

**CITY OF NILES, MICHIGAN
COUNTY OF BERRIEN
STATE OF MICHIGAN**

ORDINANCE NO. 442

An Ordinance to regulate those individuals within the City of Niles, Michigan that are qualified patients or acting as primary caregivers pursuant to the provisions of the Michigan Medical Marihuana Act.

THE CITY OF NILES, MICHIGAN ORDAINS:

SECTION 1 FINDINGS. The City of Niles, Michigan adopts this Ordinance based on the following findings of fact:

1. Voters in the State of Michigan approved the referendum authorizing the use of marihuana for certain medical conditions.
2. 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 marihuana and to assist specific registered individuals identified in the statute without fear or criminal prosecution under limited, specific circumstances.
3. Despite the specifics of the state legislation and the activities legally allowed as set forth therein, marihuana is still a controlled substance under Michigan law and the legalization of obtaining, possession, cultivation / growth, 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 marihuana 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 City of Niles, Michigan.

It is the intention of the City Council of the City of Niles, Michigan 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 marihuana for non-medical purposes or allow activity relating to cultivation / growing, distribution or consumption of marihuana that is otherwise illegal.

SECTION 2 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 a “primary caregiver” as those terms are defined in MCLA 333.26421, the Michigan Medical Marihuana Act, and to regulate the conduct of activity pursuant thereto in the City of Niles, Michigan so as to protect the health, safety and welfare of the general public.

SECTION 3 DEFINITIONS. For purposes of this Ordinance, the words and phrases as contained herein shall have the meanings as set forth in MCLA 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.

SECTION 4 **COMPLIANCE REQUIRED.** Those individuals within the City of Niles, Michigan who are “qualifying patients” or “primary caregivers” as those terms are used in the Michigan Medical Marihuana Act shall comply with the requirements set forth herein for qualifying patients, Article V, for primary caregivers, Article VI.

SECTION 5 **REQUIREMENTS FOR QUALIFYING PATIENTS.** A person within the City of Niles, Michigan who has been issued and possesses a 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 marihuana shall not occur in any public place.
2. Growing of marihuana shall only be allowed inside of an enclosed structure or building with walls and roof and secured with locks to prevent unintended or uninvited access.

SECTION 6 **REQUIREMENTS FOR PRIMARY CAREGIVER.** A person within the City of Niles, Michigan who has been issued and possesses a registry identification card as a primary caregiver as set forth in MCL 333.26421 shall comply with the following requirements:

1. Growing of marihuana shall only be allowed inside of an enclosed structure or building with walls and roof and secured with locks to prevent unintended or uninvited access.
2. The location from which a primary caregiver provides services to a qualifying patient shall be under the control, through written lease, contract or deed, in favor of the primary caregiver.
3. The location from which a primary caregiver grows, cultivates or otherwise provides services to a qualifying patient shall not be used by another primary caregiver, for that primary caregiver’s services as allowed under the Michigan Medical Marihuana Act.
4. The location from which a primary caregiver provides services to a qualifying patient shall not be within 1,000 feet of a drug-free school zone and shall only occur as set froth in the Zoning Ordinance of the City of Niles, Michigan.
5. Cultivation / growing or distribution of marihuana shall not occur in connection with or at a location at which any other commodity, product or service is also available.
6. No consumption of marihuana shall occur at a primary caregiver’s location for cultivation / growing, 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.

SECTION 7 **VIOLATIONS AND PENALTIES.** Any person who violates a provision of this Ordinance shall be guilty of a misdemeanor punishable by fines and /or imprisoned. Further, a person who violates the provisions of this ordinance in addition to penalties set forth herein shall be presumed to be operating a nuisance *per se* and shall be subject to suit or injunction to enjoin further conduct.

SECTION 8 SEVERABILITY. If any portion of this Ordinance or the application thereof to any person is adjudged to be invalid by a court of competent jurisdiction, such determination shall not affect the validity of any other portion of this Ordinance, or the application to any other portion of this Ordinance to any such person or other persons.

SECTION 9 EFFECTIVE DATE. This Ordinance shall become effective twenty days after the date of its enactment.

Adopted this 11th day of May, 2009.

Proposed by: Council Member: Weimer

Supported by Council Member: Arndt

Roll Call Vote:

Ayes: ALL

Nays:

Abstain:

Motion Carried:

Motion Defeated:

ORDINANCE DECLARED ENACTED:

This Ordinance was enacted by the City Council of the City of Niles, State of Michigan on the 11th day of May, 2009 and approved by its Mayor and Clerk on said date.

CITY OF NILES, MICHIGAN

By: _____
Michael T. McCauslin
Mayor

By: _____
Ruth Harte
Clerk