

City of Tawas City

Sec. 18.46. Medical marihuana dispensaries.

Medical marihuana dispensaries shall be permitted in the general business (B-3), districts subject to review and approval by the planning commission, provided that they meet the conditions set forth in this section, and all other provisions of the zoning ordinance.

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 condition 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 characteristics of multiple sclerosis.

(3) Any other medical condition or its treatment approved by the department, as provided for in MCL 333.26425.

(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--333.17084, or an osteopathic physician under Part 175 of the Public Health Code, 1978 PA 368, MCL 333.17501--333.17556.

(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 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 and not 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 12.

(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 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 are not allowed in the dispensary except in the presence of his/her parent or guardian;

(2) No consumption of **medical marihuana** 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 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 Tawas City, Michigan.

Any **marihuana**, a.k.a. marijuana, sold or possessed with intent to sell in violation of this ordinance shall be seized and forfeited to the City of Tawas City, Michigan.

4. *Compliance required.* Those individuals within the City of Tawas City, Michigan 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 subsection 5., and for primary caregivers in subsection 6., of this section.

5. *Requirement for qualifying patients.* A person within the City of Tawas City, Michigan who has been issued and possesses a registry identification card as a qualifying patient as set forth in MCL 333.26421, shall comply with the following requirements:

(A) Consumption of **marihuana** shall not occur in any public place.

(B) Growing of **marihuana** 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.

6. *Requirements for primary caregiver.* A person within the City of Tawas City, Michigan who has been issued and possesses a registry identification card as a primary caregiver as set forth in MCL 333.26421, shall comply with the following requirements:

(A) Growing of **marihuana** 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.

(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 favor 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 not be within 1,000 feet of a drug-free school zone and shall only occur as set forth in the Zoning Ordinance of the City of Tawas City, Michigan.

(E) Cultivation/growing or distribution of **marihuana** 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 **marihuana** 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. *Violations and penalties.* Any person who violates a provision of this ordinance shall be guilty of a misdemeanor punishable by 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 this ordinance 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.

(Ord. No. 301, §§ 4--7, 6-21-2010; Ord. No. 302, § 1, 6-21-2010)