



Memo

FROM THE DESK OF THE ZONING ADMINISTRATOR

To: Planning Commission

Date: 8/14/14

Re: August 19 meeting notes

Dear Planners,

This month we will review changes to our Medical Marihuana zoning ordinance. We were contacted by Hubbard Law after several Michigan Supreme Court rulings and some new legislation that would impact what we had previously written. After we agreed on an approach where I would do the re write and she would comment and review, saving some time and money. I have included the emails and a spreadsheet I used to track the changes. The spreadsheet also shows you what the amendment will look like after it's inclusion in the zoning code.

After our hearing and recommendation, it will go to County Planning and then to the Board. Meanwhile we will tackle the police powers licensing for growing facilities and dispensaries (Provisioning Centers). The second step does not need to go to county planning as it is not a zoning text amendment.

-Woody

CHARTER TOWNSHIP OF UNION
Planning Commission
Regular Meeting Agenda

Date: August 19, 2014

Time: 7:00 p.m.

Place: Union Township Hall

Pledge of Allegiance

Roll Call

Approval of Minutes for the June 17, 2014 Regular Meeting

Correspondence

Approval of Agenda

Public Comment: Restricted to three (3) minutes regarding issues not on this agenda

NEW BUSINESS

- 1. TXT 1790 – Text Amendment: An Amendment to Union Township Medical Marihuana zoning regulations to bring them into conformance with recent changes to Michigan Law.**

OLD BUSINESS

None

OTHER BUSINESS

None

Extended Public Comment

Adjournment

**UNION TOWNSHIP PUBLIC HEARING NOTICE -
ZONING TEXT AMENDMENT**

NOTICE is hereby given that a Public Hearing will be held on August 19, 2014, at 7:00 p.m. at the Union Township Hall located at 2010 South Lincoln Road, Mt. Pleasant, Michigan, before the Union Township Planning Commission for the purpose of hearing any interested persons in the following Zoning Ordinance text amendment:

SECTION I - AMMENDMENTS

The following sections of Ordinance 1991-5, as amended are hereby amended:

I.A

Amend 3.24.1 to read:

3.24.1 ENCLOSED LOCKED FACILITY

As defined in Section 3(d) of the Michigan Medical Marihuana Act, Initiated Law 1 of 2008 being MCL 333.26423.

I.B

Amend 3.44.3 to read:

3.44.3 MARIHUANA DISPENSARY

Any structure or building where marihuana is transferred, delivered, or acquired, to or by Qualifying Patients pursuant to the MMMA. The term Marihuana Dispensary does not include medical marihuana accessory uses conditionally permitted and consistent with Section 8.2.G occurring in dwelling units, or any location used by one primary caregiver to assist one qualifying patient connected to the caregiver through the State, consistent with the MMMA.

I.C

Amend 3.57.1 to read:

3.57.1 PRIMARY CAREGIVER

A person who is at least twenty-one (21) years old and who has agreed to assist with a Qualifying Patient's medical use of marihuana and who has never been convicted of a felony involving illegal drugs or a felony that is an assaultive crime as defined at MCL 770.9a, or any felony within the past 10 years, and is currently registered pursuant to the Michigan Medical Marihuana Act, MCL 333.26421 et seq.

I.D

Amend 8.2.G to read:

G. The medical use of marihuana, to the extent made lawful by the Michigan Medical Marihuana Act, MCL 333.26421 et seq, as amended, shall be permitted in all Residential and Agricultural Zoning Districts, as well as all residential uses in non residential zones, subject to the following conditions:

I.E

Amend 8.2.G.1 to read:

Marihuana plants shall be cultivated in an enclosed locked facility. (See 3.24.1).

I.F

Amend 8.2.G.2 to read:

2. No more than the maximum number of marihuana plants each qualifying person may cultivate pursuant to the MMMA.

I.G

Amend 8.28.G.3 to read:

Outdoor cultivation shall not be visible to the unaided eye from an adjacent property when viewed by an individual at ground level or from a permanent structure.

I.H

Amend 22.2.R.7 to read:

Activity on Site. There shall be no transfer, delivery, acquisition, cultivation, manufacture or ingestion, smoking or other consumption, of controlled substances, including marihuana, on site.

I.I

Amend 22.2.S.10.c; 26.2.S.11.b; 27.O.11.b to read:

keep all marihuana, in any form, inside of a building, within an enclosed locked facility, so that the marihuana is not visible from any location outside of the building;

I.J

Amend 26.2.S.11.c; 27.2.O.11.C to read:

Activity on Site. There shall be no transfer, delivery, acquisition, sale, ingestion, smoking or other consumption, of controlled substances, including marihuana, on the site.

SECTION II - DELETIONS

II.A

Delete Sections 8.2.G.4 and 8.2.G.5

Renumber subsequent sections 8.2.G 6 through 8.2.G.9 as 8.2.G.4 through 8.2.G.7

Any interested person may submit their views in person, in writing, or by signed proxy prior to the public hearing or at the public hearing.

All materials concerning this request may be seen at the Union Township Hall, located at 2010 S. Lincoln Road, Mt. Pleasant, Michigan, between the hours of 8:30 a.m. and 4:30 p.m., Monday through Friday. Please contact the zoning administrator to make arraignments for accessibility and impairment concerns. Phone (989) 772 4600 extension 241.

William Woodruff,
Zoning Administrator

ID	Hubbard Comments	Section	Adopted Text With amendments	Proposed Revision	Adopted Text With amendments	Hubbard final review suggested
1	The use by a patient and caregiver must be allowed in all residential districts.	8.2.G	The medical use of marihuana, to the extent made lawful by the Michigan Medical Marihuana Act, MCL 333.26421 et seq, as amended, [strike] but only in One-Family Dwellings, Two-Family Dwellings and Multiple-Family Dwellings [INSERT] shall be permitted in all Residential and Agricultural Zoning	The medical use of marihuana, to the extent made lawful by the Michigan Medical Marihuana Act, MCL 333.26421 et seq, as amended, shall be permitted in all Residential and Agricultural Zoning Districts, as well as all residential uses in non residential		
2	Any limitation that cultivation shall not occur outside or must occur in a primary place of residence should be deleted and	8.2.G.1	Marihuana plants shall be cultivated in an enclosed locked facility [STRIKE] within a dwelling unit which is the legal and primary place of residence of the person cultivating those plants (See 3.24.1).	Marihuana plants shall be cultivated in an enclosed locked facility. (See 3.24.1).		
2	Continued From Above	8.2.G.5	[STRIKE ENTIRE] No marihuana plants shall be cultivated in any accessory building, including but not limited to, a detached garage, shed,	[Renumber following subsections]		
3	Broaden the definition of enclosed locked facility consistent with the changes to the MMMA	3.24.1	A [INSERT] n indoor or outdoor closet, room, or other enclosed area [INSERT], including vehicles used to transport live plants by and between qualifying patients and or caregivers, equipped with locks or other security devices that permit access only by a Qualifying Patient or Primary Caregiver, built and maintained in	An indoor or outdoor closet, room, or other enclosed area, including vehicles used to transport live plants by and between qualifying patients and or caregivers, equipped with locks or other security devices that permit access only by a Qualifying Patient or	[STRIKE} ALL, [INSERT] As defined in Section 3(d) of the Michigan Medical Marihuana Act, Initiated Las 1 of 2008 being MCL 333.26423.	As defined in Section 3(d) of the Michigan Medical Marihuana Act, Initiated Law 1 of 2008 being MCL 333.26423.
4	A limitation on the number of plants in a dwelling is most likely a provision preempted by the MMMA. The defensibility of a limitation on the	8.2.G.2	No more than the maximum number of marihuana plants [STRIKE] one [ADD] each [STRIKE] up to a maximum of 72 shall be cultivated in any dwelling unit.	No more than the maximum number of marihuana plants each qualifying person may cultivate pursuant to the MMMA.		
5	A limitation that cultivation not be visible from the exterior of a dwelling unit should be changed as the definition of an enclosed locked	8.2.G.3	[ADD] Indoor or outdoor cultivation shall not be visible [STRIKE] from the exterior of the dwelling unit, [ADD] to the unaided eye from an adjacent property when viewed by an individual at ground level or from a permanent structure.	Indoor or outdoor cultivation shall not be visible to the unaided eye from an adjacent property when viewed by an individual at ground level or from a permanent structure.		Outdoor cultivation shall not be visible to the unaided eye from an adjacent property when viewed by an individual at ground level or from a permanent structure.
6	A limitation on who can transfer or deliver marijuana is covered by the MMMA so any further limitations should be deleted.	8.2.G.4	[STRIKE ENTIRE] No transfer or delivery of marihuana shall occur at a dwelling unless between Qualifying Patients residing in the same dwelling unit or between a Primary Caregiver and the Qualifying Patient to whom he or she is connected through the Department of Licensing and Regulatory	DELETE ENTIRE, Renumber subsequent sections, note subsection 5 is also deleted/		

7	A limitation on cultivation in an accessory building should be deleted as	8.2.G.5	[STRIKE ENTIRE] No marihuana plants shall be cultivated in any accessory building, including but not limited to, a detached garage, shed, greenhouse, kennel, or barn.	DELETE ENTIRE, Renumber subsequent sections, note subsection 4 is also deleted/		
8	The definition of a primary caregiver should be updated.	3.57.1	A person who is at least twenty-one (21) years old and who has agreed to assist with a Qualifying Patient's medical use of marihuana and who has never been convicted of a felony involving illegal drugs [INSERT] or a felony that is an assaultive crimes defined at MCL 770.9a, or any felony within the past 10 years,	A person who is at least twenty-one (21) years old and who has agreed to assist with a Qualifying Patient's medical use of marihuana and who has never been convicted of a felony involving illegal drugs or a felony that is an assaultive crime as defined at MCL		
9	Modify the definition of Marihuana Dispensary to delete the term sold and broadened so that it is clear that a location used by a primary caregiver to assist a qualifying patient	3.44.3	Any structure or building where marihuana is transferred, delivered, acquired, [STRIKE] or sold to or by Qualifying Patients pursuant to the MMMA. The term Marihuana Dispensary does not include medical marihuana accessory uses conditionally permitted and consistent with Section 8.2.F[G] occurring in dwelling units [INSERT] , or any location used by a primary caregiver to assist a qualifying	Any structure or building where marihuana is transferred, delivered, or acquired, to or by Qualifying Patients pursuant to the MMMA. The term Marihuana Dispensary does not include medical marihuana accessory uses conditionally permitted and consistent with Section 8.2.G occurring in dwelling units, or any location used by a primary		Any structure or building where marihuana is transferred, delivered, or acquired, to or by Qualifying Patients pursuant to the MMMA. The term Marihuana Dispensary does not include medical marihuana accessory uses conditionally permitted and consistent with Section 8.2.G occurring in dwelling units, or any location used by one primary caregiver to assist one qualifying patient connected to the caregiver through the State, consistent with the MMMA.
10	possession and use of marijuana in Marihuana Clubs, Dispensaries and Growing Facilities may no longer be defensible as the use and possession is regulated by the MMMA in section 7 (limitations on where one can possess or otherwise use and the limitation of no smoking in a public place or on public transportation). A final review letter	22.2.R.7 22.2.S.1	<u>Activity on Site.</u> There shall be no transfer, deliver[y], acquisition, sale, cultivation, manufacture or ingestion, smoking or other consumption, of controlled substances, including marihuana, [STRIKE] on the site. [INSERT] in any public place or area.	Activity on Site. There shall be no transfer, delivery, acquisition, sale, cultivation, manufacture or ingestion, smoking or other consumption, of controlled substances, including marihuana, in any public place or area. did not use public area or sales in this	<u>Activity on Site.</u> There shall be no transfer, deliver[y], acquisition, sale, cultivation, manufacture or ingestion, smoking or other consumption, of controlled substances, including marihuana, on the site.	<u>Activity on Site.</u> There shall be no transfer, delivery, acquisition, cultivation, manufacture or ingestion, smoking or other consumption, of controlled substances, including marihuana, on site. no change
	final review letter	22.2.S.1 0.c			c. keep all marihuana, in any form, [INSERT] inside of a building, within an enclosed locked facility, so that the marihuana is not visible from any	c. keep all marihuana, in any form, inside of a building, within an enclosed locked facility, so that the marihuana is not visible from any location outside of the building;
	Note: in fnal review only	26.2.S.1 1.b, 27.O.11. b			b. keep all marihuana, in any form, [INSERT] inside of a building, within an enclosed locked facility, so that the marihuana is not visible from any	b. keep all marihuana, in any form, inside of a building, within an enclosed locked facility, so that the marihuana is not visible from any location outside of the building;

	Note: in final review only	26.2.S.1 1.c			prohibit the transfer, delivery, acquisition, [STRIKE] sale, ingestion, smoking or other consumption, of	prohibit the transfer, delivery, acquisition, ingestion, smoking or other consumption, of controlled substances, including marihuana, on the site;
10	Continued From Above	30.4.AD. 4	<u>Activity on Site.</u> There shall be no transfer, deliver[y], acquisition, sale, cultivation, manufacture or ingestion, smoking or other consumption, of controlled substances,	Activity on Site. There shall be no transfer, delivery, acquisition, sale, cultivation, manufacture or ingestion, smoking or other consumption, of	No change - Delivery spelled correctly, leave "on the site" rather than change to "in any public place or area."	1. <u>Activity on Site.</u> There shall be no transfer, delivery, acquisition, sale, ingestion, smoking or other consumption, of controlled substances, including marihuana, on the site.

Woody Woodruff

From: Andria Ditschman [ADitschman@HubbardLaw.com]
Sent: Thursday, May 22, 2014 2:42 PM
To: Woody Woodruff
Cc: Brian Smith; Jill Perkins
Subject: RE: MMMA Review

Follow Up Flag: Follow up
Flag Status: Flagged

Woody,

I checked the previous bill and the 1.9 hours was additional time spent putting together the legal opinion and recommendations. So for the legal opinion it was a total of 4.5 hours. That legal opinion was sent on May 2, 2014. My responses to your comments are below and that review and these comments has taken an additional 2.0 hours. Let me know if you have any other questions about the suggestions below.

8.2.G Good

8.2G.1 Good

8.2.G.5 Good

3.24.1 I would use the complete definition of an Enclosed Locked Facility or simply refer to the MMMA definition as we did with the definition of Marihuana. The reference language would be as follows: As defined in Section 3(d) of the Michigan Medical Marihuana Act, Initiated Law 1 of 2008 being MCL 333.26423.

Also, at the end of the definition we had “built and maintained in a manner consistent with applicable building and property maintenance codes.” Is the definition of an ELF consistent with those Codes? If not then we should delete that last line.

8.2.G.2 I don’t think that the suggested definition actually limits the number of plants in a dwelling unit. It just says “each qualifying person may cultivate”, and does not limit it to those living there or residing there. Unfortunately we can no longer relate it to only those living in the unit, as the definition of an ELF allows people to grow even if they simply “own, lease or rent” and it is only accessible to the patient or CG, but does not require them to reside in the building. Again, I would get away from a limitation based on number and instead go with the 400 feet already used in the ordinance or a percentage. However, if you disagree and decide to keep the language you have recommended then I suggest you add to the end “shall be cultivated in any dwelling unit.”

8.2.G.3 I would delete “indoor” as there is no requirement that it not be seen from an indoor ELF, such as through a window. The rest of the suggested change is good with the correction to the spelling of permanent.

8.2.G.4 Good

8.2.G.5 Good

3.57.1 Good, change spelling of “assaultive”.

3.44.3 How about change it to read, “or any location where one primary caregiver assists their qualifying patient connected ...”, so we limit it. This is still a questionable area but the bottom line is that we are trying to make an exclusion of a PC who is helping a patient and they are not at home.

22.2.R.7; 22.2.S.10.d; 26.2.S.11.c; 30.4.AD.4

In my opinion the Township can still regulate what they do in a club, dispensary or growing facility so I don’t recommend you add the language “in any public place or area.” However, if you want to be very careful here and add the language, realize that there may be an argument that they can smoke or use in a private room or bathroom. I would leave it as it was but change delivery that was misspelled and delete “sale”.

22.2.S.10.c; and 26.2.S.11.b

Change to: Keep all marihuana, in any form, inside of the building, in an enclosed locked facility, so that the marihuana is not visible from any location outside of the building;

Licensing Ordinance

Definition of written certification good.

Also, remember to modify all other definitions that you are modifying in the zoning ordinance that are also in the licensing ordinance.

3.04(B) change to: Limit all activity related to the Marihuana Dispensary or marihuana Growing Facility to inside the building in an enclosed structure, to ensure

3.04(D) Change to: Keep all marihuana in any form, inside of the building in an enclosed locked facility,

3.04(N) Take out selling.

Andria Ditschman

From: Woody Woodruff [<mailto:wwoodruff@uniontownshipmi.com>]
Sent: Wednesday, May 21, 2014 2:23 PM
To: Andria Ditschman
Cc: Brian Smith
Subject: MMMA Review

Andria,

I left you a voiced mail and I wanted to follow up with an email. We received your Invoice 05/02/2014. I wanted to clarify that the 1.9 hours were spent reviewing language I proposed in response to your initial comments. Are we to expect confirmation of the changes, revised language and or mark up of my proposed language?

Thank you for your attention in this matter

-Woody



William "Woody" Woodruff
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[Union Township Sustainability Committee](#)