

**CHARTER TOWNSHIP OF YORK
WASHTENAW COUNTY, MICHIGAN
ORDINANCE No. _____
AMENDMENT OF ORDINANCE NO. 65
ZONING ORDINANCE**

EFFECTIVE DATE: _____

AN ORDINANCE TO AMEND ORDINANCE NO. 65, THE ZONING ORDINANCE OF THE CHARTER TOWNSHIP OF YORK, PURSUANT TO AUTHORITY GRANTED UNDER P.A. 110 OF 2006, BEING MCL §125.3101, ET. SEQ., AS AMENDED.

THE CHARTER TOWNSHIP OF YORK, WASHTENAW COUNTY, MICHIGAN, HEREBY ORDAINS:

SECTION I - AMENDMENTS, ADDITIONS, AND DELETIONS.

1. Definition #112 of Article 2.0 of the York Charter Township Zoning Ordinance is deleted and replaced with the following new definition #112:

112. **Home Occupation.** An occupation or profession customarily conducted entirely within a dwelling by the persons residing within the dwelling and not more than one person who does not reside within the dwelling, and where such use is clearly incidental to the principal use of the dwelling as a residence.

2. The Land Use Table, Article 20.0 of the Zoning Ordinance, is amended to provide that home occupations are permitted rather than special uses in the R-1 and R-2 Residential Zoning Districts.

3 Section 40.204(A) of the York Charter Township Zoning Ordinance is deleted and replaced with the following new Section 40.204(A):

Home Occupations and Home-Based Businesses.

Home occupations and home-based businesses shall be subject to the following:

A. Home Occupation Standards.

A home occupation, as defined in Section 2.03 (Definitions), may be permitted in a single-family detached dwelling within a zoning district where such dwelling is permitted, subject to the following conditions:

1. That such home occupation shall be carried on within the dwelling or within a building accessory thereto.

2. The total floor area used by the home occupation shall not exceed twenty percent (20%) of the total floor area of the dwelling unit. The floor area of all accessory buildings used in the home occupation shall be included in the maximum floor area permitted for the home occupation. That the character or appearance of the residence shall not change and that the home occupation shall not generate traffic from cars or trucks more than normally associated with a residential dwelling.
3. The home occupation shall not display or create outside the building any external evidence of the operation of the home occupation. There may be a sign, not to exceed two (2) square feet in area, as approved by the Zoning Inspector.
4. No separate entrance from the outside of the building shall be added to the residence for the sole use of the home occupation.
5. That no article shall be sold or offered for sale on the premises except such as is produced within the dwelling or accessory building or is provided incidental to the service or profession conducted within the dwelling or accessory building.
6. That the home occupation not require equipment other than what would commonly be found on residential premises.
7. That there shall be no exterior storage of materials or equipment.
8. That no nuisance shall be generated by any heat, glare, noise, smoke, vibration, noxious fumes, odors, vapors, gases, chemicals or matter at any time; and that no mechanical, electrical, or similar machinery or equipment, other than that used for normal domestic purpose, will be utilized in the home occupation.
9. That no hazard of fire, explosion or radioactivity shall exist at any time.
10. That parking for the home occupation shall not exceed two spaces. The spaces shall be provided on the premises, off street subject to Article 51.0 (Off-Street Parking and Loading-Unloading Requirements). Parking spaces shall not be located in the required front yard.
11. Not more than one (1) person not residing within the dwelling shall be permitted to be employed in the home occupation.
12. A medical marihuana primary care giver as defined and in compliance with the general rules of the Michigan Department of Community Health, the Michigan Medical Marihuana Act, being MCL §333.26421, et. seq., the requirements of this Section, and the requirements of any other applicable ordinance of the Township, is permitted under this Ordinance as a home occupation. Nothing in this Ordinance or any other regulatory provisions of the Township 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 the Michigan Medical Marihuana Act and rules adopted under the Act. Nothing in this Ordinance or any other regulatory provisions of the Township is intended to grant, and shall not 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 property on which medical marihuana is grown or used from Federal prosecution or from having their property seized by Federal authorities under the Federal Controlled Substance Act. The following requirements for a registered medical marihuana 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 assist 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;

(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 11 p.m. to 7 a.m. 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 Fire Marshal to insure compliance with the Fire Protection Code; and

(i) The term marihuana as used in this Section shall have the meaning given to it in Section 7601 of the Michigan Public Health Code, P.A. 368 of 1978, being MCL §333.7106. Any other term pertaining to marihuana use as permitted under this Section, and not otherwise defined, shall have the meaning given it in the Michigan Medical Marihuana Act and the rules adopted by the Michigan Department of Community Health in accordance with the Act.

SECTION II - SEVERABILITY

If any section, subsection, subparagraph, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof, or of any other provisions in the Charter Township of York Zoning Ordinance.

SECTION III - REPEAL

All ordinances or parts of ordinances in conflict with this are hereby repealed.

SECTION IV - SAVINGS CLAUSE

The balance of the York Charter Township Zoning Ordinance, except as herein or heretofore amended, shall remain in full force and effect. The repeal and amendments provided herein shall not abrogate or affect any offense or act committed or done, or any penalty or forfeiture incurred, or any pending fee, assessments, litigation or prosecution of any right established, occurring prior to the effective date hereof.

SECTION V - PUBLICATION AND EFFECTIVE DATE

The Township Clerk shall cause this Ordinance to be published in the manner required by law.

This Ordinance shall be effective on the 8th day after final publication of the Ordinance. This Ordinance was duly adopted by the York Charter Township Board at its regular meeting called and held on the ____ day of _____, 2011, and was ordered given publication in the manner required by law.

Helen Neill
Charter Township of York Clerk
Dated: _____, 2011
First Reading: _____
First Publication: _____
Adoption: _____
Final Publication: _____
Effective Date: _____

Joseph B. Zurawski
Charter Township of York Supervisor
Dated: _____, 2011

