

## **Recommended language for the proposed amendment- May 1, 2017**

### SECTION 211 MEDICAL MARIJUANA USES

The following zoning ordinance provisions apply to the use, distribution, sale, and cultivation of marijuana, as otherwise approved and allowed pursuant to state law:

- I. Intent and purpose.* The section as proposed is intended to permit those persons in need of medical marijuana for medicinal purposes as allowed under the state act to be afforded a reasonable opportunity to be treated and for those persons who are permitted to furnish medical marijuana, to furnish it within the limitations of the act in order to protect public health, safety, and welfare.

The section is intended to afford law enforcement an opportunity to distinguish between an unlawful enterprise and an enterprise operating, consistent with the state law regulating medical marijuana by providing defined areas for cultivation of medical marijuana and defined areas where use and transfer of marijuana are permitted.

This section is also intended to protect and preserve the value of residential, commercial and industrial districts.

This section is intended to limit the cultivation of marijuana in residential districts only to *Registered qualifying patients* in order to protect and preserve peace, order, property and safety of persons as a result of reliable information that the growth of marijuana in residential districts is associated with an increase in break-ins, home invasions, and other criminal activity perpetrated upon persons growing more than twelve marijuana plants in residential settings.

This section regulating marijuana in residential areas is further intended to avoid injury to property and bodily injury resulting from issues associated with the growth of marijuana, including problems with insufficient or improper electrical supply, problems with ventilation leading to mold, or other health hazards and other hazards which are associated with the cultivation of marijuana in residential settings.

This section is intended to preserve, protect and further the public health, safety and welfare of the residents of Ray Township and the public at large.

This section is intended to assure that marihuana will be cultivated in such a manner that persons and property will be protected to the maximum extent possible from abuse brought about from attempting to cultivate marihuana in an unsuitable growing environment.

This section is intended to assist public safety agencies by prohibiting dispensaries or other such places in the Township where marihuana would be smoked, ingested, shared, exchanged or sold between patients, caregivers and other parties not covered by the ACT.

This section affords an opportunity for limited economic development in those areas suitable for cultivation with floor space available for such use given the restrictions of the Act.

II. *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:]

1. *Act* refers to the Michigan Medical Marijuana Act, MCL 333.26421 et seq. currently, or as amended.
2. *Registered primary care giver* refers to a person meeting the definition of caregiver under state law and who has been issued and possesses a registry identification card and possesses the documentation that constitutes a valid registry under the Act.
3. *Marijuana, Marijuana* (or *Marihuana*) means that term as defined in Section 7106 of the Public Health Code, 1978 PA 368, MCL 333.7106.
4. *Medical use* means the acquisition, possession, cultivation, manufacture, use, internal possession, delivery, 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 further defined under the Act.
5. *Registered qualifying patient* refers to a person meeting the definition under state law and has been issued and possesses a registry identification card which is valid under the Act, as amended.
6. *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 care giver, or registered qualifying patient. Marijuana 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 either the registered qualifying patient, or a person designated through the department registration process, as the primary giver, for the registered qualifying patient, or patients for whom the marijuana plants are grown; and equipped with functioning locks or other security devices that restrict access only to the registered qualifying patient, or 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 marijuana 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 marijuana plants belong, or the individual

designated through the Department of Registration process as the primary caregiver for the registered qualifying patient.

7. *Parcel* shall mean a separate legally described area of real property with its own separate tax ID number issued through the Ray Township Assessing Department.
  8. *Transfer* means to convey, sell, give, deliver, or allow the possession by another person or entity.
  9. The terms “Medical Marihuana Dispensary, Compassion Center, Cooperative, or Smokehouse”; “Medical Marihuana Growing Facility; and Medical Marihuana Growing Unit,” are not found in the Act but definitions for those terms are necessary based on how it is recommended that Ray Township should administer and implement the proposed ordinance.
  10. The terms Medical Marihuana Dispensary, Compassion Center, Cooperative, or Smokehouse or similar operations as noted are not found in the Act. Dispensary is the more universal term but others such as compassion center, cooperative, provisioning center or smokehouse are used to be synonymous with or generic terms for dispensary. They all serve the general purpose where medical marihuana may be possessed, consumed, smoked, ingested, shared, or sold by caregivers and patients. ~~These types of operations are often the center of controversy in the regulation of medical marihuana dependent upon how dispensaries are regulated. The choices available relating to dispensaries generally involve either prohibition or limiting them to certain districts with special regulations.~~
  11. *[Other provisions and terms.]* The other provisions and terms of the Michigan Medical Marijuana Act for purposes of deferential context are incorporated by reference as though more fully restated.
- III. *Medical marijuana for registered qualifying patients.* Registered qualifying patients, or visiting qualified patients may use, possess and store medical marijuana as provided in the Michigan Medical Marijuana Act, MCL 333.26421 et seq., as amended and as further provided herein.
1. *Registered qualifying patient without a registered primary care giver:*
    - A. A registered qualifying patient may use possess and store marijuana in their principal residence within Ray Township for personal use only, compliant with applicable law.
    - B. Medical Marijuana may be grown by *Registered qualifying patient without a registered primary care giver* in the R-1 District subject to the following:
      - a. The allowance to grow marijuana shall be limited only to one registered patient identified as a resident within the dwelling of the subject parcel of land only for the use of that patient.
      - b. The marijuana grown shall be limited to 12 plants in accordance with Michigan Medical Marijuana Act, MCL 333.26421 et seq.

- c. The marijuana shall only be grown within an enclosed locked facility located in one accessory building on the parcel as provided in paragraphs d-f below.
  - d. The accessory building where marijuana is to be grown may be attached to the primary structure only if that accessory building shares one common wall with an attached garage. The enclosed area for marijuana shall not share any common wall with the residence except for the attached garage.
  - e. The grow area and any other area used for processing or storing the marijuana or any chemicals, pesticides or fertilizers shall be structurally closed off and separated from any other use within the accessory building. The grow area shall be limited to 125 square feet with minimum inside ceiling height of 10’
  - f. The accessory structure shall be located a minimum of 35 feet from any property line.
  - g. The patient shall file for an obtain a Certificate of Zoning Compliance
  - h. The patient shall obtain permits for the following building and fire code requirements; electrical wiring, lighting, ventilation, mechanical equipment and or watering devices that support the production of marijuana.
- C. Medical Marijuana may be grown by *Registered Qualifying Patient without a Registered Primary care giver* in the Industrial Districts subject to the following:
- a. A patient without a caregiver rather than growing at a residence of the may chose to grow up to 12 plants in either the Industrial I-R District; Section 1500 or the I-1 District; Section 1600 of this Ordinance in an enclosed locked facility.
  - b. The registered patient is responsible for utilizing at a parcel an enclosed locked facility, compliant with state law for cultivating, growing, manufacturing, processing and storing marijuana for medical use only.
  - c. The enclosed locked facility utilized by the registered patient, shall provide separation by fully enclosed walls, or fences, for plants so it is accessible only to registered patient.
  - d. The processing and storing of medical marijuana is permitted only by registered qualifying patients.
  - e. The patient shall file for a Certificate of Zoning Compliance and obtain permits for the following building and fire code requirements; electrical wiring, lighting, ventilation, mechanical equipment and or watering devices that support the production of marijuana.
  - f. If the patient chooses to grow medical marijuana in one of the Industrial Districts as referenced above that patient shall not be permitted to grow medical marijuana at his/her residence.
- D. *Registered Qualifying Patient with a Registered Primary Care Giver:*
- a. If a registered qualifying patient has a registered primary care giver, such patient is prohibited from growing marijuana anywhere within Ray Township.
  - b. Each registered qualifying patient may possess up to 2.5 ounces of marijuana as provided for in the Act.

- c. Each registered qualified patient shall receive any necessary treatment, using marijuana and provided by the caregiver only at the primary residence of the individual registered qualifying patient in Ray Township.

IV. *Medical marijuana for a registered primary caregiver.* Any registered primary caregiver may acquire, possess, cultivate, manufacture, transfer, or transport medical marijuana compliant with the Michigan Medical Marijuana Act, MCL 333.26421 et seq. as amended and further subject to the following:

1. A registered primary caregiver may only grow, cultivate, manufacture, process and store marijuana in a parcel in the industrial I-R; Section 1500 and the I-1 District; Section 1600 in an enclosed locked facility.
2. A registered primary caregiver may only transfer medical marijuana in Ray Township, to a registered qualified patient who is in his or her care, in Ray Township, at the principal residence of the patient if situated within Ray Township. ~~Transfer of medical marijuana outside Ray Township, shall otherwise be fully compliant with all other applicable law, including the Michigan Medical Marijuana Act, MCL 333.26421 et seq., as amended and any other applicable law.~~
3. The registered primary caregiver is responsible for utilizing at a parcel an enclosed locked facility, compliant with state law for cultivating, growing, manufacturing, processing and storing marijuana for medical use only. The enclosed locked facility utilized by the primary registered caregiver, shall provide separation by fully enclosed walls, or fences, for plants that are grown on behalf of each registered qualifying patient, on whose behalf the registered primary caregiver is furnishing marijuana for medical use, so it is accessible only to the primary caregiver. The processing and storing of medical marijuana is permitted only by registered primary caregivers. ~~and registered qualifying patients.~~
4. The registered primary caregiver may grow up to a maximum of twelve (12) plants for each of five registered qualifying patients and twelve (12) plants for himself if the caregiver is also a registered qualifying patient. No more than seventy-two (72) plants shall be permitted to be grown in an enclosed locked facility by any individual primary caregiver.
5. The registered primary caregiver is responsible for providing the security necessary to assure that the growing marijuana and usable product are accessible for use only by the primary registered caregiver for transfer to, only to registered qualifying patients who are registered to the registered primary caregiver and must fully comply with the provisions of the Michigan Medical Marijuana Act, MCL 333.26421 et seq., as amended.

V. Parcels situated with enclosed locked facilities.

The cultivation, growth, manufacturing of marijuana and processing by other than a registered qualifying patient are permitted only in either the industrial I-R

District; Section 1500 or I-1 District; Section 1600. Marijuana may be transported to and from such facility, but shall not be transferred by a registered primary caregiver to a registered qualifying patient, or another registered primary caregiver at such facility. The following specific provisions additionally apply:

1. Each parcel upon which enclosed locked facilities with marijuana for medical use are present, must be a minimum of 300 feet from any parcel upon which any school, or school facility is situated.
2. Transfers are prohibited. Only cultivation, growth, processing, storing and transporting to and from is permitted.
3. Each enclosed locked facility for marijuana for medical use, must contain a minimum of 200 square feet and shall not exceed 2,500 square feet.
4. Each enclosed locked facility must be separate from any other enclosed locked facility and maintained, enclosed and locked.
5. Marijuana plants grown outdoors in an enclosed, locked facility shall submit a site plan for review and approval by the Building Official.
6. Each individual enclosed locked facility; including any outdoor areas, shall receive a Certificate of Zoning Compliance before the presence of marijuana is allowed. The documents submitted for the Certificate of Zoning Compliance shall include a floor plan for the enclosed locked facility that defines the areas designated for the grow area, work area, and storage area or office if any.
7. Registered primary caregivers and registered qualifying patients, as well as any other persons, are prohibited from consumption, transfer, or use of medical marijuana for medical use at the parcel of land situated with enclosed locked facilities.

VI. Cultivation of medical marijuana as defined under the Michigan Medical Marijuana Act, MCL 333.26421 et seq. as amended, is prohibited except as provided herein.

VII. The consumption, transfer, or use of marijuana, in public, or a place opened to the public is prohibited.

VIII. Prohibition of Medical Marijuana Dispensary, Compassion Centers or other similar operations for the consumption or distribution of medicinal marijuana in all Zoning Districts in Ray Township

Medical Marijuana Dispensary, Compassion Centers or other similar operation for the consumption or distribution of medicinal marijuana. It shall be unlawful for any person or entity to own, manage, conduct, or operate a medical marijuana dispensary, compassion center or other similar operation, or to participate as an employee, contractor, agent or volunteer, or in any other manner or capacity, in any medical marijuana dispensary, compassion center, growth facility, growth cooperative or other similar operation in Ray Township.