primary caregiver is operating at his or her primary residence.
3. A registered primary caregiver must be located outside of a one-thousand foot (1,000') radius from any parcel with a school or child care center.

4. A maximum of two (2) total registered primary caregivers shall be permitted to serve qualifying patients on any single parcel.
5. A maximum of one visit per day, per qualifying patient, is permitted between the hours of 8 AM and 8 PM.
6. All medical marijuana ready for use shall be contained within the primary structure of the parcel, in an enclosed, locked area inaccessible on the exterior of the structure with devices which limit access to only the registered primary caregiver.
7. The outdoor growth and/or cultivation of medical marijuana plants is prohibited.
8. All medical marijuana plants cultivated shall be contained within a fully enclosed legally existing primary or accessory structure locked and inaccessible on the exterior except by devices which restrict access to only the registered primary caregiver.
9. If a room with windows is utilized as a growing location, any lighting methods that exceed usual residential periods between 10 PM and 7 AM shall employ shielding methods which prevent ambient light spillage to adjacent residential properties without alteration to the exterior of the residence.

1272.13 LICENSE AND INSPECTION

Home businesses shall be annually licensed by the Village of Lake Isabella and may be inspected by the Zoning Administrator once every three years. The Village Council may by resolution set a nominal fee to be charged for the annual license to cover expenses incurred with enforcing this Chapter.

1272.15 REVOCATION

If any resident living within 300 feet of a home occupation or home business believes that it is being conducted in violation of this Chapter or believes the home occupation or home business being conducted is detracting from the residential character of the neighborhood, the resident may submit a petition for the home occupation or home business to cease and desist. If the Zoning Administrator is unable to resolve the problem informally between the resident and proprietor of the home occupation or home business, the matter will be placed on the agenda of the Board of Zoning Appeals for a public hearing upon the submission of a fee equal to that of the least expense residential variance application fee. On the basis of evidence introduced at this hearing, the Board may require the home occupation to cease and desist or impose additional restrictions or conditions on the conduct of the business.

EXHIBIT B

1212.59 MEDICAL MARIJUANA DISPENSARIES

Facilities or uses where three or more registered primary caregivers operate and/or provide services for compensation or membership fee on a single parcel under the Michigan Medical Marihuana Act (MMMA), or supplied registered primary caregivers with medical marijuana is hereby classified as a marijuana dispensary and such is prohibited in the Village of Lake Isabella.

1212.61 MEDICAL MARIJUANA CULTIVATION FACILITY

The cultivation of marijuana in the Village of Lake Isabella shall be limited to registered primary caregivers as defined in the Michigan Medical Marijuana Act (MMMA) and shall be permitted only in an enclosed, locked structure. Any parcel in the Village of Lake Isabella where more than 144 marijuana plants are grown or cultivated at any one time shall be considered a marijuana cultivation facility and such is prohibited in the Village of Lake Isabella.