

ORDINANCE NO. 556

Adopted July 7, 2011

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, CITY OF BRIGHTON, MICHIGAN, BY AMENDING CHAPTER 98, ARTICLE I, SECTION 98-3 Definitions, SUBSECTION (d) OF THE CODE BY DELETING THE DEFINITION FOR “Home occupation AND ADDING NEW DEFINITIONS FOR “Home occupation”, “Marihuana”, “Marihuana Dispensary or Dispensary”, “Marihuana Collective or Cooperative” and “Medical Use of Marihuana”.

THE CITY OF BRIGHTON, LIVINGSTON COUNTY, HEREBY ORDAINS:

I. That the current definition for “Home occupation” located in Section 98-3(d) of Article I of Chapter 98 is deleted.

II. That new definitions are hereby added to Section 98-3(d) of Article I of Chapter 98, to be placed in alphabetical order with the existing definitions and shall read as follows:

Home occupation means any occupation in a residentially zoned home which shall not:

- (1) Require the employment of anyone in the home other than the dwelling occupant. The home shall be the legal and principle residence of the occupant, where all activities such as sleeping, eating, entertaining and other functions and activities normally associated with home life are conducted.
- (2) Generate traffic, parking, sewerage, fire and safety hazards, noise, dirt, odor, dust, gas, glare, fumes, vibration or water use in excess of what is normal in a residential neighborhood.
- (3) Result in outside storage or display of anything, including signs, except for those signs normally allowed in that particular residential zone.
- (4) Occupy more than 25 percent of the occupiable square footage of the home.
- (5) Require the delivery of goods or the visit of customers before 6:00 a.m. and after 8:00 p.m.
- (6) Require exterior alterations or involve construction features not customary in dwellings, or require the use of mechanical or electrical equipment which shall create a nuisance to the adjacent neighborhood.
- (7) Require permanent structural alterations to the interior of the dwelling unit that would render it unsuitable for residential use.
- (8) Create a new external entrance to the space devoted to the occupation.
- (9) Violate any and all applicable Building, Housing, Fire and other local or State codes and ordinances.
- (10) In the case of primary caregivers, violate any of the following specific restrictions: A registered primary caregiver, in compliance with the General Rules of the Michigan Department of Community Health, the Michigan Medical Marihuana Act, P.A. 2008, Initiated Law, MCL 333.26423(d) and the requirements of this Chapter, shall be allowed as a home occupation. Nothing in this Chapter, or in any companion regulatory provision adopted in any other provision of this Code, is intended to grant, nor shall they be construed as

granting, immunity from criminal prosecution for growing, sale, consumption, use, distribution, or possession of marihuana not in strict compliance with that Act and the General Rules. Also, since Federal law is not affected by that Act or the General Rules, nothing in this Chapter, or in any companion regulatory provision adopted in any other provision of this Code, is intended to grant, nor shall they be construed as granting, immunity from criminal prosecution under Federal law. The Michigan Medical Marihuana Act does not protect users, caregivers or the owners of properties on which the medical use of marihuana is occurring from Federal prosecution, or from having their property seized by Federal authorities under the Federal Controlled Substances Act. The following requirements for a registered primary caregiver shall apply:

- a. The medical use of marihuana shall comply at all times and in all circumstances with the Michigan Medical Marihuana Act and the General Rules of the Michigan Department of Community Health, as they may be amended from time to time;
- b. A registered primary caregiver must be located outside of a one-thousand (1,000)-foot radius from any school, including child care or day care facility, to insure community compliance with Federal “Drug-Free School Zone” requirements;
- c. Not more than one (1) primary caregiver shall be permitted to service qualifying patients on a parcel;
- d. Not more than five (5) qualifying patients shall be assisted with the medical use of marihuana within any given calendar week;
- e. All medical marihuana shall be contained within the main building 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 or qualifying patient, as reviewed and approved by the Building Official and the Brighton Police Department;
- f. All necessary building, electrical, plumbing and mechanical permits shall be obtained for any portion of the residential structure in which electrical wiring, lighting and/or watering devices that support the cultivation, growing or harvesting of marihuana are located;
- g. If a room with windows is utilized as a growing location, any lighting methods that exceed usual residential periods between the hours of 11pm to 7am shall employ shielding methods, without alteration to the exterior of the residence, to prevent ambient light spillage that may create a distraction for adjacent residential properties;

- h. That portion of the residential structure where energy usage and heat exceeds typical residential use, such as a grow room, and the storage of any chemicals such as herbicides, pesticides, and fertilizers shall be subject to inspection and approval by the Brighton Area Fire Department to insure compliance with the Michigan Fire Protection Code.

Marihuana, also known as *Marijuana*, also known as *Cannabis* meaning given to it in section 7601 of the Michigan public health code, 1978 PAS 368, MCL 333.7106, as is referred to in section 3(d) of The Michigan Medical Marihuana Act, P.A. 2008, Initiated Law, MCL 333.26423(d). Any other term pertaining to marihuana used in this Chapter and not otherwise defined shall have the meaning given to it in the Michigan Medical Marihuana Act and/or in the General Rules of the Michigan Department of Community Health issued in connection with that Act.”

Marihuana Collective or Cooperative means any facility, structure, dwelling or other location where medical marihuana is grown, cultivated, processed, stored, transmitted, dispensed, consumed, used, given, delivered, provided, made available to and/or distributed by two or more of the following: a registered primary care giver, a registered qualifying patient, or a person with an identification card or in possession of an application for an identification card. The term “collective” or “cooperative” shall not apply to a registered primary caregiver that provides necessary care and marihuana for medical use exclusively to his/her five (5) or fewer designated qualifying patients in strict accordance with the Michigan Medical Marihuana Act, Initiated Law 1 of 2008, Initiated Law, MCL 333.26423(d); Administrative Rules of the Michigan Department of Community Health; and the Home Occupation rules contained in the Home Occupation definition of this section. A “marijuana collective or cooperative” shall not include the following uses that are in compliance with this Ordinance and all laws and rules of the State of Michigan, and intended for on-site patient use only: a State-licensed health care facility, a State-licensed residential care facility for the elderly or infirmed, or a residential hospice care facility. It is unlawful to establish or operate a profit or nonprofit medical marihuana dispensary, collective or cooperative within the City of Brighton.”

Marihuana Dispensary or Dispensary means Any facility, structure, dwelling or other location where medical marihuana is grown, cultivated, processed, stored, transmitted, dispensed, consumed, used, given, delivered, provided, made available to and/or distributed by two or more of the following: a registered primary care giver, a registered qualifying patient, or a person with an identification card or in possession of an application for an identification card. The term “dispensary” shall not apply to a registered primary caregiver that provides necessary care and marihuana for medical use exclusively to his/her five (5) or fewer designated qualifying patients in strict accordance with the Michigan Medical Marihuana Act, Initiated Law 1 of 2008; Administrative Rules of the Michigan Department of Community Health; and the Home Occupation rules contained in the Home Occupation definition of this section. A "marihuana dispensary" shall not include the following uses that are in compliance with this Ordinance and all laws and rules of the State of Michigan, and intended for on-site patient use only: a State-licensed health care facility, a State-licensed residential care facility for the elderly or infirmed, or a residential hospice care facility. It is unlawful to establish or operate a profit or nonprofit medical marihuana dispensary, collective or cooperative within the City of Brighton.”

Medical Use Of Marihuana means 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 registered qualifying patient's debilitating medical condition or symptoms associated with the debilitating medical condition, as defined under The Michigan Medical Marihuana Act, P.A. 2008, Initiated Law, MCL 333.26423(d)."

III. This Ordinance shall be in full force and effect fifteen (15) days from the adoption as provided by the Brighton City Charter.

DIANA LOWE, City Clerk