

**UNADILLA TOWNSHIP**

**RESOLUTION NO. 5-2020**

**RESOLUTION TO ADOPT AN ORDINANCE TO IMPOSE A MORATORIUM ON THE  
ISSUANCE OF PERMITS, LICENSES OR APPROVALS FOR CERTAIN USES OF PROPERTY  
RELATED TO MEDICAL MARIHUANA PATIENTS AND CAREGIVERS**

At a regular meeting of the Township Board of Unadilla Township, Livingston County, Michigan, held at the Township Hall in said Township on the 14th day of May, 2020, at 7:00 p.m.

PRESENT: Walker, Topping, Cox, Weiland

ABSENT: Cowan

The following preamble and resolution was offered by Walker and seconded by Cox.

**WHEREAS**, the Township General Ordinance Statute, Michigan Public Act 246 of 1945, as amended, authorizes the Township Board to adopt ordinances regulating the public health, safety and general welfare of persons and property; and

**WHEREAS**, pursuant to the Michigan Zoning Enabling Act, Act 110 of 2016 ("MZEA"), the Township has the authority to establish reasonable land use regulations to protect the public health, safety and welfare and in a manner consistent with applicable Michigan law; and

**WHEREAS**, in 2008, Michigan voters approved the Michigan Medical Marihuana Act, Initiated Law 1 of 2008, which provides a state licensing program for medical marihuana patients and caregivers and affords certain protections under state law for the medical use of marihuana; and

**WHEREAS**, prior to April 27, 2020, case law from the Michigan Court of Appeals provided that municipalities could not regulate land uses related to medical marihuana such as, for example, regulating the zoning districts within which medical marihuana caregivers were permitted to cultivate marihuana; and

**WHEREAS**, in a decision issued April 27, 2020, the Michigan Supreme Court held that municipalities may regulate land uses related to medical marihuana pursuant to the MZEA, so long as (1) the municipality does not prohibit or penalize the cultivation of medical marijuana, and (2) the municipality does not impose regulations that are unreasonable and inconsistent with regulations established by state law. *DeRuiter v Byron Twp*, Supreme Court No. 158311; and

**WHEREAS**, in light of the Township's authority to regulate medical marihuana land uses through zoning pursuant to *DeRuiter*, the Township desires to consider the best way to address medical marihuana land uses in a manner consistent with Michigan law to protect the public health, safety, and welfare of Township residents; and

**WHEREAS**, imposing a moratorium, on a limited temporary basis, is reasonable and necessary to allow time for review of and potential amendments or additions to Unadilla Township ordinances, including the Zoning Ordinance, concerning land uses related to medical marihuana; and

**NOW, THEREFORE**, the Township Board of Unadilla Township resolves as follows:

1. The Township hereby adopts Ordinance No. 5-2020, An Ordinance to Impose a Moratorium on the Issuance of Permits, Licenses, or Approvals for Certain Uses of Property Related to Medical Marihuana Patients and Caregivers (the "Ordinance," **Exhibit A**).

2. The Ordinance shall be filed with the Township Clerk.

3. The Township Clerk shall publish notice of adoption of the Ordinance (in substantially the form of **Exhibit B**) in a newspaper of general circulation in the Township.

4. A copy of the Ordinance shall be available for examination at the office of the Clerk and copies may be provided for a reasonable charge.

5. Any and all resolutions that are in conflict with this Resolution are hereby repealed to the extent necessary to give this Resolution full force and effect.

YEAS: Walker, Topping, Cox, Weiland

NAYS: None

ABSENT: Cowan

THE RESOLUTION WAS DECLARED ADOPTED.

STATE OF MICHIGAN                    )  
  )  
COUNTY OF LIVINGSTON            )

I the undersigned, the duly qualified and acting Township Clerk of Unadilla Township, Livingston County, Michigan, DO HEREBY CERTIFY that the foregoing is a true and complete copy of certain proceedings taken by the Township Board at a regular meeting held on the 14th day of May, 2020 at 7:00 p.m.

*Linda Topping*  
Linda Topping, Township Clerk

**EXHIBIT A**

**UNADILLA TOWNSHIP  
BOARD OF TRUSTEES**

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE TO IMPOSE A MORATORIUM ON THE ISSUANCE OF PERMITS,  
LICENSES OR APPROVALS FOR CERTAIN USES OF PROPERTY RELATED TO MEDICAL  
MARIHUANA PATIENTS AND CAREGIVERS**

**UNADILLA TOWNSHIP ORDAINS:**

**Section 1. Findings:**

In accordance with the Michigan Zoning Enabling Act, 2006 PA 110, as amended (the "MZEA"), Unadilla Township ("Township") has determined that:

1. Pursuant to the MZEA and the Township General Ordinance Statute, Michigan Public Act 246 of 1945, the Township has the authority adopt ordinances and to establish reasonable land use regulations to protect the public health, safety and welfare and in a manner consistent with applicable Michigan law.

2. In 2008, Michigan voters approved the Michigan Medical Marihuana Act, Initiated Law 1 of 2008, which provides a state licensing program for medical marihuana patients and caregivers and affords certain protections under state law for the medical use of marihuana.

3. Prior to April 27, 2020, case law from the Michigan Court of Appeals provided that municipalities could not regulate land uses related to medical marihuana such as, for example, regulating the zoning districts within which medical marihuana caregivers were permitted to cultivate marihuana.

4. In a decision issued April 27, 2020, the Michigan Supreme Court held that municipalities may regulate land uses related to medical marihuana pursuant to the MZEA, so long as (1) the municipality does not prohibit or penalize the cultivation of medical marijuana, and (2) the municipality does not impose regulations that are unreasonable and inconsistent with regulations established by state law. *DeRuiter v Byron Twp*, Supreme Court No. 158311.

5. In light of the Township's authority to regulate medical marihuana land uses through zoning pursuant to *DeRuiter*, the Township desires to consider the best way to

address medical marihuana land uses in a manner consistent with Michigan law to protect the public health, safety, and welfare of Township residents.

6. Imposing a moratorium, on a limited temporary basis, is reasonable and necessary to allow time for review of and potential amendments or additions to Unadilla Township ordinances, including the Zoning Ordinance, concerning land uses related to medical marihuana.

7. A moratorium should be imposed upon the issuance of any and all permits, licenses, and approvals for any property under the jurisdiction of the Unadilla Township ordinances, including its Zoning Ordinance, for the use of property for the cultivation, storage, distribution, delivery, transportation, or use of medical marihuana under the Michigan Medical Marihuana Act. The moratorium should remain in effect for twelve (12) months or until an amendment or addition to the Unadilla Township ordinances is adopted and effective, including its Zoning Ordinance, whichever occurs first.

### **Section 2. Moratorium.**

A moratorium is hereby imposed upon the issuance of any and all permits, licenses, and approvals for any property under the jurisdiction of the Unadilla Township ordinances, including its Zoning Ordinance, for the use of property for the cultivation, storage, distribution, delivery, transportation, or use of medical marihuana under the Michigan Medical Marihuana Act.

### **Section 3. Term of Ordinance.**

The moratorium imposed by this ordinance shall remain in effect until the earlier of:

- (1) twelve (12) months following the effective date of this ordinance, or
- (2) the date when amendments or additions to the Unadilla Township Ordinances and/or Township Zoning Ordinance related to the subject of this moratorium become effective.

Prior to the expiration of the twelve (12) month moratorium, the Township may, by resolution, extend the moratorium for an additional six (6) months to allow sufficient time to complete amendments to the ordinances. A notice of extension shall be published in a newspaper of general circulation following adoption of such resolution.

### **Section 4. Validity and Severability.**

Should any portion of this Ordinance be found invalid for any reason, such holding shall not be construed as affecting the validity of the remaining portions of this Ordinance.

**Section 5. Repealer Clause.**

Any ordinances or parts of ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

**Section 6. Effective Date.**

The Ordinance becomes effective immediately upon publication.

Linda Topping  
Unadilla Township Clerk  
126 Webb Street  
Gregory, MI 48137  
(734) 498-2502

**Exhibit B**

**UNADILLA TOWNSHIP**

**NOTICE OF ADOPTION OF ORDINANCE NO. \_\_,  
AN ORDINANCE TO IMPOSE A MORATORIUM ON THE ISSUANCE OF PERMITS,  
LICENSES OR APPROVALS FOR CERTAIN USES OF PROPERTY RELATED TO MEDICAL  
MARIHUANA PATIENTS AND CAREGIVERS**

**PLEASE TAKE NOTICE** that at its regular meeting on May 14, 2020, the Township Board adopted an ordinance entitled "Ordinance No. \_\_, An Ordinance To Impose a Moratorium on the Issuance of Permits, Licenses, or Approvals for Certain Uses of Property Related to Medical Marihuana Patients and Caregivers."

The ordinance, among other things, establishes a moratorium on the issuance of any and all permits, licenses, and approvals for any property under the jurisdiction of the Unadilla Township ordinances, including its Zoning Ordinance, for the use of property for the cultivation, storage, distribution, delivery, transportation, or use of medical marihuana under the Michigan Medical Marihuana Act for an initial period of twelve (12) months or until amendments to the Township ordinances related to the sale or dispensation of medical marihuana take effect, whichever is sooner.

The ordinance is available in its entirety for public inspection. The ordinance is posted at the office of the Township Clerk, 126 Webb Street, Gregory, Michigan, and is posted on the website of Unadilla Township, <http://www.unadilla.mi.us>.

Linda Topping, Clerk  
Unadilla Township Hall  
126 Webb Street  
Gregory, MI 48137  
(734) 498-2502