

TO ADOPT AN ORDINANCE OF THE CITY OF WAKEFIELD AMENDING THE CITY OF WAKEFIELD'S ZONING CODE BY ADDING SECTION 155.300 TO PROVIDE FOR MEDICAL MARIHUANA LOCATION, DEFINITIONS, CONDITIONS AND STANDARDS

CITY OF WAKEFIELD

ORDINANCE NO. 205

THE CITY OF WAKEFIELD ORDAINS:

Section 1. The City of Wakefield Zoning Ordinance is hereby amended to add Section 155.300 as follows:

§155.300 Medical Marihuana

Subject to review and approval by the Planning Commission, medical marihuana dispensaries may be permitted in the C-2 Downtown/Highway Commercial District, provided that they meet the conditions set forth in this section, all sections applicable to the C-2 District, and all other provisions of the zoning ordinance.

1. 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, nail-patella syndrome (NPS) or the treatment of these conditions
 - ii. 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.
 - iii. 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 (MCL 333.7104), 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, (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, assists or provides, in any manner, marihuana or cannabis or any product containing marihuana or cannabis, and it also means the location where a primary caregiver assists a qualifying patient.
- 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, (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 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.

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 or in any other zoning district.
- C. A medical marihuana dispensary is only allowed if specifically authorized by a conditional use permit. A conditional use permit is a request to allow a use, under sections 155.160-.163 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 marihuana dispensary shall be located within 1,000 feet of any other medical marihuana dispensary or drug-free school zone and not within 1,000 feet of any of the following uses:
 - i. Any church.
 - ii. Any school, public or private, having a curriculum including kindergarten or any one or more of the grades one through 12.
 - iii. Any residential zoned district or any residential use.
 - iv. Any daycare.
- E. All activity related to a medical marihuana dispensary including, but not limited to, growing and dispensing shall be done indoors.
- F. The site of the dispensary 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.
- H. Smoking or consumption of medical marihuana shall not be allowed on the site of the dispensary, except as provided in paragraph 6(F).
- I. No persons under the age of 18 shall be permitted in the dispensary at any time except if a qualifying patient accompanied by his/her parent or guardian.
- J. No retail sales of drug paraphernalia are permitted at the dispensary.

- K. The dispensary shall be operated in compliance with regulations the City may issue regarding security measures, record keeping, proper identification for qualifying patients, delivery of medical marihuana by primary caregivers, 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:
 - i. Notice that qualifying patients under the age of 18 are not allowed in the dispensary except in the presence of his/her parent or guardian;
 - ii. No consumption of medical marihuana shall occur within the vicinity of the dispensary.
 - 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 marihuana dispensary for the purpose of obtaining medical marihuana.
 - N. Medical marihuana dispensaries may only possess marihuana in accordance with the Medical Marihuana Act (MCL 333.26421, et seq.), Department regulations and City ordinances and regulations.
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. 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.
4. Compliance Required. Those individuals within the City 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. Requirements for Qualifying Patient. A person within the City who has been issued and possesses a registry identification card as a qualifying patient shall comply with the following requirements:
- A. Consumption of marihuana shall not occur in any public place.
 - B. Cultivation 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 and the marihuana must be kept in an enclosed, locked facility within said structure or building.
6. Requirements for Primary Caregiver. A person within the City who has been issued and possesses a registry identification card as a primary caregiver shall comply with the following requirements:
- A. Cultivation 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 and the marihuana 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 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.

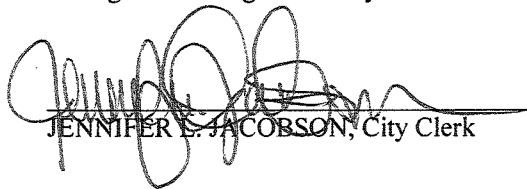
- D. The location from which a primary caregiver provides services to a qualifying patient shall only occur as set forth in the zoning ordinance of the City, including paragraph 2 of this section 155.300.
 - E. Cultivation/growing or distribution of marihuana shall not occur in connection with or at 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 section 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.

Section 2. Repealer. Any ordinance 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 shall become effective upon publication and adoption in accordance with law.

I, Jennifer L. Jacobson, City Clerk, duly elected and qualified clerk of the City of Wakefield, do certify that the above ordinance (§155.300) was adopted at a regular meeting of the City Council held on April 4, 2011.


JENNIFER L. JACOBSON, City Clerk