

## ORDINANCE 80

### HOME-BASED BUSINESSES

Advances in communications and electronics have reduced the need for business to be located adjacent to production or population centers. The purpose of this Chapter is to provide for licensing and regulation of commercial businesses conducted for profit outside of Commercial or Industrial Zoning Districts within Eureka Charter Township.

#### **SECTION 18.1 PURPOSE AND INTENT**

- A. The purpose of this Chapter is to provide minimum standards for individuals outside of an Industrial or Commercial Zoning District to enable them to conduct businesses from their residence providing that they do not interfere with the health, safety and welfare of the community and their neighbors. Eureka Charter Township recognizes the right of all residents and property owners to be free from actual or potential nuisances that may be caused by non-residential activities conducted outside of an Industrial or Commercial Zoning District.
- B. The intent of this Chapter is to provide standards to ensure that home-based businesses are compatible with other permitted uses in that specified zone to maintain and preserve the residential character.
- C. The intent of Section 18.5 of this ordinance, Medical Marihuana, is to set standards for Eureka Charter Township Residents for the growing, cultivating, and dispensing of Medical Marihuana with Eureka Township as approved by the voters under the Michigan Medical Marihuana Act (MMMA) commonly known as Public Act, Initiated Law 1, MCL 333.26421 which became effective on December 4, 2008.

#### **SECTION 18.2 DEFINITIONS**

- A. **Home-Based Business:** Includes Type I and Type II businesses that are conducted for profit outside of an Industrial or Commercial Zoning District within Eureka Charter Township and are required to file an IRS Schedule C (profit and loss statement).
- B. **Type I Business:** Any commercial activity operated for profit outside of and Industrial or Commercial Zoning District by family members living in the dwelling unit and conducted as a customary, incidental, accessory use within the residential unit or attached garage.
- C. **Type II Business:** Any commercial activity operated for profit outside of an Industrial or Commercial Zoning District that is conducted in a separate accessory structure. The commercial activity is performed by family members who live in the residential structure on the parcel.
- D. **Compassion club or Medical Marihuana Dispensary** – Any business, facility, association, cooperative, location or operation whether fixed or

mobile, where medical marihuana is made available to, sold, delivered, transmitted, dispensed, or distributed by or to one or more of the following:

1. A primary caregiver (as defined by Michigan Initiated Law I of 2008 as amended, being MCL 333.26421 *et seq.*, as amended)
2. A qualifying patient (as defined by Michigan Initiated Law I of 2008 as amended, being MCL 33.26421 *et seq.*, as amended)
3. Members of the general public.

A medical marihuana dispensary (compassion club) shall also include any place, location, facility, or operation, whether fixed or mobile where medical marihuana is smoked or consumed where either three or more persons are present and smoking or consuming medical marihuana, or where one or more persons are present and smoking or consuming medical marihuana and such medical marihuana smoking or consuming is occurring on the property of a business, association, cooperative, or commercial operation or facility or on a public governmental property. A medical marihuana dispensary, (compassion club) does not include the lawful dispensation of medical marihuana by a primary caregiver personally dispensing to not more than five (5) qualifying patients (as defined by Michigan Initiated Law I of 2008, as amended (being MCL 333.26421 *et seq.* as amended), so long as the primary caregiver personally delivers the lawful amount of medical marihuana to the qualifying patient where the qualifying patient resides and is done in full compliance with not only the Eureka Charter Township.

- E. **Farm:** A contiguous parcel of land of not less than three acres in area, directly farmed or used for commercial agriculture by the owner/operator, manager or tenant farmer by his own labor or with assistance of the members of his household or hired employees. A farm may include a farm-related dwelling and accessory products or animals or otherwise used for the operation of the farm.
- F. **Michigan Medical Marihuana Act. (MMMA):** Public Act 2008, Initiated Law I being MCL 333.26421 *et seq.*, as well as any and all amendments thereto and also any legislation enacted into law to implement that statute.
- G. **Medical Use of Marihuana:** Is the acquisition, possession, cultivation, manufacture, use, internal possession, delivery, transfer or transportation of marihuana or paraphernalia relating to the administration of marihuana to treat or alleviate a qualifying patient's debilitating medical condition or symptoms associated with the debilitating medical condition as defined by the Michigan Medical Marihuana Act (MMMA).

### **SECTION 18.3 EXCLUSIONS**

- A. **Hobby:** An activity operated in a home or accessory building that is not conducted for profit or advertised, and the resident is not required to file an IRS Schedule C (profit and loss statement) for the activity.
- B. **Bona fide farm operation:** See Definitions in Section 18.2 of this Ordinance. A farm operation required to file an IRS Schedule F shall constitute a bona fide farm operation. An associated agricultural operation

without a bona fide farm operation is not exempt from requirements of this Chapter.

- C. **Non-Advertised Multi-Level Marketing Businesses:** For example, online-based marketing.

#### **SECTION 18.4 GENERAL STANDARDS FOR HOME-BASED BUSINESSES**

The following standards shall apply to all Type I and Type II home-based businesses:

- A. The home-based business shall be incidental and subordinate to the principal use of the lot or parcel.
- B. The use shall not detract from the residential character or the welfare of the surrounding properties by creating increased noise, septic disposal, well water withdraw, traffic, lighting or parking.
- C. There shall be no exterior evidence of the home-based business except for a permit required sign conforming to the requirements stated in Chapter 13 of Zoning Ordinance 79.
- D. Delivery or pickup of goods shall not exceed that normally resulting from or associated with residential uses.
- E. No machinery, mechanical devices or equipment that generate noise, vibration, fumes, radiation, odor, glare, smoke, steam, electrical interference or other conditions that is detectable to the normal senses off premises and could reasonably result in a nuisance to neighbors will be allowed.
- F. The home occupation may increase vehicular traffic flow and parking by no more than two additional vehicles at a time. No more than ten customers or clients shall come to the dwelling unit for services or products during any one day. Parking generated by the conduct of home occupations shall be off the street and not in the required front yard.
- G. No process, chemicals or hazardous materials contrary to State or Federal laws shall be used or stored on site.
- H. No home-based business will be allowed to operate in a multi-family dwelling unit.
- I. No large equipment (such as excavating or road construction equipment) shall be allowed in any Residential Zoning District, or on Agricultural-zoned parcels of five acres or less, for storage or continuous parking.
- J. No more than one service truck or two pickup-size vehicles shall be allowed in Suburban Residential or Urban Residential Zoning Districts for storage or continuous parking. No more than two service trucks or four pickup-size vehicles shall be allowed in the Rural Residential Zoning District, or on Agricultural-zoned parcels of five acres or less for storage or continuous parking. Vehicles must have a valid license and must be in operable condition.

## **Section 18.5      MEDICAL USE OF MARIHUANA**

- A. No medical marihuana dispensary (compassion club) shall be commenced, conducted, maintained, operated or utilized anywhere within Eureka Charter Township or on or from any property, land, building or structure within and from Eureka Charter Township. Furthermore, no person shall frequent, patronize or obtain or purchase any marihuana from or through any medical marihuana dispensary with Eureka Charter Township.
- B. The primary caregiver may grow and process marihuana in compliance with the Act within the residential dwelling where the primary caregiver lives and is the primary caregiver's residence pursuant to Michigan law. No such residential dwelling of the primary caregiver shall be located with an apartment building, multi-family residential building or similar housing building or development, but rather, shall occur only within a detached lawful single-family residential dwelling.
- C. No person other than the members of the immediate family of the primary caregiver residing within the residence of that primary caregiver (and no person under 18 years of age) shall be engaged or involved in the growing, processing, dispensing, delivery, or handling of the marihuana.
- D. Use of the residential dwelling (which is the residence of the primary caregiver) for marihuana related purposes shall be clearly incidental and subordinate to its use for single family residential purposes. Not more than 25% of the gross finished floor area of the dwelling shall be used for the growing, processing and handling of the marihuana. No part of an accessory building, detached garage, pole barn or similar building or structure shall be used for the growing, processing, or distribution of marihuana.
- E. 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 marihuana; rather, the primary caregiver must personally deliver any medical marihuana to a qualifying patient at the residence of that qualifying patient.
- F. No person shall deliver marihuana to a qualifying patient other than the primary caregiver for that qualifying patient. The primary caregiver must personally deliver the marihuana to his/her qualifying patient.
- G. There shall be no visible change to the outside appearance of the primary caregiver's residence or other visible evidence of the conduct of the medical marihuana operation occurring inside the dwelling.
- H. No marihuana, marihuana plants, marihuana paraphernalia or plant growing apparatus shall be visible from the exterior of the dwelling.
- I. No growing, processing, smoking or use of marihuana shall occur outdoors. All medical marihuana growing, processing and handling shall occur entirely within the dwelling.
- J. 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 medical marihuana itself.
- K. No equipment or processing shall be used in growing, processing or handling medical marihuana which creates noise, vibration, glare, light, fumes, odors, or electrical interference, no equipment or process shall be used which creates visual or audible interference with any radio, television or similar receiver off the

premises or caused fluctuation of line voltage off the premises. The dwelling of the primary caregiver shall meet all building, housing, fire and local and state codes and ordinance requirements.

L. The growing, processing, distribution, sale and handling of medical marihuana shall comply at all times and all circumstances with the Act and any applicable regulations or requirements by the Michigan Department of Community Health or any other Michigan agency.

M. The residence for the primary caregiver shall be located more than 1,000 feet from any school, church or library as defined by Michigan law to ensure community compliance with federal "Drug-Free School Zone" requirements and to minimize negative impacts.

N. Not more than one (1) primary caregiver shall be permitted to grow, process or handle medical marihuana at or from a given dwelling unit.

O. All medical marihuana shall be contained within the primary caregiver's residential dwelling (except when being delivered by the primary caregiver to a qualifying patient off site) 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 eighteen (18) years old shall not have any access to any medical marihuana.

P. No on-site consumption or smoking of marihuana is allowed within the residence (or on the lot or parcel) of a primary caregiver except for any medical marihuana consumption by the primary caregiver himself/herself if he/she is a qualifying patient and in full compliance with the Act.

Q. No medical marihuana shall be grown, processed or handled at, from or through the residence of the primary caregiver beyond that which is needed or allowed by law (whichever is less) for the qualifying patients of that particular primary caregiver.

R. No sign identifying the dwelling as being a place where medical marihuana is grown, sold, processed, kept, or distributed shall be visible outside of the dwelling or within any of the windows of the dwelling.

## **SECTION 18.6 TYPE I HOME-BASED BUSINESSES**

- A. Home occupations are permitted in all Zoning Districts in which single-family dwelling units are a permitted use.
- B. Home occupations shall be operated in their entirety within the dwelling unit or within an attached garage. The space for the home occupation shall not exceed 25% of the total square footage of the principal dwelling unit excluding the size of the garage.
- C. Home occupations shall be conducted only by the person(s) occupying the premises as their principal residence. No more than two non-resident workers will be allowed.
- D. Additions to the dwelling unit or garage for the purpose of conducting the home occupation shall have an architectural style that is compatible with the architecture of the dwelling unit and shall be designed so that the addition can be used for residential purposes if the home occupation is discontinued.

- E. No retail sales of merchandise or other products not associated with the business conducted on the premises will be allowed.
- F. The outdoor storage of goods and/or materials associated with the home occupation is prohibited.

### **SECTION 18.7 TYPE II HOME-BASED BUSINESSES**

- A. Type II businesses are only allowed in Agricultural, Rural Residential and Suburban Residential Zoning Districts.
- B. Type II businesses shall not exceed more than one building. The floor area of the building shall not exceed required building size restrictions for that Zoning District (see Chapter 3.8-C of this Ordinance).
- C. The building used for the business activity shall not be used for short-term or long-term human habitation.
- D. The outdoor storage of vehicles and/or materials of any kind is prohibited unless screened from view by a tight-board wood fence or landscaped buffer which shall retain the residential character of the neighborhood.
- E. Type II businesses shall be conducted only by the person(s) occupying the premises as their principal residence. No more than two non-resident workers will be allowed. In addition, no more than three temporary seasonal workers may be allowed for periods of up to 30 days to meet short-term fluctuations in production for one season per year.
- F. The approved hours of operation may not exceed 7:00 a.m. to 10:00 p.m.

### **SECTION 18.8 SIGNAGE**

See Zoning Ordinance 79, Chapter 13, Section 13.8 for approved signage in Type I and Type II home-based businesses. A permit shall be issued by the Zoning Administrator to erect a sign.

### **SECTION 18.9 ENFORCEMENT AND PENALTIES**

- A. This Ordinance and Chapter will be enforced by persons designated by the Eureka Charter Township Board.
- B. In the event that alleged violations of requirements in this Chapter are reported, an investigation will be conducted. If found to be valid, the home-based business owner shall be notified in writing to cure the violation within 10 days after service of the notice upon the business. In the case of a violation of the Medical Marijuana Section 18.5, the growing, cultivating, consumption, and or smoking, shall be corrected immediately upon notice or in a case outside of the (MMMA) where a citation is delivered for illegal growing, possession, or use (which may be considered a misdemeanor, or a Felony) such notice may be served by any law enforcement agency. Outside

of Section 18.5 additional time may be granted by the enforcement officer where bona fide efforts to comply with these requirements are being made.

- C. Failure to comply with the directives stated in the written notice within the time allowed shall constitute a violation of this Ordinance.
- D. Any person, firm or corporation who violates any of the provisions of this Chapter shall be deemed guilty of a municipal civil infraction. The amount of fines shall be set annually by the Eureka Charter Township Board, at the discretion of the Court and in addition to all other costs, damages and expenses provided by law.
- E. For purposes of this Section, "subsequent offenses" shall mean a violation of the provisions of this Chapter committed by the same person within 12 months of a previous violation of the same provision of the Chapter for which the person admitted responsibility or was adjudicated to be responsible; provided, however, that offenses committed on subsequent days within a period of one week following the issuance of a citation for a first offense shall be considered separate first offenses. The rights and remedies provided herein are cumulative and in addition to any other remedies provided by law.

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