

VILLAGE OF NORTH BRANCH
MEDICAL MARIJUANA ORDINANCE

ORDINANCE NO. 43

An Ordinance to regulate the use, possession, growing and distribution of medical marijuana by caregivers and patients within the Village.

THE VILLAGE OF NORTH BRANCH ORDAINS:

Section 1: Findings and Purpose of Ordinance.

The Village of North Branch adopts this Ordinance based on the following findings:

- a) In 2008, the voters of the State of Michigan (with an approval by North Branch Township voters of 54%) adopted by initiative election a statute authorizing the limited use, growing, and distribution of marijuana for certain medical conditions.
- b) The stated intent of the statute approved by the voters was to enable certain specified persons who comply with the registration provisions of the law to legally obtain, possess, grow, use and distribute marijuana and to assist specifically registered individuals identified in the statute without fear or criminal prosecution under limited, specific circumstances.
- c) Despite the provisions of the medical marijuana legislation, marijuana is still a controlled substance under Michigan law and the limited legalization of medical marijuana has a potential for abuse that should be closely monitored and to the extent permissible regulated by local authorities.
- d) Pursuant to the rules adopted (R333.125) under the Michigan Medical Marijuana Act, additional felony penalties apply to any caregiver who is convicted of distributing marijuana to someone not allowed to use marijuana for medical purposes.
- e) It is the intention of the Village that nothing in this Ordinance be construed to allow persons to engage in

conduct that endangers others or causes a public nuisance, or to allow the use, possession, growing, distribution or consumption of marijuana for non-medical purposes that is otherwise illegal. This Ordinance is not intended to condone, authorize or provide immunity from prosecution for violations of state or federal law, but rather only to describe the type of conduct which constitutes a violation of this Ordinance.

f) It is the purpose of this Ordinance to impose specific requirements for those individuals registering with the State of Michigan as "qualifying patients" or "primary caregivers" as those terms are defined by MCL333.26421, the Michigan Medical Marijuana Act, and to regulate the conduct of activity pursuant thereto so as to protect the public health, safety and welfare.

Section 2: Definitions.

The definition of words and terms used in this Ordinance shall be the definitions contained in the Michigan Medical Marijuana Act, MCL 333.26421 et seq.

In addition, for purposes of this Ordinance, a "medical marijuana facility" is defined as any location where medical marijuana is dispensed to qualified patients and any location where medical marijuana is grown for distribution.

Section 3: Prohibited Conduct.

a) Medical Marijuana Compensation Restrictions:

No person shall receive or share in compensation for the costs associated with assisting a qualifying patient with the medical use of marijuana to a qualifying patient except for a registered caregiver who is distributing marijuana to a qualifying patient that the registered caregiver is connected to through the Michigan Department of Community Health's registration process and the transaction is otherwise in compliance with the Michigan Medical Marijuana Act. No qualifying patient shall receive compensation for costs associated with assisting other qualifying patients with the medical use of marijuana unless the qualifying patient providing the assistance is a

registered primary caregiver connected to the qualifying patient receiving the marijuana through the Michigan Department of Community Health's registration process and the transaction is otherwise in accordance with the Michigan Medical Marijuana Act.

b) Medical Marijuana Possession Limits.

No primary caregiver or qualifying patient shall possess marijuana or marijuana plants in excess of the amount he or she is allowed to possess under MCL 333.26424(b). No more than 5 patients shall be connected to or served by a single caregiver. The possession limits for a registered caregiver under the Michigan Medical Marijuana Act are as follows:

- 1) 2.5 ounces of usable marijuana for each qualifying patient that is connected to the caregiver.
- 2) 12 marijuana plants kept in an enclosed, locked facility, for each registered qualifying patient who has specified that the qualified caregiver will be allowed to cultivate marijuana for the qualifying patient.
- 3) Any incidental amount of seeds, stalks, and usable roots.

The possession limits for a qualifying patient under the Michigan Medical Marijuana Act are as follows:

- 1) 2.5 ounces of usable marijuana.
- 2) 12 marijuana plants kept in an enclosed, locked facility provided that the qualifying patient has not specified that a primary caregiver will be allowed to cultivate marijuana for the qualifying patient.
- 3) Any incidental amount of seeds, stalks, and unusable roots shall also be allowed under state law and shall not be included in this amount.

c) Entity Restrictions.

The following entities are expressly prohibited from receiving compensation for costs associated with assisting

a registered qualifying patient in the medical use of marijuana: corporations, limited liability companies, and partnerships, or any other entity other than an individual registered caregiver.

d) Common Facilities Restrictions.

It shall be a violation of this Ordinance for any person to participate as a registered primary caregiver in a jointly operated facility where primary caregivers jointly share building space which is used in common to assist more than 5 qualifying patients with the medical use of marijuana. Use "in common," as that phrase is used in this subparagraph, shall include a shared or common reception area or shared or common customer service area.

e) Restrictions Against Delegation of Caregiver Functions.

It shall be a violation of this Ordinance for a primary caregiver to delegate to an employee or other person not independently and specifically authorized by the Michigan Medical Marijuana Act to provide assistance with the medical use of marijuana to the specific qualifying patient.

f) Continued Illegality of Non-Medical Marijuana.

The sale, distribution, cultivation, possession and use of marijuana or marijuana plants is prohibited to the extent it is in violation of the Michigan Medical Marijuana Act or other Michigan statutes.

g) No medical marijuana caregiver or patient shall:

(1) Undertake any task under the influence of marijuana, when doing so would constitute negligence or professional malpractice.

(2) Possess or engage in the use of medical marijuana:

(A) In a school bus;

(B) On the grounds of any state licensed daycare facility, preschool, primary school, or secondary school;

(3) Smoke marijuana in any public place.

(4) Operate or be in actual physical control of any motor vehicle, while under the influence of marijuana.

Section 4: Dispensing and Growing Facilities For Medical Marijuana.

a) It shall be unlawful for any "primary caregiver," as defined by the Michigan Medical Marijuana Act, to dispense or grow medical marijuana within any retail store, storefront, office building, manufacturing building, processing facility, any other type of commercial or industrial building, any apartment building or any residential apartment located within the Village. Such activities shall only be carried out within single-family residences where the caregiver resides. No more than one (1) caregiver shall operate out of any residence.

b) No medical marijuana caregiver shall dispense or grow marijuana within one thousand (1,000) feet of any school or within five hundred (500) feet of any church, library, or licensed daycare facility.

Section 5: Requirements for Primary Caregivers.

A person who has been issued a Michigan registration identification card as a "primary caregiver" and who conducts medical marijuana operations within the Village shall:

A. Comply with all applicable statutes, including the Michigan Medical Marijuana Act;

B. Have hours of operation which do not extend beyond 8:00 a.m. to 9:00 p.m. Monday through Saturday.

Section 6: Severability.

Sections of this Ordinance shall be deemed severable and should any section, clause or provision of this Ordinance be declared to be invalid, the same shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be invalid.

Section 7: Penalty.

Any person, firm, or corporation who shall violate any provision of this Ordinance shall be deemed responsible for violating a municipal civil infraction and shall, upon finding thereof, be subject to a fine of not more than Five Hundred and 00/100 (\$500.00) Dollars, plus court costs and costs of prosecution at the discretion of the Court. Each day that a violation occurs shall be considered a separate offense. The Village may also seek injunctive relief in which case the violator shall be responsible for all attorney fees, expert fees, and all other costs incurred by the Village in enforcing this Ordinance.

The undersigned President and Clerk of the Village of North Branch hereby certify that this Ordinance was adopted on the 2nd day of December, 2010, by the North Branch Village Council and that a synopsis and notice of adoption was published in the LA View, on the 16th day of December, 2010.

This Ordinance shall become effective twenty (20) days after said date of adoption.

M. Kelly Martin, Village President

Belly L. Kennedy, Village Clerk

