

MUSSEY TOWNSHIP
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ORDINANCE NO. 44

PRELIMINARY RECITALS

Mussey Township Board of Trustees makes the following findings:

1. The Mussey Township Board of Trustees finds the Michigan Medical Marihuana Act, Initiated Law 1 of 2008 (“MMMA”) does not create a right for commercial enterprises acting as caregivers to cultivate marihuana in Michigan.
2. The MMMA’s protections are limited to those caregivers assisting those suffering from serious or debilitating medical conditions or symptoms, to the extent that marihuana use is carried out in compliance with the provisions of the MMMA, including the provisions related to the operations of registered primary caregivers who cultivate and possess smaller amounts of marihuana.
3. According to the MMMA, in Michigan a licensed patient may grow 12 plants for personal use. A licensed medical marihuana caregiver may grow up to 12 plants for 5 patients. If the caregiver is also a patient, then a single individual may lawfully grow a total of 72 plants total. To the extent number of plants is reduced under the MMMA, it is the intent to apply the lesser number of plants as provided in the MMMA as amended.
4. The MMMA also provides affirmative defenses from criminal prosecution for cultivation of marihuana commonly known as section 8 defenses. The MMMA also provides a system of registry identification cards for qualifying patients and primary caregivers.
5. Medical use of marihuana means the acquisition, possession, cultivation, manufacture, extraction, use, internal possession, delivery, transfer, or transportation of marihuana, marihuana-infused products, 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. The definition of “medical use” of marihuana includes the “transfer” of marihuana “to treat or alleviate a registered qualifying patient’s debilitating medical condition or symptoms associated with the debilitating medical condition,” but only if such “transfer” is performed by a registered primary caregiver who is connected with the same qualifying patient through the registration process established by the Department of Licensing and Regulatory

Affairs, and who is otherwise operating in strict compliance with the MMMA and the MMMA General Rules.

6. The MMMA limits the cultivation any one registered primary caregiver may assist to no more than five qualifying patients with their medical use of marihuana.

7. The MMMA does not create a new vocation for entrepreneurs or others who wish to engage in the sale of marihuana such as in a commercial setting; rather is it is clear the MMMA is directed at improving the health and welfare of qualifying patients by a caregiver's limited cultivation of marijuana rather than creating a commercial enterprise which preempts the field of zoning or limitation to operation of commercial grow facilities within local zoning districts.

8. The State of Michigan also enacted the "Medical Marihuana Facilities Licensing Act," Act 281 of 2016, to establish a licensing and regulation framework for medical marihuana growers, processors, secure transporters, provisioning centers, and safety compliance facilities to better regulate where and how marihuana can be processed for medical needs patients taking into account the health, safety and welfare of medical patients. The Facilities Licensing Act allows these facilities to be placed into zones or prohibited in a community entirely. Under these statutes and rules, the State of Michigan will not issue a state operating license unless the municipality in which the applicant's proposed marihuana facility will operate has adopted an ordinance that authorizes that type of facility.

9. In the November 2018 election, Michigan voters approved Initiated Law 1 of 2018, known as the Michigan Regulation and Taxation of Marihuana Act, which makes the use of marijuana legal under state and local law for adults 21 years of age or older. The Act also allows for the commercial production and distribution of marijuana under a state licensing system. This Act allows a municipality to completely prohibit or limit the number of marihuana establishments within its boundaries.

10. Local units of government have statutory and judicial authority to provide by zoning ordinances to regulate land development withing their own communities and establish districts for the use of land and structures so situated to appropriate locations and relationships, to promote public health, safety, and welfare of those within its municipal boundaries to the fullest extent allowed by the Michigan Zoning Enabling Act, 110 of 2006.

11. Registered primary caregivers are not permitted to become an unlicensed commercial grow facility, and local municipalities are specifically allowed to prohibit commercial grower facilities under the Medical Marihuana Facilities Licensing Act and Michigan Regulation and Taxation of Marihuana Act, governing such commercial grow facilities and is further authorized to balancing the public health, safety and welfare

needs of residents by regulating marihuana growth and operations to appropriate zones and review and approve structures and facilities for health and safety of its residents.

12. By permitting and regulating the operations of registered primary caregivers to certain designated zoning districts promotes the MMMA's purpose of ensuring that: (i) a registered primary caregiver is not assisting more than five qualifying patients or the amount allowed under the Acts, with their medical use of marihuana, and (ii) a registered primary caregiver does not unlawfully expand its operations beyond five qualifying patients, so as to become an illegal commercial operation acting without State of Michigan approved licensing, in the nature of a marihuana collective, cooperative or dispensary.

13. It is also local units of government responsibility to provide zoning of land use under the Michigan Zoning Enabling Act, 110 of 2006, regulation of uses for compatibility of adjacent properties to ensure appropriate locations and relationships, to limit nuisances in particular in residential zones in order to promote public health, safety, and welfare of all residents and promote safe, clean, neighborhoods within the community.

14. The Township Board finds there are complaints of land use, noise, smell, dangerous structures, electrical, propane and other fires related to growing and marihuana cultivation within the State of Michigan, and this land use regulation and home caregiver ordinance is consistent with the MMMA's purposes to allow caregivers to grow in approved buildings, structures and enclosed locked facilities in a safe and secure setting.

NOWTHEREFORE MUSSEY TOWNSHIP ORDAINS AND AMENDS ARTICLE XV LAND USAGE CHAPTER 153 SPECIAL LAND USE APPROVAL REQUIREMENTS BY ADDING A NEW § 153.245 TO REGULATE HOME OCCUPATION FOR MEDICAL MARIHUANA PRIMARY CAREGIVERS AND FACILITIES THROUGH SPECIAL LAND USE AS FOLLOWS:

§ 153.245 HOME OCCUPATION MEDICAL MARIHUANA PRIMARY CAREGIVERS AND FACILITIES ORDINANCE-SPECIAL APPROVAL

I. HOME OCCUPATION-CAREGIVERS

(A) Medical Marihuana Caregivers are those persons defined under the Michigan Medical Marihuana Act ("MMMA") of 2008 (MMMA) who are issued a registry identification card who cultivate marihuana for patients.

(B) Registered Primary Caregivers, operating in compliance with the MMMA General Rules, the MMMA, and the requirements of the zoning ordinance, are regulated as a home occupation subject to facilities cultivation approvals required under this section.

(C) The cultivation, delivery or distribution of marihuana to treat or alleviate a debilitating medical condition is otherwise prohibited, except in compliance with the Michigan Medical Marihuana Act (“MMMA”) of 2008, this zoning ordinance, or other State of Michigan law.

(D) The use of marijuana solely for personal use, or recreational use does not require a permit under this subsection; however, all applicable State of Michigan requirements must be met.

II. HOME OCCUPATION-MEDICAL MARIHUANA PRIMARY CAREGIVERS FACILITIES APPROVAL

(A) Home occupations are allowed for caregivers under the Michigan Medical Marihuana Act, Initiated Law 1 of 2008 (“MMMA”) as a special land use in the (AG) Agricultural District zoning classification.

(B) The home occupation shall be by application and zoning permit applying the standards in this section as a Special Land Use and listed now listed as §153.032(X) and §153.205 Special Land Use Approval Requirements or as later amended.

(C) The home occupation shall be carried on entirely within a dwelling or approved accessory facility or structure and exclusively by the inhabitants thereof.

(D) No article shall be offered for sale on the premises unless incidental and compliant to the service conducted within the requirements under the Michigan Medical Marihuana Act, Initiated Law 1 of 2008 (“MMMA”).

(E) Caregivers must comply with the applicable provisions of this section and the Mussey Township Zoning Ordinance as applicable.

III. STANDARDS

(A) The following standards and requirements shall apply in reviewing the Special Land Use application to the location at which the medical cultivation of marihuana is conducted by a primary caregiver. Growth, storage, manufacturing and cultivation of medical marihuana must comply with the following standards:

1. The medical use of marihuana shall comply at all times with the MMMA and the MMMA General Rules, as amended.
2. Except as otherwise required by law, not more than one registered primary caregiver, who is the registered caregiver where the cultivation occurs, shall be permitted to operate and cultivate as a primary caregiver at any single property parcel. The principal owner of the dwelling must be included in the application.

3. The medical growth of marihuana shall be conducted entirely within a dwelling occupied by the caregiver, or within an attached garage, outbuilding, accessory building, or structure, or in an “enclosed, locked facility” (as that phrase is defined by the MMMA), for up to 12 marihuana plants for each registered qualifying patient (up to 5 patients) with whom the registered primary caregiver is connected through the registration process established by the Department of Licensing and Regulatory Affairs, and up to 12 additional marihuana plants for personal use, if the primary caregiver is also registered as a qualifying patient under the MMMA.

4. Except as provided herein, a home occupation shall not require internal or external alterations or construction features, equipment, machinery, outdoor storage or signs not customary in the Agricultural District as provided in the Zoning Ordinance.

5. If the cultivation of marijuana as a home occupation occurs in a dwelling, the cultivation area shall not utilize more than twenty-five (25%) percent of the total floor area of the dwelling, but in no event more than five hundred (500) square feet of floor area.

6. The home occupation shall not generate traffic volumes greater than normally expected in a residential or agricultural area. All parking shall be off-street and may not be located in a front yard.

7. No equipment or process shall be used in a home occupation that creates noise, vibration, glare, fumes, odors, or electrical interference, detectable to the normal senses beyond the property line of the home occupation. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interferences, or causes fluctuations in line voltages off the premises.

(B) Approved Facility. The Home Occupation for medical growth of marihuana shall be conducted entirely within an approved dwelling occupied by the caregiver, or attached garage, or outbuilding, or accessory building, other structure, or in an “enclosed, locked facility” (as that phrase is defined by the MMMA) approved under this section. The Home Occupation whether in a dwelling, garage, outbuilding, or accessory building, or other approved structure, or in an “enclosed, locked facility” shall be clearly incidental and secondary to the use of premises as a residence.

(C) Application. First time applicants shall be required to pay the applicable plan review and inspection fees as set by the Township Board by resolution, which may be amended from time to time. The Planning Commission may require an applicant to amend and provide further documentation to complete an application to carry out the spirit of this section.

(D) **Nuisance.** No noise, odor, fire hazard, or traffic congestion shall be created beyond which is normal in a residential area. No equipment or process shall be used in the growth of marihuana which creates noise, vibration, glare, fumes, odors or electrical interference detectable to the normal senses which interferes with neighboring parcels use and quiet enjoyment of land. No equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises or interferes with neighboring parcels use and quiet enjoyment of land.

(E) **Outside Storage.** No outdoor storage or visible display of marihuana or materials shall be allowed, except in compliance with this Ordinance and approved facility.

(F) **One Caregiver per property parcel.** There shall be no other caregiver allowed to cultivate on a single property parcel, except one State of Michigan licensed caregiver who resides on the property parcel in a single-family home on the premises and the growing and cultivation facilities are approved under this section. No cultivation of marijuana shall be allowed for caregivers, except on a parcel occupied by the licensed caregiver.

(G) **Signage.** In order to maintain the residential character, a commercial sign identifying as a Primary Caregiver or Home Occupation by word, image or otherwise, or indicating that the medical use or cultivation of marihuana is taking place on the premises, shall not be permitted, nor shall any vehicle having such a sign be parked anywhere on the premises.

(H) **Materials.** Approved lighting, heating, watering, drying or other equipment, or fertilizers, herbicides or other chemicals directly related to the medical cultivation of marihuana are allowed on the property, however, no other materials or equipment not generally associated with home ownership, use, and maintenance of a dwelling shall be permitted.

(I) **Distribution.** Distribution of marihuana or use of items in the administration of marihuana other than allowed under the MMMA shall not occur at or on the premises of the primary caregiver. A qualifying patient shall not visit, come to, or be present at the residence of the primary caregiver to purchase, smoke, consume, obtain or receive possession of any marihuana except as allowed by other State of Michigan law. There shall be no sales of marijuana, except recoupment of costs for registered primary caregiver who may receive compensation for costs associated with assisting a registered qualifying patient in the medical use of marihuana to the extent allowed by the MMMA.

(J) **Delivery.** Except for the primary caregiver, no other person shall deliver marihuana to the qualifying patient.

(K) **Underage Access.** No one under the age of 21 years shall have access to medical marihuana, except as otherwise allowed by law.

(L) **On-site Consumption.** No on-site consumption or smoking of medical marihuana shall be permitted within the dwelling or on the property of a primary caregiver, except for lawful medical marihuana consumption by the primary caregiver if registered as also qualifying patient under the MMMA or as otherwise allowed by law.

(M) **Building Code Permits.** In addition to the permit granted hereunder, all building, electrical, plumbing and mechanical, soil or other permits required under the State of Michigan Building, Plumbing, Mechanical, Electric, or Fire Codes or Ordinances, shall be obtained for any portion of a building, structure, or facility in which equipment and devices that constructed in support the cultivation, growing or harvesting of marihuana are located or used.

(N) **Product Sales.** Related merchandise or products shall not be sold or distributed from the dwelling or property of the primary caregiver.

(O) **Registration, Initial, Complaint Based, and Annual Inspection.** The property shall be registered with the Township with contact information. The property structures shall be required to pass an initial, as built, and annual basis inspection by the Township officials including, but not limited to, the fire department and code officials' inspection based upon the standards in this Ordinance and conditions imposed under the Special Land Use permit. The property may also require an inspection on a complaint basis. Such inspections shall include, but not be limited to, inspections of the heating equipment, filtration system, electrical wiring, lighting, watering and disposal methods that are used for the cultivation, growth and/or harvesting of medical marihuana, and the storage of any chemicals associated with the cultivation, growth, manufacturing and/or processing of medical marihuana. A certificate of approval will be issued to the registrant following passage of the required inspections. The registrant will be required to pay an additional fee for each inspection and annually as set by resolution of the Township Board.

(P) **Open Burn.** There shall be no open burning of marihuana or chemicals used in cultivation of marihuana.

(Q) **Discarded Materials.** All discarded marihuana and all by-products associated with the growth, processing and cultivations of medical marihuana must be disposed of in a way that prevents persons or animals from accessing the discarded materials.

(R) **Cost Recovery.** In the event of any explosion, release, or other hazardous condition or situation that results from the growth, cultivation or processing of medical marihuana, the responsible party shall be responsible for reimbursement of any and all emergency response costs.

(S) MMMA Controls, Confidential Information, Show Cause Hearing and Permit Revocation. Medical marihuana shall not be grown, processed, handled or possessed at the dwelling of the primary caregiver beyond that which is permitted by the MMMA and this section.

1. The use shall be maintained in compliance with the requirements of this section, the MMMA and the MMMA General Rules. Any departure shall be grounds to revoke the permit and take other lawful action. If there is a compliance issue, the enforcement official may request a show cause hearing before the Township Planning Commission why a permit should not be revoked for a violation of this section. The applicant shall be provided notice and opportunity to be heard before revocation. If a permit is revoked, the applicant shall not engage in the activity unless and until a new permit is granted. The permittee may appeal any denial, conditions, or revocation or other adverse action to the zoning board of appeals as allowed by the Michigan Zoning Enabling Act, before seeking judicial relief.

2. Information treated as confidential under the MMMA, including the primary caregiver registry identification card and any information about qualifying patients associated with the primary caregiver, which is received by the Township, shall be maintained separately from public information submitted in support of the application shall not be distributed or otherwise made available to the public and shall not be subject to disclosure under the Freedom of Information Act, unless required to be disclosed by judicial order, lawful subpoena, or other law.

IV. PERMIT AND SITE PLAN REQUIREMENTS

(A) Permit Application: A complete and accurate permit application shall be submitted on the application form provided by the Township along with a uniform application fee in an amount determined by the Township Board by resolution.

(B) Special Land Use Permit. The facility and cultivation shall be permitted only with the prior issuance of a special use permit.

1. The application shall include site plan(s) describing the processing, storage and cultivation of medical marihuana. The plan shall describe, in detail, the process and methods used for the growth, processing and/or cultivation of medical marihuana, including a description of the heating equipment and processes, chemical storage, filtration equipment, electrical wiring and lighting, and plant material and water disposal methods to be utilized.

2. The permit application shall include the name and address of the applicant; the address of the property; proof, such as a driver's license, voter registration card or similar record showing that the dwelling is the applicant's full-time residence;

a current state registration card issued to the primary caregiver; a full description of the nature and types of equipment which will be used in marijuana cultivation and processing; the number of patients served, and a description of the location at which the use will take place, the parcel number and lot size.

3. The zoning administrator may require additional information or permits necessary to demonstrate compliance with all requirements. The zoning administrator shall review the application to determine compliance with this section, the MMMA and the MMMA General Rules and the other applicable provisions of the zoning ordinance.

4. **Special Approval Use.** Upon completion of the application with the zoning official, the application shall be sent to the Planning Commission for review as applicable as a Special Land Use under §153.205.

5. The Township Planning Commission shall make the final determination for approval of the permit, which may be approved, denied, or approved with conditions. The decision shall be incorporated in a statement of findings and conclusions which specifies the basis for the decision and any conditions imposed.

6. Land spilt approvals and other municipal permits may be coordinated or suspended during the application process.

(C) **Site Plan:** The applicant for Special Land Use Permit approval shall provide the following site plan information:

1. **Zoning Site Plan:** Prior to construction of any cultivation facility, the property owner, agent or designee shall provide the zoning official a site plan which will include the location of the dwelling, structure, building or enclosed locked facility, the size of the structure, and the type of materials to be used in construction, the size of the lot, the parcel number, the setbacks and other information the zoning official may require to process the application.

2. **Chemicals and Fertilizers Plan:** The plan shall include the Material Safety Data Sheets (MSDS) containing information on the potential hazards (health, fire reactivity and environmental impact) related to chemical products. The site plans shall also include the type, amount and location of stored chemicals and fertilizers.

3. **Odor Control Plan:** The site plan shall include a plan for odor control. The plan shall include the location and type of control for odor-emitting activity(ies). The applicant must provide information related to the location of doors, windows, ventilation systems, and odor sources. The plan should describe the odor-emitting activities or processes (e.g., cultivation) that take place with odor mitigation practices based on specific best control technologies and best practices.

4. Plumbing, Mechanical, and Energy Plans: The property owner shall provide the zoning official, a plumbing, mechanical, and energy plan with details of any building, facility, structure or enclosed locked facility used for the growth and cultivation of marihuana.

5. Electrical Plans and Specifications. The property owner shall submit a detailed set of electrical plans and specifications with the application for an electrical permit for any wiring or alteration to an electrical system. The electrical drawings shall include all of the following details:

- (i). Lighting layout.
- (ii). Circuiting.
- (iii). Switching.
- (iv). Conductor and raceway sizes.
- (v). Wattage schedule.
- (vi). Service location and riser diagram.
- (vii). Load calculations and available fault current calculations.
- (viii). A proposed method of construction with construction symbols.
- (ix). The plans shall include the selection of suitable disconnect and overcurrent devices to provide proper coordination and interrupting capacity for a wiring system is the responsibility of the designer.
- (x). Approval from the local electrical energy supplier that the request shall not place undue burden on the transfer or its electrical system.

6. Disposal, Pollution, Water Quality Control. The applicant shall provide a disposal and pollution control plan. An approved permit holder shall be prohibited from degrading water quality, or disposing of marijuana or chemicals or fertilizer into wells, drains or township sewers.

7. Michigan Department of Environment, Great Lakes and Energy (EGLE). The applicant may be required to present permits or approvals from EGLE as applicable.

8. Soil Erosion and Stormwater Runoff and Drainage Control. The applicant shall provide a soil erosion control plan and must apply for a soil erosion permit as applicable to engage in specified earth movement or changes. The applicant may not alter the drainage of their land that unreasonably interfere with others' land, which creates a nuisance.

9. Setbacks. Any portion of a dwelling, building or other structure proposed for marihuana growth, such as a cultivation room, or facility including an "enclosed, locked facility" as defined by the MMMA, shall meet the setback requirements from adjacent property lines as defined and stated for in each allowed zoning

district. No structure shall attach to any other structure on an adjacent property or cause a nuisance onto a neighboring property.

10. **Lighting.** If medical marihuana is grown or located in a room, building, structure or facility with windows or with exterior lighting, all lighting shall be shielded to prevent ambient light from creating a distraction for adjacent properties.

11. **Duty to Maintain.** When approving site plans, the Township does not assume responsibility for the design or for any deviations from any plan drawings. The permit holder shall ensure that the plans and specifications approved by the Township are maintained in good working order and any use not expanded from the approved plans. A copy of the plans and specifications, shall be available on the site.

12. **Inspection.** In addition, all other applicable application requirements in this section and the zoning ordinance, codes and laws, any portion of a dwelling, building or other structure, such as a cultivation room, or facility including a "enclosed, locked facility" as defined by the MMMA, used for the growth or storage of marihuana, are subject to inspection and approval. Prior to approval, the property, dwelling and all enclosed, locked facilities shall be available for inspection upon request by the zoning administrator, building official, Fire Chief, or designee, other Code or law enforcement, Planning Commission or Township official. Failure to allow inspection is a violation of this Ordinance and the zoning official may seek an administrative warrant to inspect the property and structures for purposes of enforcement and failure to allow inspection shall also be considered an incomplete application.

V. OTHER COMMERCIAL CULTIVATION ESTABLISHMENTS PROHIBITED

(A) **Provisioning and other Commercial Facilities Prohibited.** It shall continue to be unlawful to establish or operate a for-profit or nonprofit marihuana dispensary, collective, commercial use, cooperative, provisioning center or medical marihuana facilities within the Township, even if such use is intended for the medical use of marihuana. It is the intent of this ordinance to prohibit the pooling of caregiver cards to establish more allowable plant growth or a larger growth operation beyond five qualified registered patients per caregiver as permitted by the Michigan Medical Marihuana Act, Michigan Initiated Law 1 of 2008, MCL 333.26421, et seq. It is the intent of this ordinance to affirm the Township has opted out of the Medical Marihuana Facilities Licensing Act, Act 281 of 2016 or other State of Michigan law, and only one caregiver per parcel may be approved, except as otherwise allowed by this section.

(B) **Commercial Marihuana Facility establishments prohibited.** Any and all types of a "marihuana establishment," as that term is defined and used in Michigan Initiated Law

1 of 2018, commonly known as the Michigan Regulation and Taxation of Marihuana Act, are completely prohibited in Mussey Township and may not be established or operated in any zoning district, by any means, including by way of a variance. Any and all types of “marihuana facilities” as described in Act 281 of 2016, the Medical Marihuana Facilities Licensing Act are completely prohibited and may not be established, licensed or operated in any zoning district, by any means, including by way of a variance.

VI. ENFORCEMENT

(A) **Municipal Civil Infraction.** Violation of this section shall be a Municipal Civil Infraction as authorized under Chapter 87 of Act No. 236 of the Public Acts of 1961, Section 600.8701 et. seq. as amended.

(B) **Municipal Violation Notice.** The penalty for a notice of violation under the authority of MCL 600.8707, Section 8707(6) is as described under Title III Administration, Chapter 31, Civil Infractions payable at the Township Violation Bureau.

(C) **Municipal Civil Infraction.** The sanction and penalty for a municipal civil infraction shall be payable at the Court. The sanction for a municipal civil infraction shall be up to \$500.00, plus additional costs, damages, expenses and other sanctions and injunctive relief, as authorized under the Municipal Civil Infraction Statute Chapter 87 of Act No. 236 of the Public Acts of 1961, as amended. This Ordinance shall be enforceable to the fullest extent allowed under the Municipal Civil Infraction enabling statute as authorized under Chapter 87 of Act No. 236 of the Public Acts of 1961, Section 600.8701 et. seq. as amended.

(D) **Authorized Local Official.** This section shall be enforced by the Supervisor or designee, Chief Code Enforcement Officer of the Township, the Township Ordinance Enforcement Officer, and/or by such other persons and/or officials who shall be so designated by the Mussey Township Board.

(E) **Additional Remedies.** A violator of this Ordinance shall also be subject to such additional sanction’s remedies, and/or judicial orders and/or judgments as are authorized and provided under the statutes and laws of the State of Michigan. Each day a violation of this Ordinance occurs and/or continues to exist, constitutes a separate violation. Any violation of this Ordinance is declared to be a public nuisance per se.

(F) **Court Actions.** By its adoption of this Ordinance, Mussey Township does not waive and/or relinquish any of its authority and/or power afforded to it under the statutes, laws and Court Rules of the State of Michigan for the enforcement of its Township Ordinances. The Township specifically reserves and retains the right to commence appropriate legal proceedings for equitable, injunction on and/or other relief and/or remedies available to the Township by actions and suits filed in the Circuit Court for the

County of St. Clair, in addition to the commencement of actions and/or filing of complaints in the District Court for the County of St. Clair.

(G) **Nuisance.** Violation of this section may also be enforced as a nuisance pursuant to the Michigan Zoning Enabling Act, MCL 125.3407 or applicable law. The court shall order the nuisance abated, and the owner or agent in charge of the dwelling, building, structure, facility, tent, recreational vehicle, or land is liable for all costs and fees to abate for maintaining a nuisance per se.

(B) Nothing in this section shall limit any privileges, rights, immunities or defenses of a person as provided in the Michigan Medical Marihuana Act, Michigan Initiated Law 1 of 2008, MCL 333.26421, et seq other State of Michigan law.

VII. NONUSE VARIANCE

Nonuse Variance. The zoning board of appeals may grant a non-use variance for structures, buildings, enclosed locked facilities under this section as long as the spirit of this ordinance is observed, public safety secured, and substantial justice done pursuant to the Michigan Zoning Enabling Act 110 of 2006 as amended and the Mussey Township Zoning Ordinance for variance standards now or later enacted. The zoning board of appeals may not grant a use variance for a Home Occupation Medical Marihuana primary caregivers or facilities.

VIII. POST RECITALS

(A) **Summary of the Regulatory Effect.** This new section regulates medical marihuana caregivers as a home occupation as a land use in all geographic areas.

(B) **Effective Date.** This zoning ordinance amendment shall take effect upon the expiration of 7 days after publication. Following adoption of this zoning ordinance the clerk shall publish a notice of ordinance adoption in a newspaper of general circulation in the local unit of government within 15 days after adoption.

(C) **Availability** A copy of this ordinance shall be available at the Office of the Clerk and may be purchased or inspected during regular business hours.

(D) **Conflict with other Ordinances.** All Ordinances or parts of Ordinances in conflict herewith are hereby to be read consistent with this section and are repealed only to the extent necessary to give this ordinance full force and effect.

(E) **Severability.** Should any portion of this Ordinance be held invalid for any reason, such holding shall not be construed as affecting the validity of any of the remaining portions of this ordinance.

(F) **Compatibility.** To the extent this Ordinance is in conflict with the procedures under the MICHIGAN ZONING ENABLING ACT, Public Act 110 of 2006, the MZEA shall be apply.

MOTION AND VOTE

MOVED BY Michael Lauwers, SECOND BY Bruce Downey, TO AMEND ARTICLE XV LAND USAGE CHAPTER 153 SPECIAL LAND USE APPROVAL REQUIREMENTS BY ADDING A NEW § 153.245 HOME OCCUPATION MEDICAL MARIHUANA PRIMARY CAREGIVERS AND FACILITIES ORDINANCE-SPECIAL APPROVAL

ROLL CALL VOTE ON THIS ORDINANCE WAS AS FOLLOWS:

| | <u>YES</u> | <u>NO</u> | Abstaining |
|-----------------------------|------------|-----------|------------|
| Michael Lauwers, Supervisor | <u>X</u> | | |
| Sheila McDonald, Clerk | <u>X</u> | | |
| Deborah Lewis, Treasurer | | <u>X</u> | |
| Bruce Downey, Trustee | <u>X</u> | | |
| Monica Standel, Trustee | | <u>X</u> | |

AUTHENTICATION AND CERTIFICATION

We hereby certify that the foregoing constitutes a true and complete copy of the Ordinance adopted by majority vote at a Regular Meeting of the Mussey Township Board of Trustees held on the 9th day of February, 2022.

Witness my official signature this 9th day of February, 2022.

Michael Lauwers, Supervisor

Sheila McDonald, Clerk

PUBLICATION CERTIFICATION:

I do hereby further certify that the Ordinance/Notice of Ordinance Adoption was published as required by State Law in the Tri City Times, a newspaper published and circulated in Mussey Township, Michigan, on the 16th day of February, 2022.

Effective date of Ordinance: February 23, 2020

Sheila McDonald, Clerk

