

Article 3 Zoning District Regulations

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Sec. 3.10 Schedule of Permitted and Conditional Uses

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	AG	RR	R-1	RM	MPH	LC	GC	LI	GI
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71 Medical marihuana caregiver grow operation (subject to the provisions of Sec. 4.22.1)	P					P	P	P	P
72 Medical marihuana home use (subject to the provisions of Sec. 4.22.2)	P	P	P	P	P	P	P		
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Article 4 General Provisions

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Section 4.22 **Additional Development Requirements for Certain Permitted Uses**

A certificate of occupancy will not be issued by the zoning administrator for the uses specified in this section unless they comply with the development requirements specified therein.

4.22.1 **Medical marihuana caregiver grow operations**

- A. An application for a medical marihuana facility certificate of occupancy shall be made in writing to the township clerk, who is authorized to create application forms and to receive and process applications and to thereafter grant, deny, suspend, or revoke said certificate of occupancy as set forth in this article. Applications shall be on forms supplied by and to be filed with the township clerk. Such application shall be signed and dated by the applicant. The application shall contain the following information, plus any other information deemed necessary by the township clerk and zoning administrator:
 1. The name and any alias used, address, and telephone number of the applicant;
 2. The location of the medical marihuana facility and a brief description of the amount of marihuana to be distributed, or number of plants to be grown on the premises, if any;
 3. A copy of the medical marihuana registry card for each qualifying patient and the primary caregiver, if any;
 4. The applicant’s criminal record, if any;
 5. An authorization for the chief of police to carry out a background investigation on the applicant;
 6. If the applicant is not the owner of the proposed location of the medical marihuana facility, a notarized statement from the owner of the property authorizing submission of the application;
 7. An acknowledgment by the applicant that he or she, as well as his or her qualifying patients, may be subject to prosecution under federal and state laws relating to the possession and distribution of controlled substances, and that Napoleon Township accepts no legal liability in connection with the approval and operation of the medical marihuana caregiver grow facility; and

8. A statement that the information provided is true and accurate and that, if a certificate of occupancy is granted, the applicant will abide by all applicable ordinances and statutes.

The names and other identifying information of any qualifying patient or registered primary caregiver gathered for the purposes of this section shall be exempt from disclosure pursuant to the MMMA.

- B. All certificates of occupancy are subject to the following conditions, which shall be noted on the application form:
 1. The applicant shall permit inspection of the premises and/or activity at reasonable times by any authorized representative of the Township;
 2. The applicant shall not operate a medical marijuana facility at any time after the certificate of occupancy is suspended or revoked; and
 3. No certificate of occupancy shall be issued unless and until the applicant, if deemed necessary by the chief of police, submit to being fingerprinted and photographed as part of the background investigation.
- C. Any person who has been under any sentence, including parole, probation, or actual incarceration, for the commission of a felony within five (5) years preceding the date of application shall be disqualified from receiving a certificate of occupancy to operate a medical marijuana caregiver facility.
- D. The zoning administrator shall issue a certificate of occupancy to the applicant if the township clerk and zoning administrator are satisfied that the applicant has met the requirements of this article and all applicable state and local laws, and the applicant has paid the certificate of occupancy fee.
- E. A certificate of occupancy issued pursuant to this article does not eliminate the need for the applicant to obtain other licenses and permits e.g., building, mechanical, electrical, plumbing, water and sewer, etc.) required for the operation of a medical marijuana facility. The pertinent inspectors must provide a report confirming that all lights, plumbing, equipment, and all other means proposed to be used to cultivate marijuana plants are in accordance with applicable code(s).
- F. Medical marijuana caregiver grow operations shall not be permitted as home occupations.
- G. No medical marijuana caregiver grow operation may operate in close proximity to sites where children are regularly present or a residential zoned district. Such operations must adhere to the following minimum distances:
 1. More than 1,000 feet from a daycare facility (see PA 110 of 2006)
 2. More than 1,000 feet from a church, synagogue, mosque, or other religious institution
 3. More than 1,000 feet from a public park or community center, library, or township hall
 4. More than 1,000 feet from a public or private pre-school, elementary school, high school, community college, including all other schools that have different name references but serve students of the same age.
 5. More than 1,000 feet from an adult entertainment business as defined by Napoleon Township Ordinance #62.
 6. More than 1,000 feet of another medical marijuana grow facility or a medical marijuana home use.

7. More than 500 feet of a residential zoning district or another living unit in any zoning district
- H. The primary caregiver may cultivate up to 60 marihuana plants provided that not more than 12 marihuana plants are cultivated per qualifying patient, not including the caregiver. The primary caregiver may cultivate up to 12 additional marihuana plants if he or she is also a qualifying patient. The plants maintained for each qualifying patient must be kept in an enclosed locked facility, as defined by the MMMA.
- I. The primary caregiver may possess up to 12½ ounces of marihuana provided that not more than 2½ ounces are possessed per qualifying patient, not including the caregiver. The primary caregiver may possess up to 2½ ounces of additional marihuana if he or she is also a qualifying patient. An incidental amount of seeds, stalks, and roots may also be retained by the primary caregiver.
- J. Consumption of medical marihuana shall not be permitted on the site of a medical marihuana caregiver grow operation.
- K. No person under the age of eighteen (18) shall be permitted on the site of the medical marihuana caregiver grow operation unless the person is a registered qualifying patient.
- L. A caregiver grow operation shall not be permitted to have drive-through facilities.
- M. The operator of a medical marihuana caregiver grow operation shall keep a written record in English, on a Township form, of all marihuana located on the premises and of all marihuana or marihuana products distributed and such other information designated on the form. Copies of registry cards for all current qualifying patients and the care giver must be maintained with this record.
- N. There is no authorization for marihuana-related stores, dispensaries, cooperatives, or other businesses that do not meet the regulations set by this section for a medical marihuana caregiver grow facility or medical marihuana home use (see Michigan Attorney General Opinion No. 7259 of 2011).

4.22.2 **Medical marihuana home use**

- A. No person may engage in the activities of a primary caregiver in a residential district unless a qualifying patient also resides in the home. The primary caregiver may only grow plants for use by the qualifying patient and the primary caregiver if he or she is also a qualifying patient.
- B. A person engaging in the activities of a primary caregiver in a residential district may only grow marihuana plants in his or her primary residence.
- C. No more than 24 marihuana plants may be grown in a medical marihuana home use, this number being 12 plants for a registered qualifying patient, not including the caregiver, plus 12 plants if the primary caregiver is also a registered qualifying patient. The plants must be kept in an enclosed locked room, as defined by the MMMA, and accessible only to the primary caregiver and the qualifying patient.
- D. A primary caregiver, on behalf of a qualifying patient with whom the primary caregiver resides, may possess an amount of medical marihuana that does not exceed 2½ ounces of usable marihuana (and an additional 2½ ounces if the primary caregiver is also a qualifying patient) , plus an incidental amount of seeds, stalks, and roots.
- E. The use of the dwelling unit as a medical marihuana home use must be clearly incidental and subordinate to its use for residential purposes and no more than 20% of the

gross floor area of the dwelling may be used in any way for the medical marihuana home use.

- F. No change may occur to the outside appearance of the dwelling and no signs may be posted on the dwelling or lot advertising the medical marihuana home use.
- G. Equipment not normally used for purely domestic or household purposes or any portion of the dwelling where energy use and heat generation resulting from the growth of marihuana exceeds levels reasonably attributable to residential uses are permitted only if the zoning administrator, or his or her designee, approves such use. The zoning administrator must approve of such use if he or she is satisfied that the intensity of use will not be increased to a level that will adversely impact any lot within 300 feet of the dwelling and that any energy use and heat generation resulting from the growth of marihuana exceeding levels reasonably attributable to residential uses will not create a health and safety risk in the dwelling. In the course of making that determination the zoning administrator may find it necessary to order inspection by the appropriate township inspector(s) with applicable inspection fees.
- H. No activity related to the medical marihuana home use occurring on the premises may adversely impact the surrounding neighborhood or the right of surrounding residents to quiet enjoyment of their property, including but not limited to, the creation of noise, vibrations, odors, heat, glare, unnatural light, or electrical interference.
- I. Storage and manufacture of medical marihuana shall only be permitted inside of an enclosed, locked facility such as a closet, room or other closed area equipped with locks or other security devices that only permit access by the qualifying patient or registered primary caregiver.
- J. Qualifying patients, and their primary caregivers, may be subject to prosecution under federal and state laws relating to the possession and distribution of controlled substances, and Napoleon Township accepts no legal liability in connection with the approval and operation of the medical marihuana home use; and
- K. There is no authorization for marihuana-related stores, dispensaries, cooperatives, or other businesses that do not meet the regulations set by this section for a medical marihuana home use or medical marihuana caregiver grow facility (see Michigan Attorney General Opinion No. 7259 of 2011).

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Article 9 Conditional Land Use Provisions

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Sec. 9.11 Additional Development Requirements for Certain Conditional Uses

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Article 15 Definitions and illustrations of terms

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Sec. 15.1 Definitions

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Medical marihuana terms – The following terms are associated with medical marihuana as regulated by the Township of Napoleon.

- A. **Marihuana** – Marihuana, according to the Public Health Code (MCL 333.1101), "means all parts of the plant *Canabis sativa L.*, growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or

cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted there from, fiber, oil or cake, or the sterilized seed of the plant which is incapable of germination.”

- B. **Medical marihuana** – Medical marihuana, according to the MMMA (see below), “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 patient’s debilitating medical condition or symptoms associated with the debilitating medical condition.”

- C. **Michigan Medical Marihuana Act (MMMA)** – The MMMA (MCL 333.26421 et. seq.) is an initiation of legislation to allow under state law the medical use of marihuana; provide protections for the medical use of marihuana; and provide for a system of registry identification cards for qualifying patients and primary caregivers. The MMMA is supplemented by administrative rules promulgated by the Michigan Department of Community Health (R 333.101 et seq). The MMMA defines the following specific categories of people:
 - 1. **Primary caregiver** – A primary caregiver is an individual, as defined by the MMMA, and is authorized by and registered through the Michigan Department of Community Health (MDCH) to grow and distribute medical marihuana to qualified patients. The primary caregiver must have a valid registry card.
 - 2. **Qualifying patient** – A qualifying patient is an individual, as defined by the MMMA, that has been diagnosed by a licensed physician, as defined by the MMMA, as having a medical condition alleviated by the use of medical marihuana, and who is registered through the Michigan Department of Community Health (MDCH) to grow and/or consume medical marihuana. The qualifying patient must have a valid registry card.

- D. **Medical marihuana caregiver grow operation** – A medical marihuana caregiver grow operation is an establishment used by 1 registered primary caregiver for the purposes of the growing and dispensing of medical marihuana outside the privacy of a personal dwelling for up to 5 qualifying patients (as well as the caregiver if he or she is also a qualifying patient), but where there is no consumption of marihuana on the premises.

- E. **Medical marihuana home use** – A medical marihuana home use is a dwelling where a qualifying patient grows or uses medical marihuana for personal consumption in the privacy of their own dwelling, and/or where a registered primary caregiver, serving not more than 1 qualifying patient who resides with the primary caregiver, grows or **distributes** medical marihuana for the qualifying patient in the privacy of the primary caregiver’s own dwelling, and is allowed as a use by right wherever dwellings are permitted.

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