

# VILLAGE OF CONSTANTINE

## *Ordinance No. 238*

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE VILLAGE OF CONSTANTINE BY ADDING A NEW ARTICLE WHICH NEW ARTICLE SHALL BE DESIGNATED AS ARTICLE VI, SECTION 39, OF THE CODE OF ORDINANCES AND SHALL REGULATE THE USE AND POSSESSION OF MEDICAL MARIJUANA AND THE OPERATION OF A MEDICAL MARIJUANA DISPENSARY WITHIN THE VILLAGE OF CONSTANTINE IN ACCORDANCE WITH THE MICHIGAN MEDICAL MARIJUANA ACT.

## **MEDICAL MARIJUANA ORDINANCE**

The Village of Constantine ordains:

Article VI, Section 39-40

Section 39-40 of Article VI, of the Code of Village Ordinances of the Village of Constantine is hereby added to read as follows:

WHEREAS, the Constantine Village council has determined that it is in the best interest of the residents of Constantine Village to regulate certain acts by individuals who are qualified patients or primary caregivers as defined by the Michigan Marijuana Act based upon the following findings:

1. Voters in the State of Michigan approved a referendum authorizing the use of marijuana for certain medical conditions.

The intent of the referendum was to enable certain specified persons who comply with the registration provisions of the law to legally obtain, possess, cultivate/grow, use and distribute marijuana and to assist specific registered individuals identified in the statute without fear of criminal prosecution under limited, specific circumstance.

3. Despite the specifics of the state legislation and the activities legally allowed us as set forth herein, marijuana is still a construed controlled substance under Michigan law and the legalization of obtaining, possession, cultivation/growing, use and distribution in specific circumstances has a potential for abuse that should be closely monitored and to the extent permissible regulated by local authorities.

4. If not closely monitored or regulated, the presence of marijuana even for the purposes legally permitted by the legislation can present an increase for illegal conduct and/or activity and this threat affects the health, safety and welfare of the residents of the Village of Constantine, State of Michigan.

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 use, possession or control of marijuana for non-medical purposes or allow activity relating to cultivation/growing, distribution or consumption of marijuana that is otherwise illegal.

NOW, THEREFORE, The Village of Constantine, St. Joseph County, Michigan ordains:

Article 39-40, Medical Marijuana Manufacturing and Distribution is hereby added and is to provide as follows effective August 20, 2011.

Sec. 39-41 PURPOSE. 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 in MCL 333-26421, the Michigan Medical Marijuana Act, and to regulate the conduct pursuant thereto in the Village of Constantine, Michigan so as to protect the health, safety and welfare of the general public.

Sec. 39-42 DEFINITIONS. For the purposes of this ordinance, the words and phrases as contained herein shall have the meanings as set forth in MCL 333.26423 and the regulations adopted by the State of Michigan, Department of Community Health, pursuant to authority conferred by Section 5 of Initiated Law 1 of 2008 unless defined otherwise herein.

1. Manufacturing as used in the Ordinance means the growing/cultivating of medical marijuana.

Distribution as used in this ordinance means the act of a primary caregiver delivering medical marijuana to a qualifying patient with whom the primary caregiver is associated through the Department of Public Health’s registration process.

Sec 39-43 COMPLIANCE REQUIRED. Those individuals within the Village of Constantine, Michigan who are “qualifying patients” or “primary caregivers” as those terms are used in the Michigan Medical Marijuana Act shall comply with the requirements set forth herein.

Sec 39-44 REQUIREMENTS FOR QUALIFYING PATIENTS. A person within the Village of Constantine, Michigan who has been issued and possesses a lawful registry identification card as a qualifying patient as set forth in MCL 333.26421 et seq shall comply with the following requirements:

1. Consumption of marijuana shall not occur in any public place.

Manufacturing and storage of medical marijuana by a qualifying patient shall only occur at the residence of the qualifying patient or other location permitted by this ordinance and shall only be allowed inside of an enclosed, locked facility which shall be a closet, room, or other closed area equipped with locks or other security devices that permit access only by a registered primary caregiver or registered qualifying patient. Such facility shall be under the exclusive control of the qualifying patient through written lease, contract or deed.

3. A qualifying patient may also possess on his person and under the qualifying patient's exclusive control an amount of medical marijuana deemed medically necessary to alleviate the condition that gave rise to the qualifying patient's registration with the Department of Public Health.

4. If a qualifying patient intends to manufacture and store medical marijuana at a location other than his or her primary residence, the same shall only occur at a location within a manufacturing district as defined by the Zoning Ordinances of the Village of Constantine after first obtaining a special land use permit from the Village of Constantine, and shall not be within 1000 feet of a:

- A) Drug-free school zone
- B) Church
- C) Child care facility
- D) Residence or district zoned for residential use

5. Manufacturing and storage of medical marijuana by a qualifying patient shall occur in one enclosed, locked facility such that manufacturing and storage does not occur in multiple locations.

Sec. 39-45 REQUIREMENTS OF PRIMARY CAREGIVER. A person within the Village of Constantine, Michigan who has been issued and possesses a lawful registry identification card as primary caregiver as set forth in MCL 333.26421 shall comply with the following requirements:

1. Manufacturing and storage of medical marijuana shall only be

allowed inside of an enclosed, locked facility being a closet, room, or other closed area equipped with locks or other security devices that permit access only by a registered primary caregiver or registered qualifying patient. Such facility shall be under the exclusive control, through written lease, contract or deed, in favor of the primary caregiver or the qualifying patient with whom the primary caregiver is associated through the Department of Public Health's registration process.

Manufacturing and storage of medical marijuana by a primary caregiver shall occur in one enclosed, locked facility such that manufacturing and storage does not occur in multiple locations.

3. Under no circumstances shall any third parties other than a qualified patient to whom a primary caregiver is lawfully registered to assist have access to the location where medical marijuana is being manufactured and/or stored.
4. The location from which a primary caregiver distributes medical marijuana to a qualifying patient shall be under the exclusive control, through written lease, contract or deed in favor of the primary caregiver.
5. Except for manufacturing and storage of medical marijuana that occurs at property under the exclusive control, through written lease, contract or deed in favor of a qualifying patient, a primary caregiver shall only manufacture and store medical marijuana at a location within a manufacturing district as defined by the Zoning ordinances of the Village of Constantine after first obtaining a special land use permit from the Village of Constantine.
6. The location from which a primary caregiver manufactures stores and distributes medical marijuana to a qualifying patient shall not be used by another primary caregiver for any purpose whatsoever.
7. Except for manufacturing, storage and distribution that occurs at the primary residence of a qualifying patient as set forth above, the location from which a primary caregiver manufactures, stores and distributes medical marijuana to a qualifying patient shall not be within 1000 feet of a:
  - E) Drug-free school zone
  - F) Church
  - G) Child care facility

H) Residence or district zoned for residential use

8. Manufacturing, storage and distribution of medical marijuana shall not occur in connection with or at a location at which any other commodity, product or service is also available and shall only occur as otherwise in compliance with the Zoning Ordinance of the Village of Constantine, Michigan.
9. No consumption of medical marijuana shall occur at a primary caregiver's location for manufacturing, storage or distribution 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.
10. Distribution of medical marijuana by a primary caregiver to a qualifying patient shall only occur at the location of manufacturing and storage of medical marijuana or at the residence of the qualifying patient.
11. A primary caregiver shall annually register with the Constantine Police Department the location where the primary caregiver shall engage in the manufacturing, storage and distribution of medical marijuana and the location shall be subject to an annual administrative inspection to ensure compliance with this Section. All information obtained through the registration process that would be deemed confidential pursuant to the Michigan Medical Marijuana Act shall be confidential and shall not be subject to disclosure pursuant to the Freedom of Information Act.

Sec 39-46 SEVERABILITY. The invalidity of any clause, sentence, paragraph or part of this ordinance shall not affect the validity of the remaining parts of this ordinance.

Sec 39-47 VIOLATIONS AND PENALTY. Any person who violates, disobeys, omits, neglects or refuses to comply with any provision of this ordinance shall be punished for each offense, upon conviction of a misdemeanor by a fine of not more than \$500.00 and costs of prosecution, or by imprisonment for a period not exceeding 90 days, or by both fine and imprisonment, in the discretion of the court. Each day that a violation is permitted to continue shall constitute a separate offense.

Sec. 39-48 EFFECTIVE DATE: This Ordinance shall become effective twenty (20) days after the date of Publication of Notice of the Ordinance.

**THIS ORDINANCE WAS ADOPTED THIS 18<sup>TH</sup> DAY OF JULY 2011**

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Village President.

*The Vote of Council*

Members Voting Yes \_\_\_\_\_  
Members Voting No \_\_\_\_\_  
Members Absent: \_\_\_\_\_  
Members Not Voting \_\_\_\_\_

*Clerk's Certificate*

I, the undersigned Clerk of the Village of Constantine, hereby certify and attest that the above and foregoing is a true and correct copy of an Ordinance adopted by the Village of Constantine Village Council, St. Joseph County, Michigan, at a regular meeting held pursuant to public Notice on the 18<sup>th</sup> day of July, 2011.

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Village Clerk

Published: \_\_\_\_\_ day of \_\_\_\_\_ 2011

Effective: \_\_\_\_\_ day of \_\_\_\_\_ 2011