

Draft  
(8/2/10)

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

**ORDINANCE 2010 – 04**  
***HOME OCCUPATIONS, HOME BUSINESSES & MEDICAL MARIJUANA***

The Village of Lake Isabella hereby ordains:

**SECTION 1 PURPOSE**

The purpose of this Ordinance is to adopt (as part of the zoning regulations for the Village of Lake Isabella) 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 Marijuana Act (being MCL 333.26421 *et seq.*).

**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 With the adoption of Chapter 1272, subsection 1262.09(11) is hereby repealed and the remaining subsections of 1262.09 are hereby renumbered to reflect the deletion.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**SECTION 5 ORDINANCES REPEALED**

All ordinances and/or parts of ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

**SECTION 6 EFFECTIVE DATE**

This Ordinance shall take effect and be in force upon the expiration of 7 days after 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 documents shall be codified, edited for typos and grammatical errors, and enumerated in accordance with the codification procedure of the Village of Lake Isabella.

###

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-\_\_\_\_ “*Home Occupations, Home Businesses, & 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 \_\_\_\_\_.

<b>Planning Commission Introduction</b>	<b>July 13, 2010</b>
<b>Planning Commission Public Hearing</b>	<b>August 2, 2010</b>
<b>Planning Commission Recommendation</b>	<b>August 2, 2010</b>
<b>Village Council Introduction</b>	<b>August 17, 2010</b>
<b>Village Council Public Hearing</b>	<b>August 31, 2010</b>
<b>Village Council Enactment</b>	

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**

### USE/APPROVAL TABLE:

<b>District</b>	<b>Home Occupation</b>	<b>Level 1 Home Business</b>	<b>Level 2 Home Business</b>
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 as a Special Land Use)

**X** = Not Permitted or Allowed

### 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:

<b>Criteria</b>	<b>Home Occupation</b>	<b>Level 1 Home Business</b>	<b>Level 2 Home Business</b>
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 (apart from me and my spouse) working from my home.	N	Y	Y
I will have at least 1 employee, but not more than 2 employees working from my home	N	Y	N

<b>Criteria</b>	<b>Home Occupation</b>	<b>Level 1 Home Business</b>	<b>Level 2 Home Business</b>
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

N = No  
Y = Yes

**PROHIBITED HOME OCCUPATIONS AND HOME BUSINESSES:**

The following occupations, uses, and activities are prohibited as a home occupation or as a home business:

1. Animal Processing or Butchering (This does not include Taxidermy)
2. The repair, rebuilding, painting, detailing or sale of motorized vehicles (or any parts thereof). This includes but is not limited to the following items; automobiles, trucks, motorcycles, snowmobiles, watercraft, golf carts, trailers, ATVs, 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
10. Any drive-through window, service, or similar use.

## **REQUIREMENTS AND PROHIBITED ACTIVITIES FOR HOME OCCUPATIONS AND HOME BUSINESSES:**

The following regulations apply to 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 fully enclosed lawful primary or accessory building.
  - C. Equipment repairs and maintenance shall be done inside a building and be limited to those items owned by the business.
3. There will be no changes to the exterior of the home so as to lessen the single-family residential character or appearance 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. For lawful primary structures which are classified as “Hangars” and located within the Lake Isabella Airpark plat the primary structure only need be owned by the proprietor of the home occupation or home business.
5. Home occupations and home businesses shall not make or cause 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, unless otherwise approved by the Planning Commission.
7. Walk-in retail or trade is not allowed. Drive-through service or windows are not allowed.
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.

## **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 (in addition to any other applicable standards in the Zoning Ordinance):

1. Adequate off-street parking has been provided for with independent spaces for each employee.
2. A detailed 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 and written documentation has been submitted to the Zoning Administrator.
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 from the applicant.

### **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, being MCLA 333.26421 *et seq.* (MMMA) and this Code of Ordinances for the Village of Lake Isabella operating out of his/her residence is hereby classified as a home occupation, and shall be allowed to operate as a home occupation with no additional review and approval required by the Village of Lake Isabella. In addition, all of the following requirements are applicable:

1. The use, possession, and growing of marijuana shall at all times fully 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 registered primary caregiver must be located outside of a one-thousand foot (1,000') radius from any public park.
5. A registered primary caregiver must be located outside of a one-thousand foot radius (1,000') from any house of worship.
6. A registered primary caregiver must be located outside of a one-thousand foot radius (1,000') from any bar or tavern.
7. No more than a total of two (2) registered primary caregiver shall be allowed to serve qualifying patients on or from any parcel or lot.
8. A maximum of one visit per day, per qualifying patient, is allowed between the hours of 8 AM and 8 PM.
9. All medical marijuana ready for use shall be contained within the dwelling on the parcel or lot, in an enclosed, locked area inaccessible on the exterior of the dwelling with devices which limit access to only the registered primary caregiver.
10. The outdoor growth and/or cultivation of medical marijuana plants is prohibited.
11. All medical marijuana plants cultivated shall be contained within a legally existing dwelling in a locked and inaccessible locker, cabinet, or the equivalent by devices which restrict access to only the registered primary caregiver.
12. If a room with windows is utilized as a growing location, any lighting methods that exceed usual residential illumination levels 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.

### **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 fee to be charged for the annual license to cover expenses incurred with administering and enforcing this Chapter.

## **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 is detracting from the residential character of the neighborhood, the resident may submit a petition to the Village 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 the 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 by the proprietor to the Village equal to that of the least expensive 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.

(As used in the Codified Ordinances of the Village of Lake Isabella, the words “marihuana” and “marijuana” are interchangeable and have the same meaning.)

## **Exhibit B**

### **1212.59 MEDICAL MARIJUANA DISPENSARY**

A facility or use where three or more registered primary caregivers operate and/or provide services for compensation or membership fee (or which is utilized by three or more registered primary caregivers to grow, process, acquire, or distribute marijuana) on a single parcel or lot under the Michigan Medical Marijuana Act (MMMA) 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 and distribution 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 allowed only in an enclosed, locked area within a primary structure. Any lot or parcel in the Village of Lake Isabella where more than the maximum amount/number of marijuana plants allowed by the MMMA for two (2) registered primary caregivers (as defined by the MMMA) are grown, kept, or cultivated at any one time shall be considered a marijuana cultivation facility and such a facility is prohibited in the Village of Lake Isabella.