

**TO ADOPT AN ORDINANCE OF THE TOWNSHIP OF WATERSMEET AMENDING THE TOWNSHIP OF WATERSMEET'S ZONING ORDINANCE BY ADDING SECTION 7.16 MEDICAL MARIJUANA TO PROVIDE FOR MEDICAL MARIJUANA LOCATION, DEFINITIONS, CONDITIONS AND STANDARDS**

**TOWNSHIP OF WATERSMEET**

**ORDINANCE No. \_\_\_\_\_-2014**

THE TOWNSHIP OF WATERSMEET ORDAINS:

**Part 1.** The Township of Watersmeet Zoning Ordinance is hereby amended to add Section 7.16 Medical Marijuana as follows:

**SECTION 7.16 Medical Marijuana**

Subject to review and approval by the Planning Commission, medical marijuana clubhouses may be permitted in Watersmeet Township, provided that they meet the conditions set forth in this section, all sections applicable to [the Restricted Commercial and Downtown District (Article Four)] and all other provisions of the Watersmeet Township Zoning Ordinance.

**7.16A Definitions**

A. "*Debilitating medical condition*" means one or more of the following:

- i. Cancer, glaucoma, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, hepatitis C, amyotrophic lateral sclerosis, Crohn's disease, agitation of Alzheimer's disease, nailpatella or the treatment of these conditions.
- ii. A chronic or debilitating disease or medical condition or its treatment that produces one or more of the following: cachexia or wasting syndrome; severe and chronic pain; severe nausea; seizures, including, but not limited to, those characteristic of epilepsy; or severe and persistent muscle spasms, including, but not limited to those characteristics of multiple sclerosis.
- iii. Any other medical condition or its treatment approved by the Department, as provided for in MCL 333.26426.

B. "*Department*" means the department of licensing and regulatory affairs or its successor .

C. "*Drug paraphernalia*" means all equipment, products and materials of any kind, which is used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing,

compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body, a controlled substance as defined in Section 7104 of the Michigan Public Health Code (MCL 333.7104), in violation of the laws of the State of Michigan.

- D. “*Enclosed, locked facility*” means a closet, room or other comparable, stationary, and fully enclosed area equipped with secured locks or other functioning security devices that permit access only by a registered primary caregiver or registered qualifying patient.
- E. “*Marijuana*” means that term as defined in Section 7106 of the Public Health Code, (MCL 333.7106).
- F. “*Medical marijuana clubhouse*” means any retail store, store front, office building or other structure or any type of mobile unit or entity that dispenses, facilitates, assists or provides, in any manner, marijuana or cannabis or any product containing marijuana or cannabis. It also means the location where a primary caregiver assists a qualifying patient. The definition includes distribution center, provisioning center or any other name for such a location.
- G. “*Medical use*” means the acquisition, possession, cultivation, manufacture, use, internal possession, delivery, transfer or transportation of marijuana or paraphernalia relating to the administration of marijuana to treat or alleviate a registered qualifying patient’s debilitating medical condition or symptoms associated with the debilitating medical condition.
- H. “*Physician*” means an individual licensed as a physician under Part 170 of the Public Health Code, (MCL 333.17001-333.17084), or an osteopathic physician under Part 175 of the Public Health Code, (MCL 333.17501-33.17556).
- I. “*Primary caregiver*” means a person who is at least 21 years of age and who has agreed to assist with a patient’s medical use of marijuana and who has never been convicted of any felony within the past 10 years and has never been convicted of a felony involving illegal drugs or an assaultive crime.
- J. “*Qualifying patient*” means a person who has been diagnosed by a physician as having a debilitating medical condition.
- K. “*Registry identification card*” means a document issued by the Department that identifies a person as a registered qualifying patient or registered primary caregiver.

## 7.16B Conditions and Standards

- A. No use, which purports to have distributed marijuana prior to the enactment of this section, shall be deemed to have been a legally established use under the provisions of the zoning ordinance and such use shall not be entitled to claim legal nonconforming status.
- B. Medical marijuana clubhouses shall not be allowed as home occupations or in any other zoning district.
- C. A medical Marijuana clubhouse is only allowed if specifically authorized by a conditional use permit (use by special approval). A conditional use permit is a request to allow a use, under Section 7.09 of the zoning ordinance, provided that the use will not cause an adverse impact on adjacent property or properties in the area.
- D. No medical marijuana clubhouse shall be located within 1,000 feet of any other medical marijuana clubhouse or drug-free school zone and not within 1,000 feet of any of the following uses:
  - i. Any church or place of worship.
  - ii. Any school, public or private, having a curriculum including kindergarten or any one or more of the grades one through 12.
  - iii. Any daycare.
  - iv. Any public park.
- E. All activity related to a medical marijuana clubhouse including, but not limited to, growing and dispensing shall be done indoors.
- F. The site of the clubhouse shall abut a major thoroughfare right-of-way (Federal or State Trunk Line) and all ingress and egress to and from the site shall be via that major thoroughfare.
- G. Medical marijuana clubhouses shall be operated in compliance with the provisions of the Department and must comply with all regulations of the Health Department, including water and sewer requirements for a business.
- H. Smoking or consumption of medical marijuana shall not be allowed on the site of the clubhouse, except as provided in Section 7.16F(F).
- I. No persons under the age of 18 shall be permitted in the clubhouse at any time except if a qualifying patient accompanied by his/her parent or guardian.

- J. No retail sales of drug paraphernalia are permitted anywhere within the Township or at the clubhouses .
- K. The clubhouse shall be operated in compliance with regulations the Township Board may issue regarding security measures, record keeping, proper identification for qualifying patients, delivery of medical marijuana by primary caregivers, storage of medical marijuana on the site, on-site cultivation and the maximum amount that may be dispensed in any single transaction. Such regulations may be modified from time to time, as the Township Board deems appropriate.
- L. Each clubhouse shall display in a manner legible and visible to its clientele:
  - i. Notice that qualifying patients under the age of 18 are not allowed in the clubhouse except in the presence of his/her parent or guardian;
  - ii. No consumption of medical marijuana shall occur within the vicinity of the clubhouse.
- M. Only qualifying patients, parents or guardians of qualifying patients under 18 years of age, and the primary caregiver may be permitted to enter a medical marijuana clubhouse for the purpose of obtaining medical marijuana and limited to no more than five (5) individuals at any one time.
- N. Medical marijuana clubhouses may only possess marijuana in accordance with the Medical Marihuana Act (MCL 333.26421, et seq.), Department regulations and Township ordinances and regulations.

**7.16C Civil Forfeiture** Any drug paraphernalia used, sold, possessed with intent to use or sell, or manufactured with intent to sell in violation of this ordinance shall be seized and forfeited to the Township. Any marijuana, a/k/a marihuana, sold or possessed with intent to sell in violation of this ordinance shall be seized and forfeited to the Township.

**7.16D Compliance Required** Those individuals within the Township who are “qualifying patients” or “primary caregivers”, as those terms are used in the Michigan Medical Marihuana Act, shall comply with the requirements set forth herein for qualifying patients in Section 7.16E, and for primary caregivers in Section 7.16F.

**7.16E Requirements for Qualifying Patient** A person within the Township who has been issued and possesses a registry identification card as a qualifying patient shall comply with the following requirements:

- A. Consumption of marijuana shall not occur in any public place.

- B. Cultivation of marijuana shall only be allowed inside of an enclosed structure or building with walls and roof and secured with locks to prevent unintended or uninvited access and the marijuana must be kept in an enclosed, locked facility within said structure or building.

**7.16F Requirements for Primary Caregiver** A person within the Township who has been issued and possesses a registry identification card as a primary caregiver shall comply with the following requirements:

- A. Cultivation of marijuana shall only be allowed inside of an enclosed structure or building with walls and roof and secured with locks to prevent unintended or uninvited access and the marijuana must be kept in an enclosed, locked facility within said structure or building.
- B. The location from which a primary caregiver provides services to a qualifying patient shall be under the control, through written lease, contract or deed, in the name of the primary caregiver.
- C. The location from which a primary caregiver grows, cultivates or otherwise provides services to a qualifying patient shall not be used by another primary caregiver, for that primary caregiver's services as allowed under the Michigan Medical Marihuana Act.
- D. The location from which a primary caregiver provides services to a qualifying patient shall only occur as set forth in the zoning ordinance of the Township.
- E. Cultivation/growing or distribution of marijuana shall not occur in connection with or at a location at which any other commodity, product or service is also available.
- F. No consumption of Marijuana shall occur at a primary caregiver's location for cultivation/growing, or a primary caregiver's legal residence address, unless the primary caregiver is a qualifying patient and then such consumption shall only be by the qualifying patient/primary caregiver.

**7.16G Violations and Penalties** Any person who violates a provision of Section 7.16 shall be guilty of a misdemeanor punishable by the costs of prosecution plus a fine not to exceed \$500.00 and/or imprisonment in the county jail for a period not to exceed 90 days. Further, a person who violates the provisions of Section 7.16, in addition to penalties set forth herein, shall be presumed to be operating a nuisance per se and shall be subject to suit or injunction to enjoin further conduct.

**7.16H Intent/Law Changes** It is the intent that nothing in this ordinance be construed to allow use, possession, control, cultivation/growing, distribution, or

consumption (including activities related to any of the foregoing) of marijuana that is otherwise illegal. Also, it is the intent that nothing in this ordinance be construed to allow persons to engage in conduct that endangers others or causes a public nuisance. The terms of this Section 7.16 shall be subject to the Medical Marihuana Act (MCL 333.26421, et seq), including amendments thereto, regulations adopted thereunder and final appellate court decisions. In the event that subsequent legislation allows or permits the Township to limit, restrict or prohibit the special uses permitted under Section 7.16, said legislation shall apply to this Section 7.16 to the fullest extent possible.

**Part 2. Repealer.** Any ordinance that is in conflict is hereby repealed only to the extent necessary to give this ordinance full force and effect.

**Part 3. Severability.** If any word, clause, sentence, paragraph or provision of this ordinance is deemed to be invalid by a court of competent jurisdiction, such word, clause, sentence, paragraph or provision so designated shall be deemed severable and the remaining provisions of the ordinance shall be deemed fully enforceable.

**Part 4. Effective Date.** The terms and provisions of this ordinance shall become effective upon publication and adoption in accordance with law.

I, \_\_\_\_\_, Township Clerk, duly elected and qualified clerk of the Township of Watersmeet, do certify that the above ordinance (Section 7.16 Medical Marijuana) was adopted at a regular meeting of the Township Board held on \_\_\_\_\_.

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\_\_\_\_\_, Township Clerk