

TOWNSHIP OF DEXTER

ORDINANCE NO. 43A

An Ordinance to amend the Dexter Township Zoning Ordinance, Ordinance No. 43, Article 2, Definitions, Section 2.1, Article 17, Specific Use Standards, Section 17.02(F), Home Occupations.

THE TOWNSHIP OF DEXTER ORDAINS:

Section 1 of Ordinance

The Dexter Township Zoning Ordinance, Ordinance No. 43, Article 2, Definitions, Section 2.1 is hereby amended to add the following definitions:

Sec. 2.1. DEFINITIONS

The following words, terms and phrases, when used in this subsection, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Enclosed Locked Facility means a closet, room, or other comparable stationary and fully enclosed area equipped with secure locks or other functioning security devices that permit access only by a Registered Primary Caregiver or Registered Qualifying Patient and as further defined by the (MMMA) Michigan Medical Marijuana Act.

Marihuana plants grown outdoors, are considered to be in an Enclosed Locked Facility if they are not visible to the unaided eye from an adjacent property when viewed by an individual at ground level or from a permanent structure, and are grown within a stationary structure that is enclosed on all sides, except for the base, by chain-link fencing, wooden slats, or a similar material that prevents access by the general public and that it is anchored, attached, or affixed to the ground; located on land that is owned, leased, or rented by a person through the Department of Licensing and Regulatory Affairs (LARA) process, as a Registered Primary Caregiver; and equipped with functioning locks or other security devices that restrict access only to the Registered Primary Caregiver who owns, leases, or rents the property on which the structure is located. Enclosed Locked Facility includes a motor vehicle if both of the following conditions are met:

- a. The vehicle is being used temporarily to transport living marihuana plants from one location to another with the intent to permanently retain those plants at the second location.
- b. An individual is not inside the vehicle unless he or she is either the Registered Qualifying Patient to whom the living marihuana plants belong, or the individual designated through the Department of Licensing and Regulatory Affairs (LARA) process as the Registered Primary Caregiver for the Registered Qualifying Patient.

Home Occupation means an accessory use that is customarily incidental and secondary to the use of a dwelling, and that is conducted entirely within a dwelling and that is a legal occupation, profession, or business activity conducted by an occupant residing on the premises full time and, except for Registered Primary Medical Marihuana Caregiver Operations as regulated by this zoning ordinance, where all business activity relies solely on electronic or off-premise transactions and communication is conducted over the internet, telephone, and/or electronic mail, utilizing equipment customarily found in a home and is generally not distinguishable from the outside. Medical, hospital or veterinary services, kennel, grooming or pet boarding services, personal service establishments, or repair facilities shall not be deemed a permissible home occupation.

Marihuana means that term as defined in Section 7106 of the Public Health Code, 1978 PA 368, MCL 333.7106. Marijuana, with the alternate spelling with the letter "j" has the same meaning as "Marihuana."

Medical Use means the acquisition, possession, cultivation, manufacture, use, internal possession, delivery, transfer, or transpiration of marihuana, or paraphernalia relating to the administration of marihuana to treat or alleviate a Registered Qualifying Patient's debilitating medical condition, or symptoms associated with the debilitating medical condition, as further defined under the Michigan Medical Marihuana Act (MMMA).

MMMA or Act means to the Michigan Medical Marihuana Act, MCL 333.26421, *et seq.*, currently, or as amended.

MRTMA means to the Michigan Regulation and Taxation of Marihuana Act Initiated Law 1 of 2018, MCL 333.27952, *et seq.*, currently, or as intended.

Registered Primary Caregiver means a person meeting the definition of caregiver under the Michigan Medical Marihuana Act and who has been issued and possesses a registry identification card and possesses the documentation that constitutes a valid registry under the Michigan Medical Marihuana Act.

Registered Qualifying Patient means a person meeting the definition under state law and who has been issued and possesses a registry identification card which is valid under the Michigan Medical Marihuana Act, as amended.

Transfer means to convey, sell, give, deliver, or allow the possession by another person or entity.

Visiting Qualifying Patient means a patient who is not a resident of this state or who has been a resident of this state for less than 30 days.

Other provisions and terms. The other provisions and terms of the

Michigan Medical Marihuana Act and Michigan Regulation and Taxation of Marihuana Act (MRTMA) for purposes of deferential context are incorporated by reference as though more fully restated herein.

Section 2 of Ordinance

The Dexter Township Zoning Ordinance, Ordinance No. 43, Article 17, Specific Use Standards, Section 17.02(F), Home Occupations is hereby amended by designating the existing General Regulations as subsection 1, and by adding a subsection 2 to read as follows:

Sec. 17.02(F) Home Occupations: shall meet the additional standards outlined below, in order to allow flexibility for the use of residential property by residents while protecting the essential residential character of residential districts and uses, in terms of use and appearance.

1. **General Regulations**

{unchanged}

2. **Medical Marihuana Registered Primary Caregiver Home Occupations**

It is the intent of this subsection to regulate Medical Marihuana Registered Primary Caregivers as Home Occupations. This subsection is not intended to allow commercial marihuana grow operations within the Township, as prohibited by Ordinance 40. In addition to the general regulations above, Medical Marihuana Registered Primary Caregiver Home Occupations are subject to the following:

A. **General Regulations:**

- i. No more than five (5) Registered Qualifying Patients are permitted for each Caregiver Home Occupation.
- ii. A maximum of one (1) home occupation permit will be issued per residence.
- iii. The medical use of marihuana shall comply at all times with the MMMA and the MMMA General Rules, as amended.
- iv. A Registered Primary Caregiver shall not possess marihuana or otherwise engage in the medical use of marihuana in a school bus, on the grounds of any preschool or primary or secondary school, or in a correctional facility.
- v. Not more than two (2) Registered Primary Caregivers, who shall also be full-time residents of the dwelling, shall be permitted to operate at any one property.

- vi. The medical use of marihuana shall be conducted entirely within a dwelling. The medical use of marihuana is prohibited within an accessory building or garage, except that a Registered Primary Caregiver may keep and cultivate 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 Department of Licensing and Regulatory Affairs (LARA), and up to 12 additional marihuana plants for personal use if the Registered Primary Caregiver is also a Registered Qualifying Patient under the MMMA.
- vii. A sign identifying the home occupation by word, image or otherwise, or indicating that the medical use 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.
- viii. Except for lighting, heating, watering, drying, or other equipment, or fertilizers, herbicides or other chemicals directly related to the medical use of marihuana, no other materials or equipment not generally associated with normal ownership, use, and maintenance of a dwelling shall be permitted.
- ix. Distribution of marihuana or use of items in the administration of marihuana shall not occur at or on the premises of the Registered Primary Caregiver. A Registered Qualifying Patient shall not visit, come to, or be present at the residence of the Registered Primary Caregiver to purchase, smoke, consume, obtain, or receive possession of any marihuana.
- x. No on-site consumption or smoking of marihuana shall be permitted within the dwelling or on the property of a Registered Primary Caregiver except for lawful marihuana consumption by the Registered Primary Caregiver.
- xi. All necessary building, electrical, plumbing, and mechanical permits shall be obtained for any portion of a building or structure in which equipment and devices that support the cultivation, growing or harvesting of marihuana are located or used.
- xii. If marihuana is grown or located in a room with windows, all interior lighting shall be shielded to prevent ambient light from creating a distraction for adjacent properties.
- xiii. The Registered Primary Caregiver is responsible for providing the security necessary to assure that the growing marihuana and usable

product is accessible for use only by the Primary Registered Caregiver for transfer to only Registered Qualifying Patients who are registered to the Registered Primary Caregiver and must fully comply with the provisions of the MMMA.

- xiv. Medical marihuana-related merchandise or products shall not be sold or distributed from the property of the Registered Primary Caregiver apart from the permitted quantity of medical marihuana.
- xv. To ensure compliance with all applicable requirements and laws, the portion of a building or other structure, such as a cultivation room, where energy use and heating requirements exceed typical residential limits and chemical storage occurs, is subject to inspection and approval by the zoning administrator or other authorized official.
- xvi. The Registered Primary Caregiver is responsible for utilizing an Enclosed Locked Facility upon the above-identified zoned parcels in compliance with the MMMA for cultivating, growing, manufacturing, processing, and storing marihuana for medical use only.
- xvii. The property, dwelling, and all Enclosed Locked Facilities shall be available for inspection upon request by the zoning administrator, building official, or law enforcement official.
- xviii. All business operations of a Registered Primary Caregiver must occur indoors. Such operations may not provide drive-thru service.
- xix. Registered Primary Caregiver operations may not emit noxious odors or fumes.
- xx. The Medical Marihuana Registered Primary Caregiver home occupation may not be located in multi-family residential districts or attached residential dwelling units.
- xxi. It is unlawful to establish or operate a for-profit or nonprofit marihuana dispensary, collective, or cooperative within the Township even if such use is intended for the medical use of marihuana.

B. Location:

- i. Each parcel upon which Enclosed Locked Facilities with marihuana for medical use are present must be a minimum of 500 feet (500') from any parcel upon which any of the following is located:

- a. A school, school facility, or childcare facility subject to Federal "Drug-Free School Zone" requirements.
 - b. A place of worship. Measurement of the buffer shall be from property line to property.
 - c. Another Registered Primary Caregiver.
11. Each parcel upon which Enclosed Locked Facilities with marihuana for medical use are present must contain a minimum of 5 acres.
- m. Each residence which contains Enclosed Locked Facilities with marihuana for medical use must be a minimum of 100 feet from any property line.
- C. Registration Required. The operations of a Registered Primary Caregiver as a home occupation shall be permitted only with the prior issuance of a Township registration certificate.
- 1. Application:
 - a. A complete and accurate application shall be submitted on a form provided by the Township and an application fee in an amount determined by resolution of the Township Board shall be paid.
 - b. The registration application shall include the name and 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 currant state registration card issued to the Registered Primary Caregiver; a full description of the nature and types of equipment which will be used in marihuana cultivation and processing; 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 Ordinance, the MMMA, and the MMMA General Rules. A registration shall be granted if the application demonstrates compliance with this Ordinance, the MMMA, and the MMMA General Rules.

- c. To ensure compliance with applicable codes, within 30 days of a completed application, the applicant shall schedule an inspection with the Chelsea Area Construction Agency. The intent of the inspection is to ensure that the structure is in compliance with the Building Code and/or the International Property Maintenance Code and that the area used for marihuana has adequate electrical and mechanical safeguards.
 - d. Within 15 business days from the date of the inspection, the owner/applicant/contractor shall obtain all necessary permits.
 - e. Prior to the operation of a Registered Primary Caregiver as a home occupation, a zoning permit shall be provided by Dexter Township and a certificate of completion shall be provided by the Chelsea Area Construction Agency.
- ii. The use shall be maintained in compliance with the requirements of this Ordinance, the MMMA, and the MMMA General Rules. Any departure shall be grounds to revoke the registration and take other lawful action. If a registration is revoked, the applicant shall not engage in any activity subject to the permit unless and until a new permit is granted.
 - iii. Information treated as confidential under the MMMA, including the Registered Primary Caregiver registry identification card and any information about Registered Qualifying Patients associated with the Registered Primary Caregiver which is received by the Township shall be maintained separately from public information submitted in support of the application. It shall not be distributed or otherwise made available to the public and shall not be subject to disclosure under the Freedom of Information Act.
 - iv. The use of the dwelling or other permitted facility of a Registered 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 and Township ordinance requirements must be met.
 - v. The provisions of this subsection do not apply to the personal use and/or internal possession of marihuana by a Registered Qualifying Patient in accordance with the MMMA for which a permit is not required.

- v1. Noncompliance with the above criteria or requirements imposed by the Zoning Board of Appeals shall constitute an ordinance violation and the home occupation shall be suspended and shall be subject to enforcement pursuant to Section 31.10.

D. **Marihuana Establishments Prohibited**

1. Any type of "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 (MRTMA), is strictly prohibited in the Township pursuant to Ord. 40 and may not be established or operated in any zoning district, by any means, including by way of a variance.
11. "Marihuana facilities" as described in the Medical Marihuana Facilities Licensing Act (MMFLA), Act 281 of 2016, are strictly prohibited in the Township and may not be established, licensed, or operated in any zoning district, by any means, including by way of a variance.
- iii. Nothing in this Section 17.02(F)(2) shall limit any privileges, rights, immunities, or defenses of a person as provided in the Michigan Medical Marihuana Act or the Michigan Initiated Law 1 of 2008, MCL 333.26421, *et seq.*

Section 3 of Ordinance

If any section, subsection, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent petition of this Ordinance, and such holding shall not affect the validity of the remaining petitions of this Ordinance.

Section 4 of Ordinance

All ordinances or pairs of ordinances in conflict with this Ordinance are hereby repealed.

Section 5 of Ordinance

Within fifteen (15) days after adoption, a notice of ordinance adoption shall be published in a newspaper of general circulation in the Township including the effective date of the amendment and the place where and time when a copy of the amendment may be purchased or inspected.

Section 6 of Ordinance

Pursuant to the Michigan Zoning Enabling Act, MCL 125.3401(6), this Ordinance shall take effect upon the expiration of seven (7) days after publication.

Certification of Adoption

**STATE OF MICHIGAN
COUNTY OF WASHTENAW**

I, MICHELLE STAMBOULELLIS, Clerk of Dexter Township, do hereby certify that the forgoing Ordinance was adopted by a roll call of the Township Board on the 21st day of December 2021, and the members thereof voted as follows:

AYES: Ratkovich, Stamboulellis, Nolte, Sikkenga

NAYS: Metz, McDole, Sanders

and that upon order of the Township Board, I have caused the same to be published and enrolled in the Ordinances of the Township of Dexter, as provided by law, and published in a newspaper of general circulation in Washtenaw County as stated below:

ADOPTED: December 21, 2021

PUBLISHED: January 12, 2022

EFFECTIVE: January 13, 2022



MICHELLE STAMBOULELLIS
Clerk of the Township of Dexter