

## SECTION 1119. HOME OCCUPATIONS

### **I. HOME OCCUPATIONS – GENERAL**

Home occupations are permitted as an accessory use to a single-family residence in AR and R-1 districts, subject to the following standards:

- A. The home occupations shall be carried on entirely within the dwelling and exclusively by the inhabitants thereof.
- B. No article shall be offered for sale on the premises unless it is produced within the dwelling or is provided incidental to the service or profession conducted therein.
- C. A home occupation shall not require internal or external alterations or construction features, equipment, machinery, outdoor storage or signs not customary in residential areas.
- D. The home occupation shall not utilize more than twenty-five (25%) percent of the total floor area of the dwelling, but in no event more than five hundred (500) square feet of floor area.
- E. The home occupation shall not generate traffic volumes greater than normally expected in a residential area. All parking shall be off-street and may not be located in a front yard.
- F. No equipment or process shall be used in a home occupation that creates noise, vibration, glare, fumes, odors, or electrical interference, detectable to the normal senses beyond the property line of the home occupation. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interferences, or causes fluctuations in line voltages off the premises.

### **II. HOME OCCUPATION-MEDICAL MARIHUANA PRIMARY CAREGIVERS AND FACILITIES ORDINANCE-SPECIAL APPROVAL**

1. Medical Marihuana Caregivers are those persons defined under the MMMA and 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 this section, are regulated as a Home Occupations subject to facilities cultivation approvals required under this section.
3. The use shall be by application and zoning permit applying the standards in this section as a Special Use Permit and under Article XII, Section 1100: Planning Commission – Special Approval Uses.

4. Caregivers shall be permitted after Special Approval under this section to be allowed only in residential zoning districts - AGRICULTURAL-RURAL RESIDENTIAL DISTRICT (AR) and RESIDENTIAL DISTRICT (R-1).
5. Caregivers must comply with the applicable provisions of this section and the Riley Township Zoning Ordinance as applicable.
6. The cultivation, 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.

#### **A. STANDARDS**

1. The following standards and requirements shall apply to the location at which the medical use of marihuana is conducted by a primary caregiver. Growth, storage, manufacturing and cultivation of medical marihuana must otherwise comply with the following standards:
  - a. The medical use of marihuana shall comply at all times with the MMMA and the MMMA General Rules, as amended.
  - b. Except as otherwise required by law, not more than one registered primary caregiver, who shall also be a full-time resident of a residential dwelling where the cultivation occurs, shall be permitted to operate and cultivate as a primary caregiver 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, or structure, or in an "enclosed, locked facility" (as that phrase is defined by the MMMA), for up to 12 marihuana plants for each registered qualifying patient (up to 5 patients) with whom the registered primary caregiver is connected through the registration process established by the Department of Licensing and Regulatory Affairs, and up to 12 additional marihuana plants for personal use, if the primary caregiver is also registered as a qualifying patient under the MMMA.
2. **Approved Facility.** The Home Occupation for medical growth of marihuana shall be conducted entirely within an approved dwelling occupied by the caregiver, or attached garage, or outbuilding, or accessory building, other structure, or in an "enclosed, locked facility" (as that phrase is defined by the MMMA) approved under this section.
3. **Primary Residence.** The Home Occupation shall be clearly incidental and secondary to the use of premises as a residence.

4. **Application.** First time applicants shall be required to pay the applicable plan review and inspection fees as set by resolution of the Township Board.
5. **Nuisance.** No noise, odor, fire hazard, or traffic congestion shall be created beyond which is normal in a residential area. No equipment or process shall be used in the growth of marihuana 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.
6. **Outside Storage.** No outdoor storage or visible display of marihuana or materials shall be allowed, except in compliance with this Ordinance.
7. **One Caregiver per property.** There shall be no other caregiver allowed to cultivate on a single property, except a State of Michigan licensed caregiver who resides in the home and the growing and cultivation facilities are approved under this section.
8. **Signage.** In order to maintain the residential character of the residential districts, a commercial sign identifying as a Primary Caregiver or home occupation by word, image or otherwise, or indicating that the 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.
9. **Materials.** Approved lighting, heating, watering, drying or other equipment, or fertilizers, herbicides or other chemicals directly related to the medical cultivation of marihuana are allowed on the property, however, no other materials or equipment not generally associated with normal home ownership, use, and maintenance of a dwelling shall be permitted.
10. **Distribution.** Distribution of marihuana or use of items in the administration of marihuana other than allowed under the MMMA 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. There shall be no sales of marijuana, except recoupment of costs for registered primary caregiver who may receive compensation for costs associated with assisting a registered qualifying patient in the medical use of marihuana to the extent allowed by the MMMA.
11. **Delivery.** Except for the primary caregiver, no other person shall deliver marihuana to the qualifying patient.

12. **Underage Access.** No one under the age of 21 years shall have access to medical marihuana, except as otherwise allowed by law.
13. **On-site Consumption.** No on-site consumption or smoking of medical marihuana shall be permitted within the dwelling or on the property of a primary caregiver, except for lawful medical marihuana consumption by the primary caregiver if registered as also qualifying patient under the MMMA or as otherwise allowed by law.
- a. **MMMA Controls.** 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.
  - b. 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 show cause hearing before the Township Planning Commission why a permit should not be revoked for a violation of this section. 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 or other adverse action to the zoning board of appeals as allowed by the Michigan Zoning Enabling Act before seeking judicial relief as an administrative remedy.
  - c. 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, which is 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.
14. **Building Code Permits.** In addition to the permit granted hereunder, all building, electrical, plumbing and mechanical, soil or other permits required under the State of Michigan Building Codes or Ordinance 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.
15. **Product Sales.** Related merchandise or products shall not be sold or distributed from the dwelling or property of the primary caregiver.
16. **Registration and Annual Inspection.** The property shall be registered with the Township. The property shall be required to pass, on an annual basis, all required inspections by the Township including, but not limited to, the fire department and

building officials. Such inspections shall include, but not be limited to, inspections of the heating equipment, filtration system, electrical wiring, lighting, watering and disposal methods that are used for the cultivation, growth and/or harvesting of medical marihuana, and the storage of any chemicals associated with the cultivation, growth, manufacturing and/or processing of medical marihuana. A certificate of approval will be issued to the registrant following passage of the required inspections. The registrant will be required to pay an additional fee annually as set by resolution of the Township Board.

17. **Open Burn.** There shall be no open burning of marihuana or chemicals used in cultivation of marihuana.
18. **Discarded Materials.** All discarded marihuana and all by-products associated with the growth, processing and cultivations of medical marihuana must be disposed of in a way that prevents persons or animals from accessing the discarded materials.
19. **Cost Recovery.** In the event of any explosion, release, or other hazardous condition or situation that results from the growth, cultivation or processing of medical marihuana, the responsible party shall be responsible for reimbursement of any and all emergency response costs.
20. **Commercial Facilities-Provisioning Centers Prohibited.** It shall continue to be unlawful to establish or operate a for-profit or nonprofit marihuana dispensary, collective, commercial use, cooperative or provisioning center within the Township, even if such use is intended for the medical use of marihuana. It is the intent of this ordinance to prohibit the pooling of caregiver cards to establish more allowable plant growth or a larger growth operation beyond five qualified registered patients per caregiver as permitted by the Michigan Medical Marihuana Act, Michigan Initiated Law 1 of 2008, MCL 333.26421, et seq other State of Michigan law, and only one caregiver per parcel may be approved, except as otherwise allowed by this section.
21. **Personal Use and Recreational Use.** 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, or recreational use does not require a permit under this subsection; however, all applicable State of Michigan requirements must be met.

## **B. PERMIT REQUIREMENTS**

1. **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 of Trustees.
2. **Special Use Permit.** The facility and cultivation shall be permitted only with the prior issuance of a special use permit.

- a. The application shall include site plan(s) describing the processing, storage and cultivation of medical marihuana. The plan shall describe, in detail, the process and methods used for the growth, processing and/or cultivation of medical marihuana, including a description of the heating equipment and processes, chemical storage, filtration equipment, electrical wiring and lighting, and plant material and water disposal methods to be utilized.
  - b. The permit 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 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 parcel number and lot size.
  - c. The zoning administrator may require additional information or permits 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.
  - d. **Special Approval Use.** Upon completion of the application with the zoning official, the application shall be sent to the Planning Commission for review as applicable under SECTION 1100: PLANNING COMMISSION – SPECIAL APPROVAL USES
  - e. The Township Planning Commission shall make the final determination for approval of the zoning 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.
  - f. Land spilt approvals and other municipal permits may be suspended during the application process.
3. **Site Plan:** The applicant for Special Use Permit approval shall provide the following site plan information:
- a. **Zoning Site Plan:** Prior to construction of any cultivation 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, the size of the lot, the parcel number, the setbacks and other information the zoning official may require to process the application.
  - b. **Chemicals and Fertilizers Plan:** The plan shall include the Material Safety Data Sheets (MSDS) containing information on the potential hazards (health, fire

reactivity and environmental impact) related to chemical products. The site plans shall also include the type, amount and location of stored chemicals and fertilizers.

- c. **Oder Control Plan:** The site plan shall include a plan for odor control. The plan shall include the location and type of control for odor-emitting activity(ies). The applicant must provide information related to the location of doors, windows, ventilation systems, and odor sources. The plan should describe the odor-emitting activities or processes (e.g., cultivation) that take place with odor mitigation practices based on specific best control technologies and best practices.
- d. **Plumbing, Mechanical, and Energy Plans:** The property owner shall provide the zoning official, a plumbing, mechanical, and energy plan with details of any building, facility, structure or enclosed locked facility used for the growth and cultivation of marihuana.
- e. **Electrical Plans and Specifications.** The property owner 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
  - ix. 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
- f. **Disposal, Pollution, Water Quality Control.** The applicant shall provide a disposal and pollution control plan. An approved permit holder shall be prohibited from degrading water quality, or disposing of marijuana or chemicals or fertilizer into wells, drains or township sewers.
- g. **Michigan Department of Environment, Great Lakes and Energy (EGLE).** The applicant may be required to present permits or approvals from EGLE as applicable.

- h. **Soil Erosion and Stormwater Runoff and Drainage Control.** The applicant shall provide a soil erosion control plan and must apply for a soil erosion permit as applicable to engage in specified earth changes. The applicant may not alter the drainage of their land that unreasonably interfere with others' land, which creates a nuisance.
  - i. **Setbacks.** Any portion of a building or other structure proposed for marijuana growth, 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.
  - j. **Lighting.** If medical marijuana is grown or located in a room, building, structure or facility with windows or with exterior lighting, all lighting shall be shielded to prevent ambient light from creating a distraction for adjacent properties.
- 4. When approving site plans, 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 are maintained in good working order and not expanded from the approved plans. A copy of the plans and specifications, shall be available on the site.
  - 5. Excluded from requirements in the site plans are fences, sidewalks, and paving on streets, driveways, parking areas and patios.
  - 6. **Inspection.** In addition, all other applicable application requirements in this section and the zoning ordinance, 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 marijuana, are subject to inspection and approval. 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, Planning Commission 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 and shall also be considered an incomplete application.

## **C. OTHER COMMERCIAL CULTIVATION ESTABLISHMENTS PROHIBITED**

**Commercial Marijuana establishments prohibited.** Any and all types of a "marijuana establishment," as that term is defined and used in Michigan Initiated Law 1 of 2018, commonly known as the Michigan Regulation and Taxation of Marijuana Act, are completely prohibited in Riley Township 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 and may not be established, licensed or operated in any zoning district, by any means, including by way of a variance.

#### **D. ENFORCEMENT**

1. 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, facility, tent, recreational vehicle, or land is liable for all costs and fees to abate for maintaining a nuisance per se.
2. **Nonuse Variance:** The zoning board of appeals may grant a non-use variance for structures, buildings, enclosed locked facilities under this section as long as the spirit of this ordinance is observed, public safety secured, and substantial justice done pursuant to the Michigan Zoning Enabling Act 110 of 2006 as amended and the Riley Township Zoning Ordinance for variance standards now or later enacted.
3. 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.