

TOWNSHIP OF GRATTAN
COUNTY OF KENT, MICHIGAN

At a regular meeting of the Township Board of the Township of Grattan, held at the Grattan Township Hall, 12050 Old Belding Road, within the Township, on the 8th day of August, 2011, at 7:00 p.m.

PRESENT: Force, Fues, Heffron and Freeman.

ABSENT: Knoerl

The following ordinance was offered by Fues and supported by Heffron.

ORDINANCE NO. 2011-002Z

**AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF
THE TOWNSHIP OF GRATTAN**

[Medical Marijuana Provisions]

THE TOWNSHIP OF GRATTAN ORDAINS:

Section 1. Words and Terms Defined. Article 2 of the Zoning Ordinance of the Township of Grattan is hereby amended by the addition of the following terms and their definitions:

2.44A MARIJUANA

Also known as Marihuana, also known as Cannabis; shall have the meaning given to it in section 7601 of the Michigan Public Health Code, Public Act 368 of 1978, MCL 333.7105, as referred to in section 3(d) of the MMMA, MCL 333.26423(d). Any other term pertaining to Marijuana used in this Ordinance and not otherwise defined shall have the meaning given to it in the MMMA or in the MMMA General Rules.

2.45A MEDICAL USE OF MARIJUANA

The acquisition, possession, cultivation, manufacture, use, internal possession, delivery, transfer or transportation of Marijuana or paraphernalia relating to the administration of Marijuana to treat or alleviate a registered qualifying patient's debilitating medical condition or symptoms associated with the debilitating medical condition, as defined under the MMMA. The Medical Use of Marijuana shall not be considered

a commercial, personal service or retail use, farm or farm operation, agricultural use, processing or industrial use, or use similar to these uses or as any use except a home occupation conducted in accordance with the provisions of this ordinance.

2.45B MEDICAL MARIJUANA DISPENSARY

Except as set forth below, any business, facility, structure, association, collective, cooperative, location or operation, whether fixed or mobile, whether profit or nonprofit, where medical marijuana is made available to, sold, used, grown, cultivated, processed, stored, dispensed, given, delivered or distributed by or to any of the following:

- A. A registered primary caregiver (as defined by MMMA, as amended).
- B. A registered qualifying patient (as defined by MMMA, as amended).
- C. Members of the public.

A medical marijuana dispensary shall also include any business, facility, association, collective, cooperative or operation, whether fixed or mobile, whether profit or nonprofit, where medical marijuana is smoked, consumed or used by three or more persons simultaneously.

A medical marijuana dispensary shall not include the dispensation of medical marijuana by a primary caregiver personally dispensing to not more than five qualified patients in strict accordance with the MMMA, as amended, and the requirements of this Ordinance so long as not more than the lawful amount of medical marijuana is delivered to the qualifying patient where the qualifying patient resides and it is done in full compliance with this Ordinance as well as all other applicable Township ordinances and applicable Michigan laws, rules and regulations.

A medical marijuana dispensary shall also not include smoking, consuming or use of medical marijuana by a primary qualifying patient in strict accordance with the MMMA, as amended, and the requirements of this Ordinance and other applicable Township ordinances and applicable Michigan laws, rules and regulations.

A medical marijuana dispensary shall also not include uses occurring in compliance with this Ordinance and all laws and rules of the State of Michigan at the following locations: a State-licensed health care facility, a State-licensed residential care facility for the elderly or infirmed, or a residential hospice care facility.

2.45C MICHIGAN MEDICAL MARIJUANA ACT

Public Act 2008, Initiated Law 1, as amended from time to time. Also referenced in this ordinance as the “MMMA.”

2.45D MMMA GENERAL RULES

The General Rules of the Michigan Department of Community Health, issued in connection with the MMMA, as amended from time to time.

2.55A PRIMARY CAREGIVER

“Primary caregiver” means a person who has agreed to assist with a qualifying patient’s Medical use of Marijuana, possessing the qualifications and registration as provided by the MMMA and MMMA General Rules.

Section 2. Medical Use of Marijuana. Article 3 of the Zoning Ordinance of the Township of Grattan is hereby amended by the addition of Section 3.14A, which shall read in its entirety as follows:

3.14A MEDICAL USE OF MARIJUANA

- A. A registered primary caregiver, operating in compliance with the MMMA General Rules, the MMMA and the requirements of this Section, shall be permitted as a Home Occupation, as regulated in this Section 3.14A. Nothing in this section or in this Ordinance is intended to grant, nor shall this section or this Ordinance be construed as granting, immunity from criminal prosecution for growing, selling, consuming, using, distributing, or possessing Marijuana not in strict compliance with the MMMA and the MMMA General Rules. Also, since Federal law is not affected by the MMMA or the MMMA General Rules, nothing in this section or in this Ordinance is intended to grant, nor shall this section or this Ordinance be construed as granting, immunity from criminal prosecution under federal law. The MMMA does not protect users, caregivers or the owners of properties on which the Medical Use of Marijuana is occurring from Federal prosecution, or from having their property seized by Federal authorities under the Federal Controlled Substances Act or any other applicable Federal legislation.
- B. The following standards and requirements shall apply to the location at which the Medical Use of Marijuana is conducted by a primary caregiver. These requirements shall supersede and replace the general standards in Section 3.14B of the Ordinance, except

where such provisions are expressly incorporated by reference herein.

- (1) The Medical Use of Marijuana shall comply at all times and in all circumstances with the MMMA and the MMMA General Rules, as they may be amended from time to time.
- (2) A registered primary caregiver must be located outside of a 1,000-foot radius from any school, school grounds, school playing field or other school property used for instruction of children in grades kindergarten through twelfth grade.
- (3) Not more than one registered primary caregiver shall be permitted to operate at one property. The primary caregiver shall be a full-time resident of the home.
- (4) The Medical Use of Marijuana shall be conducted entirely within the dwelling or attached garage, and shall not be conducted in whole or in part in an accessory building.
- (5) No sign shall be permitted which in any way identifies the home occupation, or indicates that the Medical Use of Marijuana is taking place on the premises, whether by word, image or otherwise, nor shall any vehicle having such a sign be parked anywhere on the premises.
- (6) Except for lighting, heating, watering, drying or other equipment, or fertilizers, herbicides or other chemicals directly related to the Medical Use of Marijuana, there shall be no use of material or equipment not generally associated with the normal ownership, use, and maintenance of a dwelling.
- (7) Distribution of Marijuana or use of items in the administration of Marijuana shall not occur at or on the premises of the primary caregiver. Marijuana and associated permitted items shall be delivered to the qualifying patients associated with the primary caregiver only at the qualifying patient's residence or elsewhere. No qualifying patient shall visit, come to or be present at the residence of the primary caregiver to purchase, smoke, consume, obtain or receive possession of any Marijuana.
- (8) No person other than the primary caregiver for a qualifying patient shall deliver Marijuana to that qualifying patient. The primary caregiver shall personally deliver the Marijuana to his or her qualifying patient.

- (9) All medical Marijuana shall be contained within the primary caregiver's dwelling (except when being lawfully delivered by the primary caregiver to the primary caregiver's qualifying patient at the qualifying patient's home) and in an enclosed, locked facility inaccessible on all sides and equipped with locks or other security devices that permit access only by the registered primary caregiver. Any person under 18 years of age shall not have access to any medical Marijuana.
- (10) No on-site consumption or smoking of Marijuana shall be permitted within the dwelling (or on the lot or parcel) of a primary caregiver except for any lawful medical Marijuana consumption by the primary caregiver himself or herself if he or she is a registered qualifying patient and in full compliance with the MMMA.
- (11) No medical Marijuana shall be grown, processed or handled at, from or through the dwelling of the primary caregiver beyond that which is permitted by law for the qualifying patients of the primary caregiver.
- (12) All necessary building, electrical, plumbing and mechanical permits shall be obtained for any portion of the home in which electrical wiring, lighting or watering devices that support the cultivation, growing, or harvesting of Marijuana are located.
- (13) If a room with windows is utilized as a growing location for Marijuana, plants shall be located or windows covered so that no Marijuana plant is visible from outside of the dwelling. Any lighting shall be shielded, without alteration to the exterior of the home, to prevent ambient light spillage that may create a distraction for adjacent properties.
- (14) No growing, processing, smoking or use of Marijuana shall occur out-of-doors. All medical Marijuana growing, processing and handling shall occur entirely within the dwelling.
- (15) No sale or distribution of merchandise or products shall be conducted on, within or from the dwelling or residential premises (including the lot or parcel involved) of the primary caregiver apart from the permitted quantity of medical Marijuana itself.

- (16) That portion of a home where energy usage and heat exceeds typical residential use, such as a grow room, and the storage of any chemicals such as herbicides, pesticides, and fertilizers shall be subject to inspection and approval by the Zoning Administrator or other authorized official, to ensure compliance with applicable requirements.
 - (17) The property and home shall be open for inspection upon request by the Zoning Administrator, Building Official and law enforcement officials, for determining compliance with all applicable laws and rules.
 - (18) The home in which the Medical Use of Marijuana is being conducted shall comply with subsections 3.14A, B, F, G and H.
- C. The Medical Use of Marijuana as a home occupation shall be permitted only with the prior issuance of a Township permit.
- (1) A permit shall be issued by the Zoning Administrator or other authorized official upon submission of an accurate and complete application for such permit, on a form provided by the Township, and following review by the Zoning Administrator to determine compliance with this Ordinance, the MMMA and the MMMA General Rules. The application fee or other charge, if any, shall be determined by resolution of the Township Board.
 - (2) The application for permit shall include the name and address of the applicant; the address of the property; proof that the applicant makes the dwelling his or her full-time residence, such as driver's license, voter registration records, or similar records; 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 any cultivation and processing operation, and a description of the location at which the use will take place within the dwelling or attached garage; and such other information as the Zoning Administrator determines to be necessary to demonstrate compliance with the requirements of this Section 3.14A.
 - (3) The use shall be maintained in compliance with the requirements of this Section 3.14A, and all other applicable conditions and limitations. Departure from such conditions and limitations shall be grounds for revocation of the permit and other lawful action. Upon revocation of the

permit, the applicant shall not engage in the activity unless and until a new permit is granted.

- (4) Information treated as confidential under the MMMA, including the primary caregiver registry identification card, and any information about qualifying patients associated with that primary caregiver which is received by the Township, shall be maintained separate from the public information submitted in support of the application, shall not be distributed or otherwise made available to the public, and shall not be subject to disclosure under the Freedom of Information Act.

- D. Medical Use of Marijuana was not permitted prior to adoption of this section, and accordingly any such use shall not qualify as a non-conforming use.
- E. A qualifying patient's use of his or her home for the cultivation of or other lawful activity relating to medical Marijuana for solely personal use shall comply with all applicable requirements of the MMMA, the MMMA General Rules and Subsections 3.14A.B.6 and 8 through 11.
- F. It shall be unlawful for a person to purchase or otherwise obtain medical Marijuana from any person or source other than the primary caregiver who is authorized under the MMMA to provide medical Marijuana to that person.

Section 3. Section 3.14 of the Township of Grattan Zoning Ordinance is hereby amended by the amendment of the introductory paragraph, to read in its entirety as follows:

Home occupations which are carried on in the home by resident members of the family, being clearly incidental and secondary to the principal residential use, are permitted in all districts. A home occupation shall comply with all of the following requirements; provided, however, that a Medical Use of Marijuana home occupation shall comply with Section 3.14A and those provisions of this Section 3.14 that are required to be complied with under the terms of Section 3.14A.

Section 4. The Zoning Ordinance of the Township of Grattan is hereby amended by the addition of Section 3.61, as follows:

3.61 CERTAIN PROHIBITED LAND USES

- A. Land uses, activities, enterprises or purposes that are contrary to or which violate federal or state laws, county ordinances, this ordinance or other Township ordinances are prohibited.
- B. It is unlawful to establish or operate a medical marijuana dispensary within the Township.

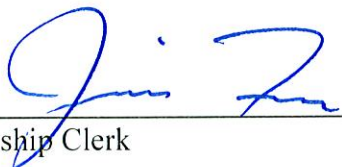
Section 5. Publication; Effective Date. This Ordinance shall become effective seven days after its publication or seven days after the publication of a summary of its provisions in a local newspaper of general circulation in the Township.

AYES: All.

NAYS: None.

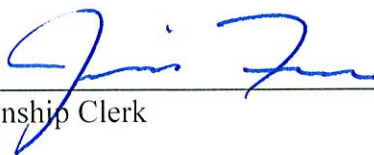
ABSENT: One.

ORDINANCE DECLARED ADOPTED.



Township Clerk

I hereby certify that the foregoing is a true and complete copy of an Ordinance adopted by the Township Board of the Township of Grattan at a regular meeting held on the date first stated above, and I further certify that public notice of such meeting was given as provided by law.



Township Clerk