

VILLAGE OF BERRIEN SPRINGS
Berrien County, Michigan

ORDINANCE NO. 372

An Ordinance to Add Chapter 9(C) to Village of Berrien Springs Code of Ordinances

THE VILLAGE OF BERRIEN SPRINGS ORDAINS:

A new Chapter 9(C) entitled “Marihuana Establishments and Facilities” is added to the Code of Ordinances for the Village as follows:

Sec. 9(C) – 1 Title

This chapter 9(C) shall be known and may be recited as the “Village of Berrien Springs Marihuana Establishments and Facilities Ordinance.”

Sec. 9(C) – 2 Findings

The Village Council has made the following findings:

- A. On November 6, 2018, electors in the State approved a ballot initiative officially called the Michigan Regulation and Taxation of Marihuana Act (“MRTMA”).
- B. The MRTMA provides for the recreational use of marihuana throughout the state by defining, regulating, and creating state-issued licenses for various “Marihuana Establishments.”
- C. Under the MRTMA, the State is required to issue operating licenses for Marihuana Establishments anywhere in Michigan unless a local municipality enacts an ordinance prohibiting them.
- D. After passage of the Medical Marihuana Facilities Licensing Act, 2016 PA 281, as amended (MMFLA), the Village Council did not adopt any ordinance allowing Medical Marihuana Facilities within the Village. By taking no action, the Village effectively opted out of the MMFLA. Any facility defined under the MMFLA is thereby prohibited and no license can be issued by the State for them to operate in the Village of Berrien Springs.
- E. The cultivation, distribution, possession and use of marihuana remain criminalized under federal law.
- F. Based on legalization of recreational marihuana elsewhere, the amount of driving under the influence arrests will go up, marihuana use among minors will likely increase and drug related student suspensions will likely increase as well as negative health effects from smoking marihuana.

Sec. 9(C) – 3 Purpose.

The purpose of this chapter is to continue the Village's same policy when, on June 26, 2017, it adopted its resolution to not adopt an ordinance to authorize within the Village any Medical Marihuana Facilities as identified in the MMFLA.

Therefore, the purpose of this chapter is to exercise the Village of Berrien Spring's authority to prohibit the establishment or operation of marihuana establishments within the Village as such facilities are defined in the MRTMA.

Sec. 9(C) – 4 Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (a) *IHRA* means the Industrial Hemp Research Act, 2014 PA 547, MCL 286.841 *et seq.*
- (b) *Marihuana* means that substance as defined at MCL 333.7106(4)
- (c) *Marihuana* establishment means that term as defined in the MRTMA.
- (d) *Marihuana facility* means that term as defined in the MMFLA
- (e) *MMFLA* means the Medical Marihuana Facilities Licensing Act, 2016 PA 281, as amended.
- (f) *MMMA* means the Michigan Medical Marihuana Act, 2008 IL 1, as amended.
- (g) *MRTMA* means the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, as amended.

Sec. 9(C) – 5 Marihuana Establishments and Facilities Prohibited.

- (a) Pursuant to Section 6 of the MRTMA, marihuana establishments are prohibited within the municipal boundaries of the Village.
- (b) Marihuana facilities are prohibited within the municipal boundaries of the Village.

Sec. 9(C) – 6 Rights Unaffected by this Chapter.

- (a) Except as specifically provided in Section 9(C) - 5 [above], this article shall not affect the rights or privileges of any individual or other person preserved under the MRTMA.
- (b) This article does not affect the rights or privileges of a marihuana facility outside of the Village to engage in activities within the Village that it is permitted to

engage in under the MMFLA within a municipality that has not authorized marihuana facilities to operate within its boundaries.

- (c) This article does not affect the rights or privileges of registered qualifying patients or registered primary caregivers under the MMMA or the MMFLA.
- (d) This article does not affect the rights or privileges of any individual or other person under the IHRA.
- (e) This article does not affect the rights or privileges of any individual or other person under any other federal or state law, rule or regulation related to the medical use of marihuana.

Sec. 9(C) – 7 Severability and Repealer.

If any portion of this Ordinance shall be held to be unlawful, the remaining portions shall remain in full force and effect. All ordinances and parts of ordinances in conflict herewith are hereby repealed.

Sec. 9(C) – 8 Effective Date.

This ordinance shall take effect immediately upon publication.

Sec. 9(C) – 9 Publication.

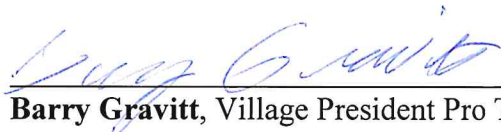
The Village Clerk shall certify to the adoption of this ordinance and cause the same to be published as required by law.

Yeas: Roll call vote: Jim Allred, Jesse Hibler, Sandy Swartz, Lonna Johnson, Kristin von Maur, President Pro Tem Barry Gravitt.

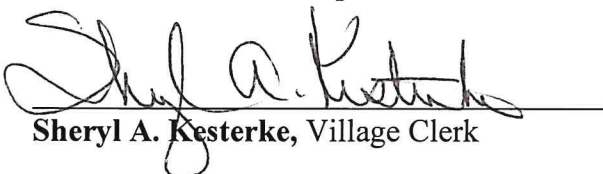
Nays: None

Absent: President Milt Richter

Dated: 12-04-18


Barry Gravitt, Village President Pro Tem

Ordinance declared adopted:


Sheryl A. Kesterke, Village Clerk

I hereby certify that the above and foregoing Ordinance was duly adopted by the Village Council of Berrien Springs and published in the Journal Era, a weekly newspaper published in the Village of Berrien Springs, in the issue of said newspaper dated and published on the 5th day of December, 2018.


Sheryl A. Kesterke, Village Clerk