

Township of Moore

1536 Main Street

Snover, Mi. 48472

ORDINANCE NO. __ 100

AN ORDINANCE OF THE **TOWNSHIP OF MOORE** ZONING ORDINANCE TO ADD A NEW SECTION FOR OCCUPATION-MEDICAL MARIHUANA

THE **TOWNSHIP OF MOORE** ORDAINS:

A. RECITALS

The **Moore Township planning commission** makes the following findings:

1. The Township of Moore finds the Michigan Medical Marihuana Act, Initiated Law 1 of 2008 (“MMMA”) does not create a general right for individuals to use, possess, or deliver marihuana in Michigan.
2. The MMMA’s protections are limited to individuals suffering from serious or debilitating medical conditions or symptoms, to the extent that marihuana use is carried out in compliance with the provisions of the MMMA, including the provisions related to the operations of registered primary caregiver.
3. The MMMA’s definition of “medical use” of marihuana includes the “transfer” of marihuana “to treat or alleviate a registered qualifying patient’s debilitating medical condition or symptoms associated with the debilitating medical condition,” but only if such “transfer” is performed by a registered primary caregiver who is connected with the same qualifying patient through the registration process established by the State of Michigan, Department of Licensing and Regulatory Affairs, and who is otherwise operating in strict compliance with the MMMA and the MMMA General Rules.
4. The MMMA provides that a registered primary caregiver may assist no more than five qualifying patients with their medical use of marihuana.
5. The MMMA does not create a new vocation for entrepreneurs or other who wish to engage in the growth or sale of marihuana to more than five persons in a commercial setting. Instead, the MMMA is directed at improving the health and welfare of qualifying patients, rather than creating a commercial enterprise.

6. Local units of government have statutory authority under the Michigan Zoning Enabling Act, 110 of 2006, confirmed by the judicial decisions to provide for the regulation of land development and establishment of districts within its jurisdiction which regulate the use of land and structures so situated to appropriate locations and relationships, to promote public health, safety, and welfare of those within the **township** boundaries.

7. The Health and welfare of qualifying patients is improved by permitting the operations of registered primary caregivers as a home occupation, allowing caregivers in a residential setting, without having to unnecessarily travel and expense of operating in commercial areas or creating an unlicensed commercial grow facility, while balancing the public health, safety and welfare needs of residents by regulating marihuana growth to appropriate zones and review plans for structures and facilities for a minimal standard of health and safety protocol.

8. By permitting and regulating the operations of registered primary caregivers as a home occupation, rather than in a commercial setting, promotes the MMMA's purpose of ensuring that {i} a registered primary caregiver is not assisting more than five qualifying patients with their medical use of marihuana and {ii} a registered primary caregiver does not unlawfully expand its operations beyond five qualifying patients, so as to become an illegal unlicensed commercial operation, in the nature of a marihuana collective, cooperative, or dispensary.

9. It is a fundamental local unit of government responsibility to provide by zoning for the regulation of land use under the Michigan Zoning Enabling Act, 110 of 2006, which allows the regulation of land and structures through compatibility of adjacent land use to unsure appropriate locations and relationships, to limit nuisances in order to promote public health, safety, and welfare of our residents.

10. The Township Board has been made aware and find there are complaints of land use, noise, smell and dangerous structures, and electrical problems and fires related to growing and marihuana use within the State of Michigan, and this land use regulation is consistent with the MMMA's purposes to allow caregivers to grow in buildings, structures and enclosed facilities in a residential setting, balances with local government's responsibility and authority to regulate the compatible use of land under the Michigan Zoning Enabling Acts.

B. HOME OCCUPATIONS-MEDICAL MARIHUANA

1. Medical Marihuana Caregivers are those persons defined under the MMMA who are issued a registry identification card who cultivate marihuana.

2. Registered Primary Caregivers, operating in compliance with the MMMA General Rules, the MMMA, and the requirements of the section, shall be permitted as a Home Occupation in certain zones upon application, review, and issuance of a permit. The use shall be reviewed by standards in this section.

3. Caregivers shall be regulated as a permitted use as a home occupation under this section permitted by zoning districts: **R-** Residential, **AR-** Agriculture, **MHP-** Mobile Home Park.
4. Caregivers as home occupation must comply with the applicable provisions of this section and the **Township of Moore** Zoning Ordinance.
5. The acquisition, possession, cultivation, use, delivery or distribution of marihuana to treat or alleviate a debilitating medical condition is otherwise prohibited, except in compliance with the Michigan Medical Marihuana Act (“MMMA”) of 2008, this zoning ordinance, or other State of Michigan Law.

C. STANDARDS

1. The following standards and requirements shall apply to the location at which the medical use and growth of marihuana is conducted by a primary caregiver:
 - a. The medical use and growth of marihuana shall comply at all times with the MMMA and the MMMA General Rules, as amended.
 - b. Except as otherwise allowed by law, not more than one registered primary caregiver, who shall also be full-time resident of the residential dwelling, shall be permitted to operate at any single property parcel.
 - c. The medical growth of marihuana shall be conducted entirely within a dwelling occupied by the caregiver, attached garage, outbuilding, accessory building structure or in an “enclosed, locked facility” (as that phrase is defined by the MMMA), up to 12 marihuana plants for each registered qualifying patient with whom the registered primary caregiver is connected through the registration process established by the State of Michigan, Department of Licensing and Regulatory Affairs, and up to 12 additional plants for personal use, if the primary caregiver is also registered as a qualifying patient under the MMMA.
2. Signage: In order to maintain the residential character of the residential districts, a sign identifying the home occupation by word, image or otherwise, or indicating that medical use or cultivation of marihuana is taking place on the premises, shall not be permitted, nor shall any vehicle having such a sign be parked anywhere on the premises.

3. Except for Lighting, heating, watering, drying or other equipment, fertilizers, herbicides or other chemicals directly related to the medical cultivation of marihuana, no other materials or equipment not generally associated with normal ownership, use, and maintenance of a dwelling shall be permitted.
4. Distribution of marihuana or use of items in the administration of marihuana shall not occur at or on the premises of the primary caregiver. A qualifying patient shall not visit, come to or be present at the residence of the primary caregiver to purchase, smoke, consume, obtain or receive possession of any marihuana.
5. Except for a primary caregiver, no other person shall deliver marihuana to the qualifying patient.
6. No one under the age of 21 years shall have access to medical marihuana, except as allowed by law.
7. No on-site consumption or smoking of medical marihuana shall be permitted by patients within the dwelling or on the property of a primary caregiver if registered as also qualifying patient under the MMMA or as otherwise allowed by law.
8. Medical marihuana shall not be grown, processed, handled or possessed at the dwelling of the primary caregiver beyond that which is permitted by the MMMA and this section.
9. All building, electrical, plumbing and mechanical permits or other permits required under the State of Michigan Building Codes shall be obtained for any portion of a building, structure, or facility in which equipment and devices that constructed in support the cultivation, growing or harvesting of marihuana are located or used.
10. If Medical marihuana is grown or located in a room, building, structure or facility with windows or exterior structure, all lighting shall be shielded to prevent ambient light from creating a distraction or disturbance to adjacent properties.
11. Related merchandise or products shall not be sold or distributed from the dwelling or property of the primary caregiver.

12. In addition all other applicable requirements, codes and laws, any portion of a building or other structure, such as a cultivation room, or facility including a “enclosed, locked facility” as defined by the MMMA, used for the growth or storage of marihuana, are subject to inspection and approval by the zoning administrator, code officials, or other authorized official including but not limited to the Fire Chief acting on behalf of the Township.

13. Legal Basis: This ordinance is enacted pursuant to the statutory authority granted by MCL 67.1 and 67.2, authorizing the Moore Township Board to adopt licensing ordinances and regulations to secure the public health, safety and general welfare.

14. Permit of Application Required: A Licensed Marihuana Facility, or previously licensed marihuana uses whether proposed, or existing at time of enactment of this ordinance, shall not be permitted within the Township at a location unless such location has obtained a current Permit under this ordinance which shall constitute a Permit pursuant to the Moore Township Zoning Ordinance.

15. Permit Application: A complete and accurate permit application shall be submitted on the application form provided by the Township along with a uniform application fee in an amount determined by resolution of the Township Board along with the required site plans.

a. The Operations of a registered primary caregiver, as a home occupation, shall be permitted only with the prior issuance of a Township zoning permit and payment of a permit fee established by the Township Board by resolution.

b. The permit application shall include the name address of the applicant; the address of the property; proof, such as a driver’s license, voter registration card or similar record showing that the dwelling is the applicant’s full-time residence; a current state registration card issued to the primary caregiver; a full description of the nature and types of equipment which will be used in marihuana cultivation and processing; the number of patients served, and a description of the location at which the use will take place. The zoning administrator may require additional information necessary to demonstrate compliance with all requirements. The zoning administrator shall review the application to determine compliance with this section, the MMMA and the MMMA General Rules and the other applicable provisions of the zoning ordinance.

c. Upon completion of the application, the application shall be set on the Planning Commission regular meeting agenda for hearing and recommendation to be prepared for the Township Board.

d. The Township Board shall make the final determination for approval of the permit, which may be approved, denied, or approved with conditions. The decision shall be incorporated in a statement of findings and conclusions which specifies the basis for the decision and any conditions imposed.

e. Renewal or Amendment of Existing Permit; on an Annual Basis:

1. To renew an existing Permit, the registrant shall submit an application annually with full supporting documentation, in the manner and degree as is required to apply for a new Permit, no later than thirty (30) days, and no sooner than (90) days, before the expiration date.

2. An amended application shall be submitted when there is a change in any information the applicant was required to provide in the most recent application on file with the Township.

3. An application to change the location of an existing Permit shall require a new application, with full supporting documentation, must meet all requirements, and shall be processed in the same manner as provided for the issuance of a new Permit.

16. Site Plan: The applicant for a home occupation permit shall provide the following site plan information:

a. Zoning Site Plan: Prior to construction of any facility, the property owner, agent or designee shall provide the zoning official a site plan which will include the location of the structure, building or enclosed locked facility, the size of the structure, and the type of materials to be used in construction.

b. Chemicals and Fertilizers: The site plan shall also include the type, amount and location of stored chemicals, fertilizers, butane or other combustible materials. With associated MSDS sheets.

c. Odor Control Plan: The site plan shall include a plan for odor control

d. Pest Control Plan: The site plan shall include a plan for Pest control

e. Used potting soil or Potting Material etc.: Must be disposed at a Licensed Landfill.

f. Plumbing, Mechanical, and Energy Plans: The property owner, agent or designee shall provide the zoning official, a plumbing, mechanical, and energy plan details of any building, facility, structure or enclosed locked facility used for the growth of marijuana.

g. Electrical Plans and Specifications: In addition to electrical code requirement, an applicant shall submit a detailed set of electrical plans and specifications with the application for an electrical permit for any wiring or alteration to an electrical system if the system requires installation of electrical equipment that has an ampacity of more than 200 amperes for the service. The electrical drawings shall include all of the following details:

{i}. Lighting layout.

{ii}. Circuiting.

{iii}. Switching.

{iv}. Conductor and raceway sizes.

{v}. Wattage Schedule.

{vi}. Service location and riser diagram.

{vii}. Load calculations and available fault current calculations.

{viii}. A proposed method of construction with construction symbols.

{vx}. The plans shall include the selection of suitable disconnect and overcurrent devices to provide proper coordination and interrupting capacity for a wiring system is the responsibility of the designer.

{x}. Approval from the local electrical energy supplier that the request shall not place undue burden on the transfer or its electrical system.

17. If the site plans are approved, the Township does not assume responsibility for the design or for any deviations from any plan drawings. The permit holder shall ensure that the plans and specifications approved by the Township, or a certified copy of the plans and specifications, are available on the site for the use of the enforcing agency.

18. Excluded from requirements in the site plans are fences, sidewalks, and paving on streets, driveways, parking areas and patios.

19. Prior to approval, the property, dwelling and all enclosed locked facilities shall be available for inspection upon request by the zoning administrator, building official, fire chief or designee, other law enforcement or Township official. Failure to allow inspection is a violation of this ordinance and the zoning official may seek an administrative warrant to inspect the property and structures for purposes of enforcement.

20. Setbacks: Any portion of a building or other structure, such as a cultivation room, or facility including an "enclosed locked facility" as defined by the MMMA, shall meet the setback requirements from adjacent property lines as defined and stated for in each allowed zoning district. No structure shall attach to any other structure or cause a nuisance onto a neighboring property.

21. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors or electrical interference detectable to the normal senses which interferes with neighboring parcels use and quiet enjoyment of land. No equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises or interferes with neighboring parcels use and quiet enjoyment of land.

22. The use shall be maintained in compliance with the requirements of this section, the MMMA and the MMMA General Rules. Any departure shall be grounds to revoke the permit and take other lawful action. If there is a compliance issue, the enforcement official may request a hearing before Township Board to revoke the permit. The applicant shall be provided notice and opportunity to be heard before revocation. If a permit is revoked, the applicant shall not engage in the activity unless and until a new permit is granted. The permittee shall appeal any denial or revocation to the zoning board of appeals within 21 days of the revocation before seeking judicial relief.

23. Information treated as confidential under the MMMA, including the primary caregiver registry identification card and any information about qualifying patients associated with the primary caregiver, to the extent received by the Township, shall be maintained separately from public information submitted in support of the application be distributed or otherwise made available to the public and shall not be subject to disclosure under the Freedom of Information Act unless required to be disclosed by law.

24. Open Burn: There shall be no open burning of marihuana or chemicals used in cultivation of marihuana.

25. It is unlawful to establish or operate a for-profit or nonprofit marihuana dispensary, collective commercial use, cooperative or Provisioning Center with the Township of Moore, even if such use is intended for the medical use of marihuana. It is the intent of the ordinance to prohibit the pooling of caregiver cards to establish more plant growth or a larger growth operation beyond five qualified registered patients.

26. The use of the dwelling or other permitted facility of a qualifying patient to cultivate medical marihuana in accordance with the MMMA, solely for personal use, does not require a permit under this subsection; however, all applicable State of Michigan requirements must be met.

27. Marihuana Establishments Prohibited: Any and all types of a "marihuana establishment," as that term is defined and used in Michigan initiated Law 1 of 2018, commonly known as the Michigan Regulation and Taxation of Marihuana Act, are completely prohibited in the Township of Moore and may not be established or operated in any zoning district, by any means, including by way of a variance. Any and all types of "marihuana facilities" as described in Act 281 of 2016, the medical Marihuana Facilities Licensing Act are completely prohibited in the Township of Moore and may not be established, licensed or operated in any zoning district, by any means, including by way of a variance.

28. Violation of this section shall be enforced as a nuisance pursuant to the Michigan Zoning Enabling Act, MCL 125.3407 or applicable law. The court shall order the nuisance abated, and the owner or agent in charge of the dwelling, building, structure, tent, recreational vehicle, or land is liable for all cost and fees to abate for maintaining a nuisance per se.

29. Standards for Disqualification:

- a. The applicant is ineligible if he or she has knowingly submitted an application for a license that contains false information.
- b. The applicant is ineligible if he or she fails to demonstrate the ability to maintain adequate premises liability and casualty insurance for its proposed marihuana facility (an insurance policy that covers at a minimum of \$100,000).
- c. The applicant is ineligible if he or she has been convicted of or released from incarceration for a felony under the laws of this state, any other state, or the United States (federal law) within the past 10 years or has been convicted of a controlled substance-related felony within the past 10 years.
- d. The applicant is ineligible if he or she has been convicted of a misdemeanor involving a controlled substance, theft, dishonesty, or fraud in any state within the past 5 years.
- e. The applicant is ineligible if he or she has been found responsible for violating a local ordinance in any state involving a controlled substance, dishonest, theft, or fraud that substantially corresponds to a misdemeanor in that state within the past 5 years.

30. Nonuse Variance: The zoning board of appeals may grant a non-use variance for structures, buildings, enclosed locked facilities in accordance in the spirit of the zoning ordinance is observed, public safety secured, and substantial justice done pursuant to the Michigan Zoning Enabling Act 110 of 2006 as amended, and the Township of Moore Zoning Ordinance variance standards.

31. Nothing in this section shall limit any privileges, rights, immunities or defenses of a person as provided in the Michigan Medical Marihuana Act, Michigan initiated Law 1 of 2008, MCL 333.26421, et seq other State of Michigan law.

32. Summary of the Regulatory Effect. This section regulates medical marihuana caregivers as a land use in all geographic areas and zones of the Township of Moore.

33. Effective Date. This ordinance amendment shall become effective twenty-five (25) days after publication.

34. A copy of this ordinance amendment is available at the Office of the Township Clerk and may be purchased or inspected during regular business hours.

35. Conflict with other Ordinances. All ordinances or parts of ordinances in conflict herewith are hereby to be read consistent with this section and are repealed only to the extent necessary to give this ordinance full force and effect.

36. Severability. Should any portion of this ordinance be held invalid for any reason, such holding shall not be construed as affecting the validity of any of the remaining portions of this ordinance.

37. Publication. The Clerk for the Township of Moore shall cause this Ordinance to be published in the manner required by law.