

TO ADOPT AN ORDINANCE OF THE CITY OF ROSEVILLE AMENDING THE CITY OF ROSEVILLE ZONING CODE BY ADDING SECTION 1909 BY PROVIDING FOR MEDICAL MARIHUANA DISPENSARIES, THEIR LOCATION, DEFINITIONS, CONDITIONS AND STANDARDS, AND CIVIL FORFEITURE, TO PROVIDE FOR REPEALER, SEVERABILITY, AND EFFECTIVE DATE.

**CITY OF ROSEVILLE  
MACOMB COUNTY, MICHIGAN  
ORDINANCE NO. 1229**

THE CITY OF ROSEVILLE ORDAINS:

TO ADOPT AN ORDINANCE OF THE CITY OF ROSEVILLE AMENDING THE CITY OF ROSEVILLE ZONING CODE BY ADDING SECTION 1909 BY PROVIDING FOR MEDICAL MARIHUANA DISPENSARIES, THEIR LOCATION, DEFINITIONS, CONDITIONS AND STANDARDS, AND CIVIL FORFEITURE, TO PROVIDE FOR REPEALER, SEVERABILITY, AND EFFECTIVE DATE.

**Section 1.** The City of Roseville Zoning Ordinance is hereby amended to add Section 1909 as follows:

Medical Marihuana Dispensaries shall be permitted in OS, B-1, B-2, B-3, I-1, and I-2 districts subject to review and approval by the Planning Commission, provided that they meet the conditions set forth in this section.

1. Definitions

(a) "Debilitating medical condition" means one or more of the following:

- (1) 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, nail-patella syndrome (NPS), or the treatment of these conditions.
- (2) A chronic or debilitating disease or medical conditioner 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 spasm, including but not limited to those characteristic of multiple sclerosis.
- (3) Any other medical condition or its treatment approved by the department, as provided for in MCL333.26425.

- (b) "Department" means the state department of community health.
- (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 (Act No. 368 of the MI Public Acts of 1978, as Amended), in violation of the laws of the State of Michigan.
- (d) "Enclosed, locked facility" means a closet, room, or other enclosed area equipped with locks or other security devices that permit access only by a registered primary caregiver or registered qualifying patient.
- (e) "Marihuana" means that term as defined in section 7106 of the public health code, 1978 PA 368, MCL 333.7106.
- (f) "Medical marihuana dispensary" means any retail store, store front, office building, or other structure or any type of mobile unit or entity that dispenses, facilitates, sells, or provides, in any manner, marihuana or cannabis or any product containing marihuana or cannabis.
- (g) "Medical use" means the acquisition, possession, cultivation, manufacture, use, internal possession, delivery, transfer, or transportation of marihuana 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.
- (h) "Physician" means an individual licensed as a physician under Part 170 of the public health code, 1978 PA 368, MCL 333.17001 to 333.17084, or an osteopathic physician under Part 175 of the public health code, 1978 PA 368, MCL 333.17501 to 333.17556.
- (i) "Primary caregiver" means a person who is at least 21 years old and who has agreed to assist with a patient's medical use of marihuana and who has never been convicted of a felony involving illegal drugs.
- (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.
- (l) "Usable marihuana" means the dried leaves and flowers of the marihuana plant, and any mixture or preparation thereof, but does not include the seeds, stalks, and roots of the plant.
- (m) "Visiting qualifying patient" means a patient who is not a resident of this state or who has been a resident of this state for less than 30 days.
- (n) "Written certification" means a document signed by a physician, stating the patient's debilitating medical condition and stating that, in the physician's professional opinion, the patient is likely to receive therapeutic or palliative benefit from the medical use of marihuana to treat or alleviate the patient's debilitating medical condition or symptoms associated with the debilitating medical condition.

## 2. Conditions and Standards

- (a) No use, which purports to have distributed marihuana 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 Marihuana Dispensaries shall not be allowed as home occupations.
- (c) Cultivation of medical marihuana in a Medical Marihuana Dispensary is only allowed if specifically authorized by a Use Permit. A Use Permit is a request to allow a use which is permitted by the Zoning Ordinance provided that the use will not cause an adverse impact on adjacent property or properties in the area.
- (d) No Medical Marihuana Dispensary shall be located within 1,000 feet of any other Medical Marihuana Dispensary nor within 1,000 feet of any of the following uses:
  - (1) Any Church.
  - (2) Any School, public or private, having a curriculum including kindergarten or any one or more of the grades one through twelve.
  - (3) Any residential zoned district or any residential use.

- (e) All activity related to a Medical Marihuana Dispensary including but not limited to growing and dispensing shall be done indoors.
- (f) The site shall abut a major thoroughfare right-of-way and all ingress and egress to and from the site shall be via that major thoroughfare.
- (g) Medical Marihuana Dispensaries shall be operated in compliance with the provisions of the Department of Community Health.
- (h) Smoking or consumption of medical marihuana shall not be allowed on the site of the Dispensary.
- (i) No patients under the age of 18 (eighteen) shall be permitted in the Dispensary at any time except in the presence of qualifying patient or their primary caregiver.
- (j) No retail sales of drug paraphernalia as defined in this ordinance are permitted at the Dispensary, except to patients or their designees.
- (k) The Dispensary shall be operated in compliance with regulations the City may issue regarding security measures, record keeping, proper identification for patients, delivery of medical marihuana by employees of the Medical Marihuana Dispensary to patients who would otherwise not be able to obtain it from a dispensary by reason of physical or mental disability, storage of marihuana 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 City deems appropriate.
- (l) Each Dispensary shall display in a manner legible and visible to its clientele:
  - (1) Notice that Patients under the age of 18 (eighteen) are not allowed in the Dispensary except in the presence of his/her parent or guardian;
  - (2) No consumption of medical marijuana shall occur within the vicinity of the Dispensary.
- (m) Only operators and their employees, patients, parents or guardians of patients under 18 years of age, and their primary caregiver may be permitted to enter a Medical Marihuana Dispensary for the purpose of obtaining medical marihuana or other goods or products associated with its use.
- (n) Medical marihuana dispensaries can grow up to sixty (60) plants.

### 3. 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 City of Roseville, Michigan.

Any marihuana aka marijuana sold or possessed with intent to sell in violation of this Ordinance shall be seized and forfeited to the City of Roseville Michigan.

**Section 2. Repealer.** Any section herein that is in conflict is hereby repealed.

**Section 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.

**Section 4. Effective Date.** The terms and provisions of this ordinance are deemed to be an emergency ordinance which shall become effective upon publication and adoption.

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JOHN CHIRKUN, Mayor

Attested:

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RICHARD STEENLAND, City Clerk

I, Richard Steenland, City Clerk of the City of Roseville, Macomb County, Michigan, do hereby certify that Ordinance No. 1229 was adopted by the City Council of Roseville, assembled in regular session on October 13, 2009. Said Ordinance was posted in the following places:

Roseville Police Station, 29753 Gratiot Avenue  
Roseville Public Library, 29777 Gratiot Avenue  
Roseville Civic Center, 29777 Gratiot Avenue

Notice of said posting was published in *The Eastsider* on October 21, 2009.

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RICHARD STEENLAND, City Clerk