

VILLAGE OF CONSTANTINE

Ordinance No. 244

AN ORDINANCE TO AMEND THE CODE OF THE VILLAGE OF CONSTANTINE, SO AS TO PROVIDE FOR THE LICENSING AND REGULATION OF CERTAIN MEDICAL MARIHUANA FACILITIES WITHIN THE VILLAGE, AS PERMITTED UNDER THE MICHIGAN MEDICAL MARIHUANA LICENSING ACT.

AUTHORIZING AND PERMITTING COMMERCIAL MEDICAL MARIHUANA FACILITIES

Ordinance No. 244

ADOPTED _____

The Village of Constantine ordains:

Section 1. **Purpose:**

The Village of Constantine finds that it is in the public interest to allow and permit state-licensed medical marihuana facilities within its boundaries pursuant to PA 281 of 2016, the Medical Marihuana Facilities Licensing Act, MCLA 333.27101, *et seq.*

Section 2. **Conflicts:**

Nothing in this Ordinance shall be construed in such a manner as to conflict with the existing Village Ordinances, except as stated herein.

Section 3. **Amendment of Article XXIII of Zoning Code - DEFINITIONS AND TERMS**

Article XXIII of the Village Zoning Code shall be amended to include the following terms and definitions:

Medical Marihuana Act, Or the “Act”: Means the Michigan Public Act 281 of 2016, or MCLA 333.27101, *et seq.*

Applicant: Means a person who applies for a license under this Ordinance.

If an entity applies for a license, the term includes the owner, officer, director, member, or managerial employee of the entity when appropriate.

Grower: A licensee that is a commercial entity located in the state of Michigan that cultivates, dries, trims and packages marihuana for sale at a processor or provisioning center.

Marihuana Facility: Means a location at which a licensed holder is licensed to operate under the Public Act 281 of 2016.

Marihuana-Infused Produce: Means a topical formulation, tincture, beverage, edible substance, or similar product containing any usable marihuana that is intended for human consumption in a manner other than smoke inhalation.

Medical Marihuana Grow Operation: A commercial facility licensed under Public Act 281 of 2016 that cultivates, dries, trims, or cures marihuana for sale to a processor or provisioning center. Within the Village of Constantine, all such operations shall be in indoor facilities only. No such operations shall take place outdoors, or in uncovered/unroofed facilities.

Medical Marihuana Processing Facility: A commercial facility licensed under Public Act 281 of 2016 that purchases marihuana from a licensed grow operation and extracts resin from the marihuana or creates a marihuana-infused product for sale and transfer in packaged form to a Secure Transporter or to a Provisioning center.

Medical Marihuana Secure Transporter: A commercial facility licensed under Public Act 281 of 2016 that stores marihuana and transports marihuana between marihuana facilities for a fee.

Medical Marihuana Provisioning Center: A commercial facility licensed under Public Act 281 of 2016 that purchases marihuana from a license grower or processor and sells, supplies, or provides marihuana to registered qualifying patients, directly or through the patients' registered primary caregiver. The term "provisioning center" shall include any commercial property where marihuana is sold at retail to registered qualifying patients or registered primary caregivers.

A noncommercial location used by a primary caregiver to assist a qualifying patient connected to the caregiver through the department's marihuana registration process in accordance with the Michigan Medical Marihuana Act is not a provisioning center for the purposes of this Ordinance.

Medical Marihuana Safety Compliance Facility: A commercial facility licensed under Public Act 281 of 2016 that receives marihuana from a licensed grow

operation, licensed processing facility, or licenced care giver, tests it for contaminants and fortetrahydrocannabinol and other cannabinoids, returns the test results, and may return the marihuana to the facility or person, from which it was submitted.

State Operating License: Means a License that is issued under Public Act 281 of 2016 by the State of Michigan that allows the licensee to operate a Marihuana Facility.

Operating Permit: Means a Permit issued by the Village of Constantine to allow the licensee to operate a Marihuana Facility in the Village of Constantine under this Ordinance.

Section 4: *Applicability and Enabling Provisions:*

1. Pursuant to Section 205(1) of Michigan Public Act 281 of 2016, the Village of Constantine will authorize Permits for the following types of Marihuana Facilities to be located within the Village:
 - A. Medical Marihuana Grow Operations
 - B. Medial Marihuana Processing Facilities
 - C. Medical Marihuana Secure Transporter
 - D. Medical Marihuana Provisioning Center
 - E. Medical Marihuana Safety Compliance Center
2. No person or entity that was open or operating any facility purporting to produce , manufacture, test, transfer, or transport medical marihuana or marihuana prior to the adoption of this Ordinance by the Village Council shall be considered a lawful use or lawful nonconforming use.
3. This Section does not apply to, or regulate any protected patient or caregiver conduct pursuant to the Michigan Marihuana Act of 2008.

Section 5: **Permit Requirement Subject to Special Use Approval:**

1. Any person or entity that wishes to operate a Marihuana Facility in the Village of Constantine shall obtain a Permit from the Village, and it must also obtain a State of Michigan Operating License prior to opening the facility, or operating it.

2. The application and inspection fee for the Permit required by this Section shall be set from time to time by the Village Council by resolution.
3. In addition to an annual re-application and inspection fee, the Village of Constantine may assess an annual fee of no more than \$5,000.00 to help defray the administrative and enforcement costs associated with the operation of the Marihuana Facilities operating in the Village.
4. No Permit issued under this Ordinance shall be transferrable unless first approved by the Michigan State Medical Marihuana Licensing Board.
5. All Permits issued under this Ordinance shall be renewed annually and shall be subject to annual inspection and renewal fees from time to time set by the Village Council by resolution.
6. The Village may limit the number of Permits issued under this Section, and may revise this limit from time to time by resolution of the Village Council.
7. No person or entity that has opened and operated a facility doing business, or purporting to do business as defined under this Ordinance or the Michigan Act, shall do so without first obtaining a Permit from the Village.
8. A Person or entity that receives a Permit under this Ordinance shall display its Permit, together with its State of Michigan Medical Marihuana Facilities License in plain view, clearly visible in its facility.
9. If a Person or entity receives a Temporary Permit, or a temporary Medical Marihuana Facilities License issued prior to December 15, 2017, such Person or Entity may continue to operate the facility until such time as the State of Michigan requires a new or an additional Michigan Medical Marihuana Facilities License.

Section 6: **Location/ Operating Requirements:**

1. *Medical Marihuana Grow Operations*
 - A. Must be located in an Industrial Zone.

- B. No Outdoor facilities. Shall be in indoor facilities only. There shall be no grow operations taking place in an uncovered/unroofed facility.
- C. All facilities must be designed to minimize odors emanating from the marihuana plants.
- D. All facilities must be designed and operated to minimize the amount of pesticides, fertilizers, nutrients, marihuana, and other potential contaminants discharged into the public wastewater and/or storm water systems. All growers must have a plan in place to prevent the spread of mold that complies with wastewater disposal.
- E. All facilities must have and maintain a secure, closed, clean, environment in the room where the marihuana is grown, stored, tested and processed, in order to prevent outside contamination and prevent inadvertent and/or unauthorized removal of marihuana from the facility.
- F. No consumption of the Marihuana or a Marihuana Product shall take place in or near the facility.
- G. The building in which these facilities are located shall have no other occupants, except for other Stacked Licensed facilities, or multiple licensed facilities having common ownership.
- H. Security: All Medical Marihuana Grow Operations shall at all times maintain a security system that meets State Law requirements, and shall include the following:
 - a. Security Surveillance cameras installed to monitor all entrances, along with the interior and exterior of the Premises.
 - b. Robbery and burglary alarm systems which are professionally monitored and operated 24 hours a day, 7 days a week.
 - c. All rooms that contain marihuana must be individually locked and accessible only by authorized personnel.
 - d. A locking safe, permanently affixed to the premises

that shall be used to store all cash remaining in the facility overnight.

e. All security recordings and documentation shall be preserved for at least 14 days by the operator of the Medical Marihuana Grow Operations and made available to any law enforcement agency or officers upon request.

I. All facilities must be in conformance with the standards of this Ordinance, and with the standards set in Michigan Public Act 281 of 2016.

2. *Medical Marihuana Processing Facilities*
Medical Marihuana Secure Transporter
Medical Marihuana Safety Compliance Center

A. May be located in an Industrial Zone.

B. With special use permit may be also located in the Commercial Zoning District “Village Zone C – Commercial District,” subject to the following buffer zones:

1. The premises shall not be located within 300 feet of any place of worship or church.

2. The premises shall not be located within 300 feet of any park which has within its boundaries a child’s playground.

3. The premises shall not be located within 1,000 feet of any public school whose campuses are:

- (1) Eastside Elementary School
- (2) Riverside Elementary School
- (3) Constantine Middle School
- (4) Constantine High School

C. No Outdoor facilities. All facilities shall be in indoor facilities only, no uncovered/unroofed operations.

D. The building in which these facilities are located shall have no other occupants who have access to the facilities.

- E. All facilities must be designed to minimize odors emanating from the marihuana. All vehicles used in transporting marihuana must be designed to minimize odor and must be secure as required by State Statute.
- F. All drying, soil mixing, processing, and other non-growing activities must take place in a separate room or facility from any growing activities.
- G. All operations must have processes in place to prevent contamination or pollution of the marihuana during loading and unloading. All such operations must be secure.
- H. Security: All facilities shall at all times maintain a security system that meets State Law requirements, and shall include the following:
 - a. Security Surveillance cameras installed to monitor all entrances, along with the interior and exterior of the Premises.
 - b. Robbery and burglary alarm systems which are professionally monitored and operated 24 hours a day, 7 days a week.
 - c. All rooms that contain marihuana must be individually locked and assessable only by authorized personnel.
 - d. A locking safe, permanently affixed to the premises that shall be used to store all cash remaining in the facility overnight.
 - e. Adequate security, such as a safe or secure, locked storage area for the storage of product remaining in the facility overnight
 - f. All security recordings and documentation shall be preserved for at least 14 days by the operator of the Medical Marihuana Grow Operations and made available to any law enforcement agency or officer upon request.
- I. No consumption of the Marihuana or a Marihuana Product shall take place in or near the facility.

- J. All Processing Centers and other formulators of products, must comply with Material Safety Data Sheet requirements regarding the disclosure of ingredients and amounts of additives in their products for medical and pharmaceutical purposes.
- K. Subject to the other provisions of this Ordinance, any combination of the following types of state operating licenses may operate as separate facilities at the same location and building:
 - 1. Grower
 - 2. Processor
 - 3. Provisioning Center
- L. All facilities must be in conformance with the standards of this Ordinance, and with the standards set in Michigan Public Act 281 of 2016.

3. *Medical Marijuana Provisioning Centers:*

- A. May be located in the Industrial Zoning District if located in the same location and building as a Grower.
- B. To be located in either the Commercial Zoning District “Village Zone C – Commercial District,” or in the Central Business District, “Village Zone CBD – Central Business District,” subject to the following buffer zones:
 - 1. The premises shall not be located within 300 feet of any place of worship or church.
 - 2. The premises shall not be located within 300 feet of any park which has within its boundaries a child’s playground.
 - 3. The premises shall not be located within 1,000 feet of any public school whose campuses are:
 - (1) Eastside Elementary School
 - (2) Riverside Elementary School
 - (3) Constantine Middle School
 - (4) Constantine High School
- C. Hours of Operation: Provisioning Centers shall operate only between the hours of 8:00 a.m. to 8:00 p.m., Monday through Friday. Saturday, Sales are permitted between the hours of 8:00 a.m. to 10:00 p.m. No Sunday Sales.

- D. Parking: Each Provisioning Center located outside of the Central Business District shall provide adequate parking spaces for the parking for clients.
Such client parking shall include at a minimum 2 parking spaces, (one of which will be for handicapped) , with one additional added space for each 150 square feet of usable floor space in the facility (Half of which will be for handicapped).
- E. Sign Restrictions: No Pictures, photographs, drawings or other depictions of Marihuana or Marihuana Paraphernalia shall appear on the outside of any Provisioning Center, nor shall such be visible outside of the premises. A sign which states the name of the Business together with the Words “Medical Marihuana” is permitted. No slang expressions are permitted. Signs shall be limited to 20 square feet in area.
- F. Amount of Marihuana: The amount of Marihuana held in the Provisioning Center shall not exceed that permitted under Michigan Public Act No. 281 of 2016.
- G. Sale of Marihuana: The Marihuana offered for sale and distribution by the Provisioning Center must be packaged and labeled in accordance with State Law. No sales shall take place outside the building. The facility is prohibited from selling, soliciting or receiving Orders for Marihuana or Marihuana products over the internet. No Alcohol shall be sold or consumed on the premises. The sale/or delivery of posters, pamphlets, advertising or other items promoting the recreational use of marihuana is prohibited. The sale of non-medical or recreational marihuana or marihuana items/products is prohibited.
- H. All facilities must be designed to minimize odors emanating from the marihuana that is kept in the Provisioning Center.
- I. Security: All provisioning centers shall at all times maintain a security system that meets State Law requirements, and shall include the following:
- a. Security Surveillance cameras installed to monitor all entrances, along with the interior and exterior of the Premises.
 - b. Robbery and burglary alarm systems which are

professionally monitored and operated 24 hours a day, 7 days a week.

- c. A locking safe, permanently affixed to the premises that shall store all marihuana and cash remaining in the facility overnight.
 - d. All marihuana in whatever form and stored at the Provisioning Center shall be kept in a secure manner and shall not be visible from the outside of the building. No Marihuana shall be grown, processed, exchanged, displayed or dispensed outside of the building.
 - e. All security recordings and documentation shall be preserved for at least 14 days by the operator of the Provisioning Center and made available to any law enforcement agency or officer upon request.
 - f. If the building containing the Provisioning Center has other occupants, the provisioning center shall be separate and not accessible to any other tenant. The provisioning center shall have secure entrances not shared with any other occupant of the building
- J. Use of Marihuana: The sale, consumption or use of alcohol or tobacco products on the premises of a Provisioning Center is prohibited. Smoking or consumption of any controlled substances, including marihuana, on the premises is prohibited.
- K. No person under the age of eighteen (18) years of age shall be allowed to enter the facility, unless he /she has in his/her possession a valid Medical Marijuana Card. Then the minor shall be permitted to enter only when accompanied by his/her parent or guardian.
- L. No person shall reside in, or permit any other person to reside in, or within the premises of a Provisioning Center.
- M. All Provisioning Center facilities must be in conformance with the standards of this Ordinance, the other Ordinances of the Village of Constantine, and with the standards set in Michigan Public Act 281 of 2016.

Section 7: **Application Procedures:**

- A. All Applicants for permits under this Ordinance shall file an application with the Village Manager. This application shall be signed by the Applicant, if an individual, or by all partners if a partnership, by a managing member if a limited liability company, by the president, if a corporation.
- B. The Applicant may be requested to provide any information required by the Michigan Public Act 281, of 2016, and any other information deemed necessary by the Village for consideration for the issuance of a Permit.
- C. For the issuance of a Permit, any Applicant will be required to satisfy the general business requirements of the Village, including appropriate insurance, including workman's compensation, general business liability, naming the Village as an additional named insured, and requiring certificates of Insurance. The Applicant may be required to indemnify the Village, together with all of its elected and appointed officials, and all other employees and representatives harmless from any injury or death caused in or about any facility so licensed, or as a result of the product grown, manufactured, processed or sold in/on the premises so licensed.
- D. The Permit shall be eligible for approval if the Applicant meets all Village requirements, unless a due diligence investigation discloses tangible evidence that the conduct of the Applicant's business would pose a substantial threat to the public health, safety, or general welfare.

Section 8: **Revocation and Review:**

- 1. Permits granted and issued under this Section may be revoked for any of the following reasons:
 - A. Any fraud or misrepresentation contained in the Permit application.
 - B. Any knowing violation of this Ordinance.
 - C. Loss of the Applicant's Michigan State Medical Marihuana Facility License.

- D. Failure of the Applicant to obtain a Michigan State Medical Marihuana Facility License within a reasonable time after obtaining a Permit under this Ordinance, or
 - E. Conducting business in an unlawful manner or in such as way as to constitute a menace to the health, safety, or general welfare of the Public.
2. If the Planning Commission denies a site plan, or an application for a Permit, or both, the Applicant shall be entitled to prompt review by the Zoning Board of Appeals, or the Village Council, as set forth in Village Ordinances.

Section 9. **Severability.**

The provisions of this Ordinance are hereby declared to be severable. If any clause, sentence, paragraph, rule, regulation, section or subsection is declared void, or inoperative for any reason by any Court, it shall not affect any other part or portion thereof, other than the part declared void or inoperable.

Section 10: **Repeal:**

All Ordinances, or parts of Ordinances of the Village of Constantine in conflict with this Ordinance are herewith repealed, only to the extent necessary to give this Ordinance full force and effect.

Section 11: **Effective Date:**

This Ordinance shall become effective twenty (20) days after the date of Publication of the Notice of the Ordinance.

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THIS ORDINANCE WAS ADOPTED on THIS _____ DAY OF JANUARY 2018.

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 are 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 _____ day of _____ 2018.

Village Clerk

Published: _____ day of _____ 2018

Effective: _____ day of _____ 2018