

**VILLAGE OF NASHVILLE  
BARRY COUNTY, MICHIGAN  
ORDINANCE NO. 2-9-2012-A**

At a regular meeting of the Village Council of the Village of Nashville held at the Village offices on February 9, 2012, beginning at 7:00 p.m., the following Ordinance was offered for adoption by Council Member Coll, and was seconded by Council Member Kenyon:

**AN ORDINANCE TO ESTABLISH REGULATIONS FOR MEDICAL  
MARIHUANA AND RELATED USES AND ACTIVITIES**

THE VILLAGE OF NASHVILLE (the “Village”) ORDAINS:

**ARTICLE 1. IN GENERAL**

**SECTION 1. PURPOSE**

The voters of the state of Michigan adopted the Medical Marihuana Act, being Public Act 2008, Initiated Law 1, MCL 333.26421 *et seq.*, which became effective on December 3, 2008. That statute fails to regulate many aspects associated with the possession and use of medical marihuana.

The Village Council finds that:

- (a) There are negative impacts associated with the use and dispensing of marihuana (including medical marihuana which include burglaries, robberies, violence, increased vandalism, illegal sales of marihuana, and use of marihuana by minors and other persons without medical need; to best facilitate the provision of public safety services, regulating such activities and being advised as to their location is in the public interest; and
- (b) The unregulated cultivation, distribution or processing of medical marihuana may adversely impact areas adjacent to such medical marihuana activities including increased incidents of public violence and undermining Village efforts to safeguard the health, safety and welfare of the residents and property owners of the Village and the public at large; and
- (c) Cultivating and processing medical marihuana in a single-family dwelling unit will often require enhanced electrical and other services. To ensure that such services are provided in a safe manner consistent with legal requirements, compliance with building, fire and similar codes for such activities is necessary.

**ARTICLE II. REGULATIONS**

**SECTION 1. DEFINITIONS**

- (a) “Act” means the Michigan Medical Marihuana Act, Public Act 2008, Initiated Law 1, being MCL 333.26421 *et est.*, as well as any and all amendments thereto, and also any legislation enacted into law to implement that statute.
- (b) “Marihuana” is also known as Marijuana and Cannabis.
- (c) “Medical marihuana dispensary” means and business, facility, association, cooperative, location, or operation, which is operated for profit or nonprofit, whether fixed or mobile, where medical marihuana is made available to be sold, used, grown, processed, delivered, or distributed by or to one or more of the following:
  - 1. A primary caregiver as defined by Michigan Initiated Law 1 of 2008 as amended.
  - 2. A qualifying patient as defined by Initiated Law 1 of 2008 as amended.
  - 3. Members of the public.

A medical marihuana dispensary also included any place, location, facility, cooperative, or operation, which is operated for profit or nonprofit, whether fixed or mobile, where medical marihuana is smoked or consumed by three or more persons at one time.

A medical marihuana dispensary does not include:

- 1. The provision of medical marihuana by a primary caregiver personally dispensing to not more than five qualified patients in accordance with the Act so long as the lawful amount of medical marihuana is delivered to the qualifying patient where the qualifying patient resides and the primary caregiver’s activities are done in full compliance with this ordinance as well as all other applicable Village ordinances and Michigan laws, rules and regulations.
- 2. The medical use of marihuana by a qualifying patient in full compliance with this ordinance as well as all other applicable Village ordinances and Michigan laws, rules and regulations.

A medical marihuana dispensary shall also not include the following uses: a state-licensed health care facility; a state-licensed residential care facility for the elderly or infirmed; or a residential hospice care facility, as long as any such use complies strictly with applicable laws and rules of the Village of Nashville and applicable Michigan laws, rules, and regulations.

- (d) “Medical Use” shall be as defined by the Act.
- (e) “Primary Caregiver” shall be as defined by the Act.
- (f) “Qualifying Patient” shall be as defined by the Act.

**SECTION 2. REGULATIONS REGARDING PRIMARY CAREGIVER RESIDENCES**

A primary caregiver may only engage in activities associated with medical marihuana consistent with the provisions of this chapter including:

- (a) A primary caregiver may grow and process marihuana in compliance with the Act within a single-family residential dwelling unit where the primary caregiver lives and which is the primary caregiver's residence pursuant to Michigan law. Such activities by a primary caregiver may not occur in or at an apartment building, multi-family residential building or similar housing building or development but, rather, may occur only within a detached lawful single-family residential dwelling unit. Primary caregivers who do not own the residence in which they reside must have written permission from the owner of the residence to grow and process marihuana within the residence.
- (b) No person other than the primary caregiver residing within the residence of that primary caregiver shall be engaged or involved in the growing, processing, or handling of marihuana.
- (c) A primary caregiver's use of his/her residential dwelling unit for medical marihuana activities shall be clearly incidental and subordinate to its use for single-family residential purposes. Not more than 25% of the gross finished floor area of the dwelling or 200 square feet of floor area of the dwelling, whichever is less, may be used for the growing, processing and handling of the marihuana. No part of an accessory building, detached garage, pole barn or similar building or structure shall be used for the growing, processing, or distribution of marihuana.
- (d) A qualifying patient may not be present at the residence of the primary caregiver to purchase, smoke, consume, obtain or receive possession of any marihuana; rather, a primary caregiver must deliver any medical marihuana to a qualifying patient at the residence of that qualifying patient. This subsection shall not apply to a primary caregiver who is also a qualified patient utilizing marihuana in compliance with the Act for his/her own personal use or to a member of the primary caregiver's family who is a qualified patient who legally resides in the same single-family dwelling unit as the primary caregiver and whose use of marihuana is in compliance with the Act.
- (e) No person other than the primary caregiver shall deliver marihuana to a qualifying patient. The primary caregiver must personally deliver the marihuana to his/her qualifying patient.
- (f) There shall be no visible change to the outside appearance of a primary caregiver's residence or other visible evidence of the conduct of the medical marihuana operation occurring inside the dwelling. Increased traffic, fire and safety hazards, noise, dirt, odor, dust, gas, glare, fumes, vibration or other nuisance elements are prohibited.

- (g) No marihuana, marihuana plants, marihuana paraphernalia or plant growing apparatus shall be visible from the exterior of the dwelling.
- (h) No growing, processing, smoking or use of marihuana shall occur outdoors. All medical marihuana growing, processing and handling shall occur entirely within the dwelling.
- (i) No exchange or transfer of medical marihuana merchandise or products may occur on, at or within the dwelling unit (including the lot or parcel involved) of the primary caregiver.
- (j) No equipment or process shall be used in growing, processing or handling medical marihuana which creates noise, vibration, glare, light, fumes, odors or electrical interference detectable to the normal senses outside the primary caregiver's dwelling unit. In case of electrical interference, no equipment or process shall be used that creates visual or audible interference with any radio, television or similar receiver off the premises or causes fluctuation of line voltage off the premises. The dwelling unit of the primary caregiver shall meet all building, housing, fire and local and state codes and ordinance requirements.
- (k) A dwelling unit to be used by a primary caregiver for the growing, processing, or handling of medical marihuana within the Village and any vehicle to be used by a primary caregiver for the processing, handling or distribution of medical marihuana shall be registered annually with the Village Police Department. Registration shall be required at the time of commencement of the use of such dwelling or vehicles for medical marihuana related purposes, and as of January 1<sup>st</sup> of each year thereafter. At the time of registration, primary caregivers shall demonstrate that all required licensing and insurance are in place and current for the vehicles.
- (l) The growing, processing, and handling of medical marihuana shall comply at all time and in all circumstances with the Act and any applicable regulations or requirements promulgated by the Michigan Department of Community Health or any other Michigan agency.
- (m) No more than one (1) primary caregiver may grow, process, or handle medical marihuana at or from a given dwelling unit.
- (n) All medical marihuana shall be contained within the primary caregiver's residential dwelling (except when being delivered by the primary caregiver to a qualifying patient off site) and in an enclosed, locked facility inaccessible on all sides and equipped with locks or other security devices that permit access only by the registered primary caregiver. A person under eighteen (18) years old shall not have any access to any medical marihuana.
- (o) No on-site consumption or smoking of marihuana is allowed within the residence of a primary caregiver except for medical marihuana consumption by the primary caregiver himself/herself if he/she is a qualifying patient or medical marihuana consumption by a member of the primary caregiver's family who is a qualified patient who legally resides in the same single-family dwelling unit as the primary caregiver and whose use of marihuana is in compliance with the Act

- (p) The quantity of medical marihuana grown, processed or handled at, from or through the residence of the primary caregiver shall not exceed that permitted by the Act.
- (q) No sign identifying a primary caregiver's dwelling unit as a place where medical marihuana is cultivated, processed, sold or handled shall be visible outside of the dwelling unit.

**SECTION 3.** REGULATIONS REGARDING QUALIFYING PATIENTS

A primary caregiver is required to deliver marihuana to his/her qualifying patients at the residence where the particular qualifying patient resides. A qualifying patient may not go to the residence of the primary caregiver to purchase, obtain, smoke or consume marihuana; provided, however, that this restriction does not apply to a primary caregiver who is also a qualified patient utilizing marihuana in compliance with the Act for his/her own personal use or to a member of the primary caregiver's family who is a qualified patient who legally resides in the same single-family dwelling unit as the primary caregiver and whose use of marihuana is in compliance with the Act.

**SECTION 4.** REQUIRED COMPLIANCE WITH FEDERAL LAW

- (a) Nothing in this Ordinance is intended to grant, nor shall any provisions of this Ordinance be construed as granting, immunity from prosecution or having property seized for the growing, consuming, using, smoking, distributing or possessing of marihuana which is not in strict compliance with the Act, this Ordinance and all other applicable laws and regulations.
- (b) Since federal laws are not affected by the Act or this Ordinance, nothing in this Ordinance is intended to grant, nor shall it be construed as granting, immunity from criminal prosecution under federal law. The Act and this Ordinance do not protect users, primary caregivers, qualifying patients or the owners of properties on which medical use of marihuana is occurring from federal prosecution or from having their property seized by federal authorities under the Federal Controlled Substances Act, as amended.

**SECTION 5.** GENERAL REGULATIONS

- (a) A primary caregiver shall not grow, utilize, process or otherwise engage in activities associated with medical marihuana within 1,000 feet of any school, library or the residence of another primary caregiver. For the purposes of this section, the spacing requirements shall be measured along a direct line between the nearest exterior walls of the dwelling of the primary caregivers.
- (b) The smoking or consumption of marihuana shall not occur in any public place.
- (c) Every primary caregiver, qualifying patient and any other person shall comply at all times and all circumstances with the Act and the regulations of the Michigan Department of Community Health, as may be amended from time to time.

- (d) It shall be unlawful to give, sell, dispense, or otherwise distribute medical marihuana (or any marihuana) except in compliance with this Ordinance and the Act.
- (e) Every primary caregiver shall maintain an accurate and complete written record of all medical marihuana purchased, sold, distributed, or dispensed by or through the primary caregiver with shall include, at a minimum, the following:
  - 1. The identity of the primary caregiver and qualifying patient involved in each transaction.
  - 2. The total quantity of, and amount paid for, the medical marihuana for each transaction.
  - 3. The date, time and location of each transaction.
- (f) All transactions and the above-required information shall be recorded and kept in a numerical register in the order of which the transaction occurs. All such records must be kept in the English language in a legible manner and must be preserved and made available for inspection by the Village for a period of 3 years after the date of the transaction.
- (g) The premises in which medical marihuana is grown or processed, along with the records of transactions and deliveries, shall be open for inspection for compliance with all applicable laws and rules upon request by the building official, the fire department and law enforcement officials, without a warrant and without delay, at such times as anyone is present on the premises, or following a request to the caregiver for an inspection.
- (h) The Village Council by resolution may require the issuance of a Village business permit for each primary caregiver.
- (i) It is unlawful to purchase or otherwise obtain medical marihuana (or any marihuana) from any person other than a primary caregiver who is authorized under the Act to provide, sell or dispense medical marihuana to that particular person.
- (j) It shall be unlawful to conduct or operate a medical marihuana dispensary in the Village.

**SECTION 6. RESPONSIBILITY FOR THE PREMISES**

A primary caregiver shall be responsible for any violation of this Ordinance or the Act which occurs in the residential dwelling unit or lot or parcel owned or leased by the primary caregiver.

**ARTICLE III. ENFORCEMENT**

**SECTION 1. PENALTIES**

A person who violates a provision of this Ordinance shall be responsible for a misdemeanor, punishable by a fine of not more than \$500 and/or 90 days in jail or both. Nothing herein shall be interpreted to limit the authority of the Village or State of Michigan to take such other action in response to a violation of the law as authorized by the Act, which authority is expressly reserved.

**SECTION 2.** PUBLIC NUISANCE AND NUISANCE *Per Se*

The violation of any provision of this Ordinance or Act shall be deemed to constitute a nuisance *per se* and shall be subject to abatement.

**SECTION 3.** SEVERABILITY

If any article, section, subsection, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of this Ordinance.

**SECTION 4.** EFFECTIVE DATE

This Ordinance shall become effective upon its publication or 20 days following its adoption, whichever occurs later.

Motion by council member Coll, seconded by council member Kenyon that Ordinance # 2-9-2012-A be adopted as read.

YEAS: Kenyon, Hartwell, Coll, Scramlin, Harwood, Dunham

NAYS: Zoerman

ABSENT/ABSTAIN: None

Frank Dunham, President

Cathy Lentz, Village Clerk

I, Cathy Lentz, the Clerk for the Village of Nashville, Barry County, Michigan, hereby certify that the forgoing is a true and accurate copy of an ordinance adopted by the village Council of the Village of Nashville at a regular meeting held on 2-9-2012.

Cathy Lentz, Village Clerk

Adopted: 2-9-2012  
Published: 2-11-2012  
Effective: 3-2-2012