

**LENOX TOWNSHIP
MACOMB COUNTY
STATE OF MICHIGAN**

RESOLUTION 2020-6

**RESOLUTION ESTABLISHING A MORATORIUM ON ISSUANCE OF ANY AND ALL
PERMITS, APPROVALS, AND/OR CERTIFICATES AS THEY RELATE TO ANY
MODIFICATIONS TO STRUCTURES IN ANY ZONING DISTRICT IN ORDER TO
CULTIVATE MARIJUANA AS A PATIENT CAREGIVER**

At a special meeting of the Township Board of Lenox Township, Macomb County, Michigan, held at 4:00 p.m. on the 15th day of September, 2020, the following resolution was offered by Clerk Kandell and supported by Trustee Clifford.

WHEREAS, on November 4, 2008, Michigan voters approved a ballot initiative that legalized medical marihuana; and;

WHEREAS, on December 4, 2008, Michigan's Medical Marihuana Act, MCL 333.26421, *et seq.* (the "Act"), took effect allowing both patients and/or their caregivers to cultivate medical marihuana within an enclosed, locked facility in order for those individuals to be entitled to the MMMA protections. As such, these enclosed locked facilities have been located on various locations of varying zoning classification within the Township;

WHEREAS, the Stille-Derossett-Hale Single State Construction Code Act, 1972 PA 230, MCL 125.1501 *et seq.*, allows a local unit of government to legally adopt and enforce the state building code at the local level. The purpose of the building code is to ensure public health, safety, and welfare by protecting life and property from all hazards related to the design, erection, repair, removal, demolition, or use and occupancy of buildings, structures, or premises. This is in relation to structural strength, adequate egress facilities, sanitary equipment, light and ventilation, and fire safety. Building permits are required when construction or alterations of a structure are undertaken by a patient caregiver to support the cultivation of marijuana;

WHEREAS, since the passage of the Act, caregiver cultivation of marijuana within the Township has resulted in problems including but not limited to insufficient or improper electrical supplies, inadequate ventilation leading to mold, offensive odors, noise, other health hazards and/or other hazards which are associated with the cultivation of marijuana in various zoning districts and settings;

WHEREAS, the Michigan Zoning Enabling Act ("MZEA"), MCL 125.3101 *et seq.*, provides the Township with statutory authority to regulate land use within the Township through its Zoning Ordinance. The Michigan Supreme Court in the recent case of *DeRuiter v Byron Township*, Case No. 158311, Decided April 27, 2020, found that a township's zoning ordinance that geographically restricted such caregiver marijuana cultivation to a particular zoning district did not directly conflict with the Act and the township had the authority under the MZEA to require zoning permits and permit fees for the use of buildings and structures within its jurisdiction;

WHEREAS, Lenox Township wishes to continue to explore how to best zone for such caregiver marijuana cultivation activities, which will require additional study in terms of amending the Township Zoning Ordinances pertaining to land uses, zoning classifications and/or other requirements, and the Township is considering allowing patient caregiver cultivation as a home occupation in certain residentially zoned areas only;

WHEREAS, the Township Board has concluded that during the pendency of its consideration of possible amendments to the Township Zoning Ordinances, it would be counterproductive if building and zoning permits and/or other approvals or certificate applications for patient caregiver cultivation were allowed or permitted to move forward in any zoning districts and, therefore, the Township Board has concluded that during the course of review and consideration of the possible Zoning Ordinance amendments, there should be a deferral of review of all applications for building and zoning permits, approvals, or certificates related to patient caregiver medical marihuana cultivation within any zoning district, with the exception of those applications which have already been submitted and are being processed by the Township as of the date of this Moratorium; and

WHEREAS, an amendment to the Zoning Ordinances, pertaining to land use as it relates to the locations allowed for the patient caregiver to cultivate medical marihuana will require proceedings before the Lenox Township Planning Commission and the Lenox Township Board of Trustees under the process provided for in the MZEA, which include, but are not limited to, a public hearing before the Planning Commission and deliberations by the Township Board which will take approximately One Hundred Twenty (120) days;

NOW, THEREFORE, be it resolved that Lenox Township hereby adopts, effective immediately, a Moratorium upon the issuance of any and all permits, approvals, and/or certificates as they relate to any modifications to structures or units in any zoning district in order to cultivate marijuana as a patient caregiver, with the exception of applications which have already been submitted and are being processed by the Township as of the date of this Moratorium, said Moratorium to also apply to the operation and utilization of Lenox Township Ordinances;

YEAS: Kandell, Clifford, Trombly, Honold

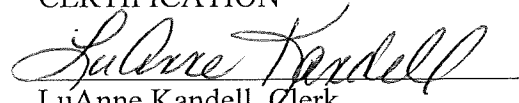
NAYS: None

ABSENT: Gurley

RESOLUTION DECLARED ADOPTED by the Township Board this 15th day of September, 2020.

The foregoing resolution was certified at a special meeting of the Board of Trustees of Lenox Township held on this 15th day of September, 2020.

CERTIFICATION


LuAnne Kandell, Clerk