

114.000 IMPOSITION OF MORATORIUM ON ISSUANCE OF PERMITS, LICENSES OR APPROVAL FOR CERTAIN USES OF PROPERTY RELATED TO MEDICAL MARIHUANA PATIENTS AND CAREGIVERS ORDINANCE ORDINANCE NO. 256

Adopted: May 11, 2020
Effective: May 20, 2020

114.100 Findings.

In accordance with the Michigan Zoning Enabling Act, 2006 PA 110, as amended (the "MZEA"), the Charter Township of Cooper ("Township") has determined that:

1. Pursuant to the MZEA and the Charter Township Act, 359 PA 1947, the Township has the authority to establish reasonable land use regulations to protect the public health, safety and welfare and in a manner consistent with applicable Michigan law.
2. In 2008, Michigan voters approved the Michigan Medical Marihuana Act, Initiated Law 1 of 2008, which provides a state licensing program for medical marihuana patients and caregivers and affords certain protections under state law for the medical use of marihuana.
3. Prior to April 27, 2020, case law from the Michigan Court of Appeals provided that municipalities could not regulate land uses related to medical marihuana such as, for example, regulating the zoning districts within which medical marihuana caregivers were permitted to cultivate marihuana.
4. In a decision issued April 27, 2020, the Michigan Supreme Court held that municipalities may regulate land uses related to medical marihuana pursuant to the MZEA, so long as (1) the municipality does not prohibit or penalize the cultivation of medical marijuana, and (2) the municipality does not impose regulations that are unreasonable and inconsistent with regulations established by state law. *DeRuiter v Byron Twp*, Supreme Court No. 158311.
5. In light of the Township's authority to regulate medical marihuana land uses through zoning pursuant to *DeRuiter*, the Township desires to consider the best way to address medical marihuana land uses in a manner consistent with Michigan law to protect the public health, safety, and welfare of Township residents.

6. Imposing a moratorium, on a limited temporary basis, is reasonable and necessary to allow time for review of and potential amendments to the Cooper Charter Township Code of Ordinances, including the Zoning Ordinance, concerning land uses related to medical marihuana.
7. A moratorium should be imposed upon the issuance of any and all permits, licenses, and approvals for any property under the jurisdiction of the Cooper Charter Township Code of Ordinances, including its Zoning Ordinance, for the use of property for the cultivation, storage, distribution, delivery, transportation, or use of medical marihuana under the Michigan Medical Marihuana Act. The moratorium should remain in effect for twelve (12) months or until an amendment to the Cooper Charter Township Code of Ordinances, including its Zoning Ordinance, whichever occurs first.

114.200 Moratorium.

A moratorium is hereby imposed upon the issuance of any and all permits, licenses, and approvals for any property under the jurisdiction of the Cooper Charter Township Code of Ordinances, including its Zoning Ordinance, for the use of property for the cultivation, storage, distribution, delivery, transportation, or use of medical marihuana under the Michigan Medical Marihuana Act.

114.300 Term of Ordinance.

The moratorium imposed by this Ordinance shall remain in effect until the earlier of:

- (1) twelve (12) months following the effective date of this Ordinance, or
- (2) the date when amendments to the Cooper Charter Township Code of Ordinances and/or Township Zoning Ordinance related to the subject of this moratorium become effective.

Prior to the expiration of the twelve (12) month moratorium, the Township may, by resolution, extend the moratorium for an additional six (6) months to allow sufficient time to complete amendments to the Ordinances. A notice of extension shall be published in a newspaper of general circulation following adoption of such resolution.

114.400 Validity and Severability.

Should any portion of this Ordinance be found invalid for any reason, such holding shall not be construed as affecting the validity of the remaining portions of this Ordinance.

114.500 Repealer Clause.

Any Ordinances or parts of Ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

114.600 Effective Date.

This section provides that the Ordinance becomes effective immediately upon publication.