

PORTER TOWNSHIP
CASS COUNTY, MICHIGAN

**AMENDMENT TO THE ZONING ORDINANCE
OF *PORTER TOWNSHIP***

An Ordinance to amend Article *111.300*, “General Provisions”, of the *PORTER Township Zoning Ordinance*, by the addition of Section *111.315*, and Article *111.300*, Section *111.316* “Definitions” to include definitions involving medical marihuana; and to provide for an effective date of said Ordinance.

PART III

ARTICLE III

111.300 GENERAL PROVISIONS

111.315 MEDICAL MARIHUANA USE

Section 15: **Medical Marihuana Use.** Medical Marihuana use by a primary caregiver shall be permitted and considered as a permitted home occupation use only in the residential and agricultural districts A, R-1, LR, R-2 and MHP pursuant to compliance with the Administrative Rules of the Michigan Department of Community Health, the Michigan Medical Marihuana Act, PA 208, Initiated Law, MCL 333.26421, et. seq. and the requirements of this section. As a permitted home occupation, it is at all times, subordinate and incidental to the use of the dwelling as a residence. The requirements for a primary caregiver as a permitted home occupation shall be as follows:

- (a). The medical use of marihuana shall comply at all times and in all circumstances with the Michigan Medical Marihuana Act (“Act”) and the Administrative Rules of the Michigan Department of Community Health, (“Administrative Rules”) as they may be amended from time to time.

- (b). A primary caregiver must be located outside of a one-thousand (1,000) foot radius from any real property as follows: a daycare facility; a church, synagogue or other place of religious worship; a recreational park, public community center, private youth center, playground, public swimming pool, video arcade facility; a public or private preschool, elementary school, middle school, high school,

community college, vocational or secondary school; a public or private college, junior college, university; any and all other schools that have different name references but serve students of the same age. Measurements for purposes of this section shall be made from parcel/lot/site condominium unit boundary to parcel/lot/site condominium unit boundary.

- (c). Not more than one (1) primary caregiver within a single-family dwelling shall be permitted to service qualifying patients who do not reside with the primary caregiver. A primary caregiver shall not operate within an apartment building, multi-family residential building, cooperative building or similar housing, or commercial or multi-use building.
- (d). No signage is permitted regarding medical marihuana.
- (e). All medical marihuana shall be contained within the main residential structure in an enclosed, locked facility inaccessible on all sides and equipped with locks or other security devices that permit access only by the primary caregiver or qualifying patient. No part of an attached or detached accessory structure shall be utilized.
- (f). All necessary building, electrical, plumbing and mechanical permits shall be obtained for any portion of the residential structure in which electrical wiring, lighting, and/or watering devices are located, installed or modified that support the cultivation, growing or harvesting of marihuana.
- (g). If a room with windows is utilized as a marihuana growing location, any lighting methods that exceed usual residential use between the hours of 11 p.m. and 6 a.m. shall employ shielding methods, without alteration to the exterior of the residence, to prevent ambient light spillage that causes or creates a distraction or nuisance to adjacent residential properties.
- (h). Nothing in this subsection or in any companion regulatory provision adopted in any other provision of this Ordinance is intended to grant, nor shall they be construed as granting, immunity from criminal prosecution for growing, sale, consumption, use, distribution, or possession of marihuana not in strict compliance with that Act and the Administrative Rules and this subsection. To this end, the sale, distribution, cultivation, manufacture, possession, delivery or transfer of marihuana to treat or alleviate a qualifying patient shall only be conducted as a home occupation, and shall not be permitted in any other zoning classification of this Zoning Ordinance. Also, since federal law is not affected by that Act or the Administrative Rules, nothing in this section, or in any companion regulatory provision adopted in any other provision of this Ordinance, is intended to grant, nor shall they be construed as

granting, immunity from criminal prosecution under federal law. Neither this ordinance nor the Michigan Medical Marihuana Act protects users, caregivers or the owners of properties on which the medical use of marihuana is occurring from federal prosecution, or from having their property seized by federal authorities under the Federal Controlled Substances Act.

- (i). Delivery. The primary caregiver shall deliver medical marihuana to their patients. Patients shall not visit the caregiver's premises.
- (j). It shall be considered unlawful for any person or persons to establish or operate a profit or non-profit medical marihuana dispensary, collective or cooperative or smoke house in any zoning classification within the Township.

111.316 DEFINITIONS

Article XIX, 111.1900 "Definitions" shall be amended to include the following words and definitions, incorporated alphabetically and given section numbers. The existing section numbers will be renumbered accordingly.

Marihuana. This term shall have the meaning given to it in the Michigan Public Health Code, 1978 PA 368, MCL 333.7106, as is referred to in Section 3(d) of the Michigan Medical Marihuana Act, PA 2008, Initiated Law, MCL 333.26423(d).

Marihuana Collective or Cooperative. Any facility, structure, dwelling or other location where medical marihuana is grown, cultivated, processed, stored, transmitted, dispensed, consumed, used, given, delivered, provided, made available to and/or distributed that is formed by a group or individuals in a group acting together as a collective enterprise or by an organization owned collectively by members who share in the benefits owned as a cooperative or in any way structured like a collective or a cooperative.

Marihuana Dispensary or Dispensary. Any facility, structure, dwelling or other location where medical marihuana is grown, cultivated, processed, stored, transmitted, dispensed, consumed, used, given, delivered, provided, made available to and/or distributed by two or more of the following: a registered primary care giver, a registered qualifying patient, or a person with an identification card or in possession of an application for an identification card. The term "dispensary" shall not apply to a registered primary caregiver that provides necessary care and marihuana for medical use exclusively to his/her five (5) or fewer designated qualifying patients in strict accordance with the Michigan Medical Marihuana Act, Initiated Law 1 of 2008; and the Administrative Rules of the Michigan Department of Community Health.

Medical Use of Marihuana. 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, as defined under the Michigan Medical Marihuana Act, PA 2008, Initiated Law, MCL 333.26423(d).

Primary Caregiver. Primary caregiver or caregiver means a person as defined under MCL 333.7106(g) of the Act, and who has been issued and possesses a Registry Identification Card under the Act.

Qualifying Patient or Patient. Qualifying patient or patient means a person as defined under MCL333.7106(h) of the Act, and who has been issued and possesses a Registry Identification Card under the Act.

Smoke House. Smoke house means a facility that allows multiple qualifying patients to consume or ingest medical marihuana upon the premises. This term does not encompass: 1) a primary caregiver facility at which medical marihuana is consumed or ingested on the premises solely by the designated qualifying patient(s) of the primary caregiver(s); or, 2) the consumption or ingestion of medical marihuana by a qualifying patient at his/her residence or at a hospital or hospice at which the qualifying patient is received care.

111.317 REPEAL AND EFFECTIVE DATE

This ordinance shall take effect thirty (30) days following proper publication of notice of its adoption in accordance with and subject to Michigan Public Act 110 of 2006. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Adopted June 14, 2011
Published: July 6, 2011
Effective: August 5, 2011

Marty Russell
Porter Township Clerk