

VILLAGE OF AUGUSTA
KALAMAZOO COUNTY, MICHIGAN

ORDINANCE #199

**AN ORDINANCE TO REGULATE AND REQUIRE REGISTRATION FOR
PRIMARY CAREGIVERS OF MEDICAL MARIHUANA WITHIN THE
VILLAGE; TO PROVIDE FOR PENALTIES; TO REPEAL THAT PORTION
OF ANY ORDINANCE OR PARTS THEREIN INCONSISTENT OR
CONTRARY TO THIS ORDINANCE AND TO PROVIDE FOR AN
EFFECTIVE DATE FOR THIS ORDINANCE.**

THE VILLAGE OF AUGUSTA ORDAINS:

This Ordinance may be known and referred to as the "Village of Augusta Medical Marihuana Registration Ordinance".

ARTICLE I
DEFINITIONS

As used in this article, the following words, terms and phrases shall have the meanings indicated, except where the context clearly indicates a different meaning:

A. *Marihuana* means all parts of the plant *Canabis sativa* L., growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant or its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, except the resin extracted therefrom, fiber, oil or cake, or the sterilized seed of the plant which is incapable of germination.

B. *Michigan Medical Marihuana Act* or *Act* means the Michigan Initiated Law 1 of 2008, MCL 333.26421, et seq.

C. *Primary Caregiver* means a person as defined under MCL 333.26523(g) of the Act, who is at least 21 years old, who has agreed to assist with a patient's medical use of marihuana, who has never been convicted of a felony involving illegal drugs and who has been issued and possesses a Registry Identification Card under the Act.

D. *Qualifying Patient* means a person as defined under MCL 333.26423(h) of the Act, who has been diagnosed by a physician as having a debilitating medical condition and who has been issued and possesses a Registry Identification Card under the Act.

E. *Registry Identification Card* means the document defined as such under MCL 333.26423(i) of the Act and which is issued by the State of Michigan to identify a person as a registered qualifying patient or registered primary caregiver.

ARTICLE II **REGISTRATION**

A. Registration Requirement.

1. The cultivation, processing, storage and/or distribution of marihuana by a primary caregiver to a qualifying patient conducted in accordance with the Act shall be permitted as provided herein. No cultivation, processing, storage and/or distribution shall be lawful in this Village unless and until the primary caregiver and the location of the premises in which the cultivation, storage and/or distribution of medical marihuana is being conducted has been registered under this Ordinance.
2. Application for Registration.

Any primary caregiver wishing to cultivate, process, store and/or distribute marihuana to a qualifying patient shall be required to register with the Village. A confidential application for registration under this Ordinance, on a form approved by the Village Council, shall be submitted to the Village Police Chief or other Village official designated by the Village Council as the Medical Marihuana Officer for the Village who shall issue the registration if requirements and standards of this Ordinance have been met. False or incorrect information provided on the application shall be grounds for revocation of a registration. An application shall:

- a. Require the name, home address, date of birth and state registration number of the primary caregiver.
- b. Include the address of the premises being registered where cultivation, processing, storage and distribution of medical marihuana shall occur.
- c. Include the names and dates of birth of all other residents of the premises.

- d. Include the names and addresses and state registration number of all qualifying patients of the registered caregiver.
- e. Include a description of the facility in which any cultivation, processing, storage or distribution will occur including a drawing of the facility within the registered premises.
- f. For safety and other code inspection purposes, include a description and detailed specification of all lights and other equipment proposed to be used to cultivate, process, store or distribute medical marihuana.
- g. Include any and all other information for the Village Council which, in its sole discretion, deems necessary or important to ensure the safety of the primary caregiver, qualifying patients and residents of the Village.

3. Registration Fee.

No application for registration shall be approved without payment of an application fee to help defer a portion of the cost of administering and enforcing this Ordinance. The application fee shall be set from time-to-time by Resolution of the Village Council.

4. Term of Registration.

Registrations issued herein shall be for a portion of the year from the date of approval to December 31st of the same year. Renewals of registrations issued thereafter shall begin on January 1st and end on December 31st of the year in which it is issued.

5. Confidentiality.

It is the intent of this Ordinance that the information acquired through the registration procedure prescribed herein shall be accessible to Village Ordinance and law enforcement officials, fire and support personnel in the performance of their duties only and shall otherwise remain confidential and not subject to public disclosure.

B. Requirements and Standards for Approval and Continuation of Registration.

1. There shall be no more than one primary caregiver operating upon the premises being registered.
2. The primary caregiver shall at all times comply with the Act, this Ordinance and any other applicable law, rule or Ordinance. Failure or refusal to do so shall be grounds for revocation of a registration.
3. No registered primary caregiver shall be located:
 - a. Within a 1,000 foot radius of any school, childcare or daycare facility.
 - b. Within a 1,000 foot radius of another primary caregiver's facility or premises.
 - c. Within a 300 foot radius of any church or house of worship.
 - d. Within a 300 foot radius of any public park.
4. No more than five qualifying patients shall be assisted with the use of medical marihuana within any given calendar week and all such assistance shall only occur between the hours of 8:00 a.m. and 6:00 p.m.
5. All medical marihuana shall be contained within the building in an enclosed, locked facility.
6. All necessary building, electrical, plumbing and mechanical permits shall be obtained and maintained for any portion of the property where medical marihuana is being cultivated, processed, stored or distributed. All medical marihuana shall be grown only by the primary caregiver and only on the registered premises.
7. Any room with windows being used to cultivate, process, store or distribute medical marihuana which employ lighting methods which exceed usual residential use between the hours of 10:00 p.m. and 6:00 a.m. shall employ shielding methods to prevent ambient light spillage which causes or creates a distraction or nuisance to any motorists, passersby or adjacent residential properties.

8. Any portion of the registered premises used for cultivation, processing, storage and/or distribution of medical marihuana where energy usage and heat exceeds typical residential use shall be subject to inspection and approval, from time-to-time, by the Village Fire Department.
9. There shall be no sign identifying the premises as a site at which medical marihuana is cultivated, processed, stored or distributed.
10. Nothing in this Ordinance shall be deemed to allow dispensaries, compassion clubs, smokehouses or other uses not permitted by the Act or other applicable law, rule or Ordinance within the Village.
11. Any incidental seeds, stalks and unusable roots shall be disposed of according to State law.
12. A registered primary caregiver shall take any and all steps to ensure that no odor or noise emanates beyond the premises boundaries and causes an annoyance or nuisance to neighbors and others within the vicinity of the premises.

ARTICLE III **REVOCATION OF REGISTRATION**

The Village, by its Medical Marihuana Officer, may revoke and/or suspend a primary caregiver's registration for violation of law or this Ordinance or until the premises is brought into compliance with the standards of law or this Ordinance.

ARTICLE IV **DISCLAIMER OF IMMUNITY**

Nothing in this Ordinance shall be construed as allowing the use, cultivation, processing, distribution or possession of marihuana not in strict compliance with the express provisions of the Act, any rules promulgated and this Ordinance. Further, nothing in this Ordinance shall be construed to provide immunity from federal law as it may be enforced by the federal or state officials relative to the use, cultivation, processing, distribution or possession of marihuana or to prevent prosecution thereunder.

ARTICLE V **PENALTIES**

Any person who violates this Article shall be responsible for a municipal civil infraction punishable by a fine not to exceed \$500.00 for each violation plus court costs. Each day that a violation occurs shall be deemed a separate offense. A Court shall also have such equitable jurisdiction to compel compliance with this Ordinance as is permitted by law. In addition, the Village shall have the right to proceed in any court of competent jurisdiction to obtain equitable relief or any other appropriate remedy to compel compliance with this Article.

ARTICLE VI **REPEALER**

All Ordinances or parts thereof in conflict herewith are hereby repealed and shall be of no further force and effect.

ARTICLE VII **SEVERABILITY**

Any and all sections, terms, provisions and/or clauses herein shall be deemed independent and severable. Should any court of competent jurisdiction hold any section, term, provision or clause void and/or invalid, all remaining sections, terms, provisions and/or clauses not held void and/or invalid shall continue in force and effect.

ARTICLE VIII **EFFECTIVE DATE**

This Ordinance shall take force and effect on _____, 2017.

CERTIFICATE

I, Julie Glenn, Village Clerk for the Village of Augusta, do hereby certify that the foregoing Augusta Ordinance No. _____ was adopted by the Village Council at a regular meeting held on _____, 2017, and that the following is a record of the vote of the members of said Village Council on said Ordinance.

AYES: _____

NAYS: _____

ABSENT: _____

ABSTAIN: _____

Julie Glenn, Village Clerk