

**GREENWOOD TOWNSHIP MEDICAL MARIJUANA
PRIMARY CAREGIVER PERMITTING ORDINANCE
ORDINANCE 2022-1**

ORDINANCE ARTICLE XXVIII

An Ordinance to establish procedures for the permitting of medical marijuana primary caregivers in the Township of Greenwood, St. Clair County, Michigan.

Section 1. Short Title

This Ordinance shall be known and cited as the Greenwood Township Medical Marijuana Primary Caregiver Permitting Ordinance.

Section 2. Purpose

The purpose of this Ordinance is to safeguard life and property by providing for the permitting of medical marijuana Registered Primary Caregivers operating in accordance with the Michigan Medical Marijuana Act (Initiated Law 1 of 2008, MCL 333.26421, *et seq*) (“MMMA”) and the inspection of Registered Primary Caregiver growing operations.

Section 3. Definitions

These definitions are created for the sole purpose of this Ordinance only.

Medical shall mean marijuana that is issued for a medical purpose to treat or alleviate a Registered Qualifying Patient’s debilitating medical condition or symptoms associated with the debilitating medical condition. Medical cannabis is the equivalent term to medical marijuana.

Owner-Occupant means a resident of a property who holds the title to that property; which property is the homestead of the owner. In contrast, an absentee owner carries the title to the property but does not live there. An absentee landlord is a type of absentee owner.

Registered Primary Caregiver shall mean a person who is at least 21 years old, meets the definition of “Primary Caregiver” under the Michigan Medical Marijuana Act (Initiated Law 1 of 2008, MCL 333.26424(b) *et seq*), as amended, and who has been issued and possesses a valid Registry Identification Card by the State of Michigan.

Section 4. Home Occupation

Home Occupation as defined and as regulated in Section 2.02 (#73), **DOES NOT APPLY** with respect to Registered Primary Caregivers as the growing, processing, handling, harvesting or possession of medical marijuana is not allowed in the residence or attached garage/building of the Registered Primary Caregiver.

Section 5. Medical Marijuana Registered Primary Caregiver

- a. In 2008, voters in the State of Michigan approved a ballot initiative authorizing the use of marijuana for certain medical conditions. On December 4, 2008, the Michigan Medical Marihuana Act (Initiated Law 1 of 2008, MCL 333.26421) (hereinafter “MMMA”) took effect, permitting certain specified persons who comply with the registration provisions of the law, to legally cultivate a specified quantity of marijuana in an enclosed, locked facility; possess and use said marijuana; and provide for the limited distribution of marijuana to assist a “Registered Qualifying Patient” (specifically registered individuals identified in the statute) without fear of criminal prosecution under limited specific circumstances.
- b. Despite the specifics of the State Legislation and the activities legally allowed as set forth therein, marijuana is still a controlled substance under Michigan Law and the legalization of obtaining, possession, cultivation/growth, use and distribution in specific circumstances, has a potential for abuse that should be closely monitored to the extent permissible regulated by local authorities. Further, the obtaining, possession, cultivation/growth, use and distribution of marijuana is federally prohibited.
- c. It is the intention of Greenwood Township that nothing in this Ordinance be construed to allow persons to engage in conduct that endangers others or causes a public nuisance; to allow use, possession or control of marijuana for non-medical purposes; or allow activity relating to cultivation/growing, distribution or consumption of marijuana that is otherwise illegal.
- d. On April 27, 2020, the Michigan Supreme Court decided *DeRuiter v Township of Byron, No. 158311*, finding that a township’s zoning ordinance that geographically restricts such caregiver marijuana cultivation to a particular zoning district did not directly conflict with the MMMA, and further found that the *Township* had the authority under the Michigan Zoning Enabling Act (PA 110 of 2006) to require zoning permits and permit fees for the use of buildings and structures within its jurisdiction.
- e. This Section is intended to permit those persons who are in need of marijuana for medical purposes (the “Registered Qualifying Patients”) a reasonable opportunity to be treated. Those persons permitted to cultivate and provide marijuana to the Registered Qualifying Patients (the “Registered Primary Caregiver”) can provide medical marijuana to the Registered Qualifying Patients within the limitations of the MMMA, the MMMA General Rules, and within the geographical limitations and other standards imposed by the Greenwood Township Zoning Ordinance.
- f. Nothing in the Section, or in any other regulatory provision, is intended to grant or be construed as granting immunity from criminal prosecution for growing, selling, consuming, use, distribution or possession of marijuana not in strict compliance with the Act and its General Rules. Also, since federal law is not

affected by the Act or its General Rules, nothing in this Section, or in any other regulatory provision of the Township is intended to grant or be construed as granting immunity from criminal prosecution under federal law. The MMMA does not protect users, caregivers or owners of the 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.

- g. The MMMA does not create a general right for individuals to use, possess or deliver marijuana in Michigan.
- h. The MMMA's protections are limited to individuals suffering from serious or debilitating medical conditions or symptoms, to the extent that the individual's marijuana use is carried out in compliance with the provisions of the MMMA, including the provisions related to the operations of Registered Primary Caregivers.
- i. The MMMA's definition of "medical use" of marijuana includes the "transfer" of marijuana "to treat or alleviate a Registered Qualifying Patient's debilitating medical condition or symptoms associated with the debilitating medical condition, "but only if such transfer" is performed by a Registered Primary Caregiver who is connected with the same Registered Qualifying Patient through the registration process established by the Department of Licensing and Regulatory Affairs, and who is otherwise operating in strict compliance with the MMMA and the MMMA General Rules.
- j. The MMMA provides that a Registered Primary Caregiver may assist no more than five (5) Registered Qualifying Patients with their medical use of marijuana.
- k. The MMMA does not, therefore, create a new vocation for entrepreneurs or others who wish to engage in the sale of marijuana to more than five (5) persons in a commercial setting. Instead, the MMMA is directed at improving the health and welfare of Registered Qualifying Patients.

Section 6. Standards. A Registered Primary Caregiver, in compliance with the General Rules of the Michigan Department of Community Health, the MMMA (MCL 333.26421, *et seq*) and the requirements of this Section, shall be permitted to grow marijuana as follows:

- a. The operations of a Registered Primary Caregiver shall be permitted only with the prior issuance of a Township permit in accordance with the Greenwood Township Medical Marijuana Primary Caregiver Permitting Ordinance.
- b. The medical use of marijuana shall comply at all times and in all circumstances with the Michigan Medical Marijuana Act and the General Rules of the Michigan Department of Community Health, as they may be amended from time to time.

- c. A Registered Primary Caregiver shall not possess marijuana or otherwise engage in the medical use of marijuana in a school bus, on the grounds of any preschool, primary school, secondary school, or daycare.
- d. Not more than one Registered Primary Caregiver shall be permitted to operate on the specified property. The Registered Primary Caregiver operating on the specified property shall be the owner-occupant of the primary residence on the property. The use of the lot for medical marijuana cultivation shall be clearly incidental and subordinate to its use for residential purposes by its occupant.
- e. The medical use of marijuana shall be conducted entirely within an accessory building, not in the residence and/or attached buildings. A Registered Primary Caregiver may keep and cultivate in an “enclosed, locked facility” (as that phrase is defined by the MMMA), up to 12 marijuana 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, and up to 12 additional marijuana plants for personal use, if the Registered Primary Caregiver is also a Registered Qualifying Patient under the MMMA.
- f. There shall be no signage identifying the Registered Primary Caregiver’s operation. This includes signage on vehicles.
- g. The property shall meet the minimum lot size requirements and setbacks of the district.
- h. The enclosed, locked facility shall not be located within 1,000 feet of a school or daycare facility as measured from the outermost boundaries of the lot or parcel on which the facility or school/daycare is located.
- i. The separation of plant resin from a marijuana plant by butane extraction or any other method that utilizes a substance with a flashpoint below 100 degrees Fahrenheit in any public place, e.g., a motor vehicle, inside a residential structure or an accessory building to a residential structure, is prohibited.
- j. Except for lighting, heating, watering, drying, and the fertilizers, herbicides or other chemicals directly related to the growing, cultivating and harvesting of the medical marijuana, no other materials or equipment, not generally associated with normal ownership, use and maintenance of a dwelling, shall be permitted on the property.
- k. Distribution of medical marijuana or use of items in the administration of medical marijuana 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 marijuana.

- l. Except for the Registered Primary Caregiver, no other person shall deliver medical marijuana to the Registered Qualifying Patients.
- m. No one under the age of 18 years shall have access to medical marijuana.
- n. No on-site consumption or smoking of marijuana shall be permitted within the dwelling (or on the property) of a Registered Primary Caregiver except for lawful medical marijuana consumption conducted in accordance with Michigan Law except as permitted by the Registered Primary Caregiver if they are also a Registered Qualifying Patient.
- o. Medical marijuana shall not be grown, processed, handled or possessed at the dwelling of the Registered Primary Caregiver beyond that which is permitted by law.
- p. All necessary buildings' 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 medical marijuana are located or used.
- q. If medical marijuana 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.
- r. Related merchandise or products shall not be sold or distributed from the dwelling or property of the Registered Primary Caregiver apart from the permitted quantity of medical marijuana.
- s. Setbacks: Any portion of a building or other structure, 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 each district allowed under this Zoning Ordinance. No structure shall attach to any other structure on a neighboring property or cause a nuisance onto a neighboring property.
- t. No equipment or process shall be used 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 cause fluctuations in line voltage off the premises, or interferes with neighboring parcels' use and quiet enjoyment of land.
- u. There shall be no open burning of marijuana. Other debris burn may require a burn permit. The disposal of plant material shall be done in a safe and secure manner which does not permit those without the proper permits to access or obtain any disposed plant material. The Registered Primary Caregiver must make arrangements to privately dispose of the unused portions of marijuana plants

separate from usual residential waste and garbage. Unused portions of marijuana plants may not be placed at the curb or otherwise left unattended for disposal and may not be disposed of by burning.

- v. It is unlawful to establish or operate a for-profit or non-profit marijuana dispensary, collective or cooperative within the Township, even if such use is intended for the medical use of marijuana.

Section 7. Required Permit

- a. A Registered Primary Caregiver beginning operations after the effective date of this Ordinance shall obtain a permit from the Township prior to commencing operations. Such permit shall include an Application that will remain on file at the Township Clerk's office. A Permit shall be granted if the Applicant and Application demonstrate compliance with the MMMA and the MMMA General Rules, this Ordinance, and the Township of Greenwood Zoning Ordinance.
- b. A complete and accurate Application shall be submitted on a form provided by the Township. The Application for a Permit shall be accompanied by a fee and include the following information. The Zoning Administrator may require additional information as necessary to demonstrate compliance with all requirements:
 - a. The address of the property.
 - b. Proof that the property is the Applicant's full-time residence by way of a valid driver's license, voter registration card or similar record.
 - c. A copy of the Registered Primary Caregiver's valid registry identification card.
 - d. Evidence that the Registered Primary Caregiver is operating in accordance with the Michigan Medical Marijuana Act's enclosed "locked facility requirements".
 - e. A full description of the nature and types of equipment which will be used in marijuana cultivation and processing.
 - f. Site Plan: Prior to construction of any structure or enclosed facility for the purpose of growing marijuana, the property owner shall provide a site plan including:
 - 1) A basic floor plan showing where the Registered Primary Caregiver operations will be conducted.
 - 2) The location and size of the structure.
 - 3) The type of materials to be used in construction.

- 4) Fences, sidewalks, and paving on streets, driveways, parking areas and patios are not required to be depicted on the site plan.
 - g. Plan for odor control. The Site Plan shall include the location and type of control for odor-emitting activities. 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 takes place with odor mitigation practices based on specific best control technologies and best practices.
 - h. Plumbing, Mechanical and Energy Plans. The Applicant shall provide the Zoning Official with the plumbing, mechanical and energy plan details of any building, facility or structure used for the growth of marijuana. The Site Plan shall also include the type, amount and location of stored chemicals.
 - i. Electrical Plans and Specifications: An Applicant shall submit a detailed set of electrical plans and specifications with the Application for an Electrical Permit for any wiring or alteration of 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:
 - 1) Lighting layout.
 - 2) Circuiting
 - 3) Switching
 - 4) Conductor and raceway sizes
 - 5) Wattage schedule
 - 6) Service location and riser diagram
 - 7) Load calculations and available fault current calculations
 - 8) A proposed method of construction that is drawn with symbols of a standard form.
 - 9) The plans shall include the selection of suitable disconnect and overcurrent devices to provide proper coordination and interrupting capacity for a wiring system, which is the responsibility of the designer. The Township, when approving electrical plans, does not assume responsibility for the design of or any deviations from any electrical drawings. The permit holder shall ensure that the plans and specifications approved by the enforcing agency, or a certified copy of the plans and specifications (where required), are available on the site for the use of the enforcing agency.
3. Disposal, Pollution and 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, chemicals, or fertilizer into wells, drains or township septic tanks/sewers.

4. Information treated as confidential under the MMMA, including the Primary Caregiver Registry Identification Card and any information about Registered Qualifying Patients associated with the Registered Primary Caregiver, which is received by the Township of Greenwood, 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.
5. The Zoning Administrator shall review the application to determine compliance with this Ordinance, the Township of Greenwood Zoning Ordinance, the MMMA and the MMMA General Rules. A permit shall be granted if the Application demonstrates compliance with this Ordinance, the Township of Greenwood Zoning Ordinance, the MMMA and the MMMA General Rules.
6. 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, are subject to inspection and approval by the Zoning Administrator and/or other authorized officials.
7. In addition, all other applicable requirements, codes and laws, any portion of a building or other structure, such as a cultivation room or facility including an “enclosed, locked facility” as defined by the MMMA and used for the growth or storage of marijuana, are subject to inspection and approval by the Zoning Administrator, code officials or other authorized official including the Fire Chief acting on behalf of the Township. Under this provision, a structure means any structure or facility constructed, placed or erected for growth of marijuana.
8. The permit must be renewed on an annual basis. Updates to information provided in the original Application that may have changed in the meantime will be required at the time of renewal. The renewal must list all up-to-date Registered Qualifying Patient ID numbers. Renewal shall be granted if the Applicant and Application demonstrate compliance with this Ordinance and Township of Greenwood Zoning Ordinance.
9. The Township may require a building and/or fire inspection at the time of renewal.
10. Permitting, renewal and inspection fees will be set and amended by Resolution of the Township Board in order to cover reasonable administrative costs of processing the registration.

Section 8. Registered Primary Caregivers in operation prior to the effective date of this Ordinance

1. Registered Primary Caregivers, whose operations were lawfully established prior to the effective date of this Ordinance, may continue to operate in accordance with the MMMA. However, these operations, effective as of the date of this

Ordinance, shall be required to obtain a permit in accordance with Sections 6 and 7 of this Ordinance within one (1) year of the effective date listed herein.

2. Caregiver operations not legally established shall remain in noncompliance and shall be subject to enforcement actions as provided for in the Township of Greenwood Zoning Ordinance.

Section 9. All Registered Primary Caregivers subject to inspection

The property, dwellings and all “enclosed, locked facilities” shall be available for inspection upon request by the Township of Greenwood Building Inspector, Law Enforcement Officer, or any other individual designated by the Township.

Section 10. Exemptions

1. The use of the dwelling or other permitted facility of a Registered Qualifying Patient to cultivate medical marijuana in accordance with the MMMA solely for personal use, does not require a permit under this Ordinance; however, all applicable State Laws and Township Ordinance requirements must be met.
2. The provisions of this Ordinance do not apply to the personal use and/or personal possession of marijuana by a Registered Qualifying Patient in accordance with the MMMA for which a permit is not required.

Section 11. Violations and Penalties

The Registered Primary Caregiver operations shall be maintained in compliance with the requirements of this Ordinance, the Township of Greenwood Zoning Ordinance, the Michigan Fire Protection Code, the MMMA, and the MMMA General Rules. Penalties for violations shall be enforced as follows:

1. Violations shall be enforced as a nuisance pursuant to *MCL 125.3407 Certain Violations as Nuisance Per Se*, enforceable in a court of competent jurisdiction. The court shall order the nuisance abated and the owner of the dwelling, building, structure, recreational vehicle or land is liable for maintaining a *nuisance per se*.
2. Any violation shall be grounds to revoke the permit. If a Greenwood Township Permit expires or is revoked, the Applicant shall not engage in any activity unless and until a new permit is granted under Greenwood Township Permit and Zoning Ordinances in effect at the time of the reapplication.
3. The penalty for each violation is \$500 per day until the violation is corrected and penalty paid in full. This penalty amount, established on the effective date of this Ordinance, may be modified from time-to-time.
4. Civil Forfeiture. Any marijuana or drug paraphernalia used, sold, possessed with intent to use or sell, or manufactured with intent to sell, in violation of this

Ordinance, shall be seized and forfeited to the Township of Greenwood, Michigan.

Section 12. Severability

If any Section, paragraph, clause, phrase or part of these subdivision regulations is for any reason held invalid by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of these regulations; the application of those provisions to any person or circumstance shall not be affected thereby.

Section 13. Repeal

All Ordinances and Amendments thereto enacted and adopted by the Board inconsistent with the provisions of this Ordinance are hereby repealed as of the effective date of this Ordinance. The repeal of the above Ordinances and their Amendments does not affect or impair any act done; offense committed; right occurring, accrued or acquired; liability, penalty, forfeiture or punishment incurred; prior to the time enforced, prosecuted, or inflicted.

Section 14. Publication

This Ordinance shall be published in full in a newspaper of general circulation in the Township of Greenwood within fifteen (15) days after its adoption.

Section 15. Effective Date

This Ordinance shall take effect 30 days after publication.

Section 16. Certificate of Township Clerk

I, Sonya O'Brien, Greenwood Township Clerk, hereby certify that the foregoing constitutes a true and complete copy of an Ordinance duly adopted by the Township Board of Greenwood Township, St. Clair County, Michigan, at a regular meeting held on the 11 day of October, 2022 by the following vote:

Motion : Doug Nowicki

Seconded: Sonya O'Brien

Roll Call: Nowicki – yes; Ramsey – yes; O'Brien – yes; Roberts – yes ; Krikorian - absent

Motion: Carried 4-0.

Sonya O'Brien
Greenwood Township Clerk

Date of Public Hearing:	September 21, 2022
Date of Adoption by Township Board:	October 11, 2022
Date of Publication:	October 19, 2022
Date Ordinance Shall Take Effect:	November 18, 2022