

Sec. 38-403. - Home occupation.

(a) It is the intent of this section to allow for and regulate the establishment of home occupations that are compatible with the neighborhood in which they are located and which will preserve the peace, quiet, and domestic tranquility within all residential districts in the township. Home occupations shall be permitted subject to the following conditions:

- 1) No more than 20 percent of the usable floor area of the principal and accessory buildings shall be dedicated to the occupation.
- 2) There shall be no significant traffic volume increase associated with the occupation.
- 3) No storage of materials, goods, supplies or equipment related to the occupation shall be visible from the outside of any structure located on the premises or adjacent premises.
- 4) There shall be no change in the outside appearance of the building or premises, no structural alterations, or visible evidence of the conduct of such occupation.
- 5) No equipment or process shall be used in such occupation, which creates noise, vibration, glare, fumes, toxic/hazardous substances, odors, or electrical interference. No equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises.
- 6) No more than two clients or customers shall visit the premises at any one time.
- 7) Any need for parking shall be met off the street and in other than the front yard.
- 8) There shall be no exterior advertising.
- 9) These regulations shall not apply to farms or other nonresidential uses allowed in the district.

(b) Medical marihuana home occupation regulations.

- 1) *Intent.* It is the intent of this section to give effect to the intent of the Michigan Medical Marihuana Act, Initiated Law 1 of 2008, MCL 333.26421 et seq. (hereinafter "Act") as approved by the electors and not to determine and establish an altered policy with regard to marihuana. These provisions are designed to recognize the fundamental intent of the Act to allow the creation and maintenance of a private and confidential patient-caregiver relationship to facilitate the statutory authorization for the limited cultivation, storage, distribution and use of marihuana for medical purposes; and to regulate this fundamental intent in a manner that does not conflict with the Act so as to address issues that would otherwise expose Rose Township and its residents to significant adverse conditions.

In consideration of this concern, local regulations enumerated below generally provide that: the primary caregiver must reside on the property where his/her medical marihuana is cultivated and/or stored; medical marihuana primary caregiver activity only occur within a single-family dwelling and/or accessory building, as authorized by the Township; and, the distribution and use of medical marihuana occur on the lot occupied by the qualifying patient. Nothing in this

section shall be construed as allowing persons to engage in conduct that endangers other or causes a public nuisance, or to allow the use, cultivation, growth, possession or control of marihuana not in strict accordance with the express authorizations of the Act and these regulations; and nothing in this section shall be construed to undermine or provide immunity from federal and state law as it may be enforced by the federal or state government relative to the cultivation, storage, distribution or use of marihuana.

2) *Definitions.* The following definitions shall apply for the purposes of this section:

Collective ingestion facility means a facility that allows multiple qualifying patients to consume or ingest medical marihuana upon the premises. This term does not encompass the consumption or ingestion of medical marihuana by a qualifying patient at his/her residence or at a hospital or hospice at which the qualifying patient is receiving care.

Dispensary means any operation where marihuana is distributed to a qualifying patient by someone other than his/her designated primary caregiver.

Enclosed locked facility means a closet, room, or other comparable, stationary, and fully enclosed area equipped with secured locks or other functioning security devices that permit access only by a registered primary caregiver or registered qualifying patient.

Marihuana means the substance defined as such in Section 7106 of the Public Health Code, 1076 PA 368, MCL 333.7106.

Michigan Medical Marihuana Act or Act means the Michigan Initiated Law 1 of 2008, MCL 333.26421, et seq.

Primary caregiver means a primary caregiver as defined under MCL 333.26423(h) of the Act, and who has been issued and possesses a registry identification card under the Act.

Qualifying patient means a qualifying patient as defined under MCL 333.26423(i) of the Act, and who has been issued and possess a registry identification card under the Act.

Registry identification card means the document defined as such under MCL 333.26423(j) of the Act and which is issued by the State of Michigan to identify a person as a registered qualifying patient or registered primary caregiver.

3) *Remainder of article; effect of permit approval.* In recognition of the unique nature of the medical marihuana home occupation provided for hereunder, the conditions and requirements set forth in paragraph (a) above for home occupations shall not be applicable to medical marihuana home occupations. In addition, the issues of a medical marihuana home occupation permit hereunder shall relieve the applicant from any obligation of site plan review or a land use permit for the activity authorized thereunder.

4) *Regulations.*

1) *Medical marihuana home occupation permit requirement.*

- a. The cultivation, storage and/or distribution of marihuana by a primary caregiver conducted in accordance with the Act shall be allowed as a permitted use on a conforming lot and within a conforming building (principal or accessory) in the AG/RP agricultural and rural preserve district subject to the terms and conditions set forth in this section. The growing of marihuana plants outdoors is expressly prohibited. Except as set forth in subsection (e) below, no such cultivation, storage and/or distribution shall be lawful in Rose Township unless and until the location of the premises in which such primary caregiver activity is conducted has received a medical marihuana home occupation permit under this section.
- b. The requirement of this section is to require a permit for a location and not to license persons. A confidential application for a medical marihuana home occupation permit on a form approved by the Township Board shall be submitted to the Zoning Administrator. An application shall:
 1. Not require the name, home address or date of birth of a qualifying patient.
 2. Include the name of the primary caregiver (or medical marihuana home occupation permit holder, if different), and the address of the premises.
 3. Describe the enclosed locked facility in which any and all cultivation of marihuana is proposed to occur or where marihuana will be stored, with such description including the location of the facility in the building.
 4. For safety and other code inspection purposes, describe and provide detailed specifications of equipment proposed to be used to facilitate the cultivation and harvesting of marihuana plants including, but not limited to, lighting, HVAC, electrical service, and plumbing.
 5. Include a description of the odor mitigation systems and a ventilation plan that provides for adequate ventilation so as to prevent pesticides, insecticides or other chemicals used in the cultivation of marihuana from being dispersed or released outside of the building.
 6. Include an operations plan that addresses water use, water discharge, and the disposal of waste, as well as a description of type, quantity, location and method of containment for any herbicides, pesticides, or fertilizers that will be used for growing, cultivating, and harvesting marihuana.
 7. Demonstrate that the applicant holds a valid registry identification card.
 8. Contain such other information as the Township Board determines is needed for the administration of this section or to ascertain satisfaction of the standards for the granting of a permit hereunder.
- c. No application for a permit hereunder shall be approved without payment of a non-refundable application fee to help defer a portion of the cost of administering and enforcing this section. The application fee shall be set by resolution of the Township Board and may be adjusted from time to time thereafter as the Township Board deems appropriate.
- d. It is the intent of this section that the information acquired through the permitting procedure prescribed herein shall be accessible to the Zoning Administrator, Michigan Construction Code, fire code enforcement officials, and law enforcement officials and

their support personnel, in the performance of their duties and shall otherwise remain confidential and not subject to public disclosure except as otherwise required by law.

2. *Requirements and standards for approval of permit and for the activity permitted.*

- a. There shall be not more than one primary caregiver operating upon the lot for which a permit is requested. The primary caregiver shall reside within the dwelling located upon the lot for which a permit is requested. A primary caregiver may assist the number of qualifying patients allowed under the Act with their medical use of marijuana.
- b. The lot for which a permit is requested shall not be located:
 1. Within 1,000 feet of a public or private elementary or secondary school, public or private preschool or licensed daycare facility.
 2. Within 300 feet of public park or public recreational area.
 3. Within 1,500 feet of another lot for which a medical marijuana home occupation permit has been issued pursuant to this section.

Measurements for purposes of this subsection shall be made from the lot line to the public park, public recreational area, or a lot which previously received a medical marijuana home occupation permit.

- c. Subject to the exceptions set forth in subsection (f) below, the medical marijuana primary caregiver activity shall occur only within a single-family dwelling or approved accessory building. The primary caregiver activity shall at all times be subordinate and incidental to the use of the dwelling as a residence.
- d. The primary caregiver shall be allowed to cultivate the number of marijuana plants allowed under the Act for each of his/her qualifying patients. All marijuana and marijuana plants shall be contained inside the main residential structure or an approved accessory building, except when being delivered by the primary caregiver to a qualifying patient off-site.
- e. That portion of the single-family dwelling unit used for the growing, processing, or storage of medical marijuana shall not exceed a gross floor area of 150 square feet.
- f. All medical marijuana must be kept in an enclosed locked facility to which only the registered patient and/or primary caregiver have access.
- g. The primary caregiver shall not distribute or allow the use of marijuana by the qualifying patients he/she is designated to serve upon the lot for which a permit is issued hereunder unless the qualifying patient resides therein.
- h. If a residential room with windows is utilized as a marijuana growing location, any lighting methods that exceed usual residential use between the hours of 10:00 p.m. and 6:00 a.m. shall employ shielding methods to prevent ambient light spillage that causes or creates a distraction or nuisance to any adjacent residential properties.

- i. No equipment or process shall be used in growing, processing, or handling marihuana which creates additional noise, vibration, glare, light, fumes, odors or electrical interference detectable to the normal senses at or beyond the property line of the property. In case of electrical interference, no equipment or process shall be used which creates visual or audible interference with any radio, television, broadband, or similar receiver off the premises or cause fluctuation in line voltage off the premises.
- j. All necessary building, electrical, plumbing and mechanical permits shall be obtained for any portion of a premises in which electrical wiring, lighting and/or watering devices are located, installed or modified that support the cultivation or harvesting of marihuana. Prior to a permit issued hereunder taking effect and the commencement of primary caregiver activities, the premises shall be inspected for compliance with applicable provisions of the Michigan Construction Code and the Michigan Fire Code. The premises shall be inspected annually thereafter for continued compliance with all applicable Zoning Ordinance and construction code and fire code requirements.

Furthermore, the applicant shall submit a load sheet to the Planning, Design and Engineering Department of the applicable energy provider.

The load sheet will determine load limits and capability of the electrical system, and set safety standards such that the growing operation does not impact the electrical service for surrounding properties.

The applicant must include approval of the load sheet from the energy provider as part of its application for an electrical permit. A permit will not be issued without this approval.

The applicant shall be responsible for any costs associated with the preparation and submittal of this information, which is not included in the review fee established by the Township Board for a medical marihuana home occupation permit.

- k. There shall be no sign identifying the premises as a site at which medical marihuana is cultivated, harvested or distributed.
 - l. The primary caregiver activities conducted on the premises for which a medical marihuana home occupation permit is granted hereunder shall be in conformance with the application approved hereunder, the Act, and the administrative rules promulgated pursuant to the Act.
 - m. Nothing in this section shall be deemed to allow dispensaries or collective ingestion facilities, which are hereby strictly prohibited.
- e. *Disclaimer of immunity.* Nothing in this section shall be construed as allowing the use, cultivation, distribution or possession of marihuana not in strict compliance with the express provisions of the Act and the provisions of this section. Further, nothing in this section shall be construed to undermine or provide immunity from federal or state law as it may be enforced by the federal or state government relative to the use, cultivation, distribution or possession of marihuana or to prevent prosecution thereunder.

f. *Exceptions.* This section shall not be deemed to prohibit or restrict or require a permit for the following:

- 1) The cultivation, storage and/or use of marihuana by a qualifying patient solely for his/her personal use at his/her residence or at a hospital or hospice at which he/she is received care and in accordance with the provisions of the Act and the administrative rules adopted thereunder.
- 2) The cultivation, storage and/or distribution of marihuana in accordance with the Act by a primary caregiver solely to provide services to not more than one qualifying patient who is a member of the primary caregiver's household and whose residence is shared with the primary caregiver.
- 3) The provision of assistance to a qualifying patient by his/her designated primary caregiver relating to medical marihuana use, including distribution or other assistance, in accordance with the Act and the administrative rules adopted thereunder, at the residence of the qualifying patient or at a hospital or hospice at which the qualifying patient is receiving care.

g. *Enforcement.* Any violation of this section shall be considered a civil infraction.