

Article III. – Medical Marijuana

Sec. 4-60. Definitions.

1. “Village” means Village of Ubyly.
2. “Primary Caregiver”. A person who is operating a “Medical Marijuana Dispensary” by supplying “Medical Marijuana” for up to five (5) “qualifying patients”, and who is registered with the state Department of Community Health for such purpose.
3. “Medical Marijuana Dispensary”. A facility, including a growing co-op, where a “Primary Caregiver” who is legally registered by the Michigan Department of Community Health may lawfully assist up to five (5) “qualifying patients” who are also legally registered by the Department with the acquisition of medical marijuana in accordance with the Michigan Medical Marijuana Act of 2008.
4. “Marijuana”: means that term as defined in Section 7106 of the Public Health Code, 1978 PA 368, MCL 333.7106.
5. “Medical Use” means the acquisition, possession, cultivation, manufacture, use, internal possession, delivery, transfer or transportation of marijuana or paraphernalia relating to the administration of marijuana to treat or alleviate a registered “qualifying patients” debilitating medical condition.
6. “Qualifying Patient”. A person who has obtained a valid registration card from the Michigan Department of Community Health allowing them to possess and purchase medical marijuana.

Sec. 4-61. Purpose and Intent.

It is determined necessary for the health, safety and welfare of the Village to adopt this ordinance regulating the location and operation of “Medical Marijuana Dispensaries” due to the following factors:

Outside the purview of the Michigan Medical Marijuana Act the possession and use of marijuana (a Schedule I Drug) in the state of Michigan remains a misdemeanor offense. Possession With Intent to Deliver, Delivery or Manufacture of marijuana, remain felonies.

1. Marijuana is classified federally as a “Schedule I Drug” under the Controlled Substances Act and is illegal to possess, manufacture, distribute or dispense. Schedule I drugs, which include heroin and LSD, have a high potential for abuse and serve no legitimate medical purpose in the United States.
2. In May, 2001, the United States Supreme Court issued its decision in United Sates v. Oakland Buyers’ Cooperative and Jeffery Jones holding that distribution of medical marijuana is illegal under the Federal Controlled Substances Act, 21 U.S.C. Section 841 (“CSA”) and there is no necessity defense allowed under federal law.
3. Marijuana is the most widely available drug and most abused drug in Michigan and the United States. Juvenile aged high school students’ use of marijuana is a significant and growing problem. Marijuana is responsible for behavioral, intellectual and cognitive deficits. Marijuana use is also known to trigger attacks of manic depression, schizophrenia and memory loss and an increase in teen suicides has reportedly been linked to marijuana use.

4. There are no scientific studies demonstrating a medical benefit from “smoking” marijuana. Marijuana is a “gateway drug” to other “harder” drug use and is dangerous, psychologically addictive and has a high potential for abuse. The Office of National Drug Control Policy has reported more persons are being admitted to treatment for marijuana use than heroin addiction. Marijuana could never pass the Food and Drug Administrations pure drug standards. With hundreds of crude chemicals, including carcinogens stronger than those found in tobacco, the American Medical Association and every other credible medical group oppose the use of medical marijuana.
5. There are adverse secondary impacts associated with the location of “Medical Marijuana Dispensaries” especially if located in a residential setting. These include, but are not limited to: illegal drug activity, robbery of persons leaving a “Medical Marijuana Dispensary, a substantial likelihood for increase in criminal activity, loitering, an increase in littering, health concerns and burglaries at dispensary locations.
6. The location of and easy availability of “Medical Marijuana Dispensaries” in close proximity to homes, apartments, schools, churches, licensed day care centers and public parks give an impression of legitimacy to such uses and have adverse effects upon children, established family relations, property values and public safety.
7. The Michigan Medical Marijuana Act states that registered “Primary Caregivers” may receive compensation for assisting “qualified patients” in the medical use of marijuana, making them a likely commercial activity.

Sec. 4-62.

A “Medical Marijuana Dispensary” shall not be located:

1. Within 1,000 feet of any residential zoning district.
2. Within 1,000 feet of the property line of any public or private school, college or university, any nursery school, day nursery, licensed day care center or any other building or location either rented or used in any way for the care or instruction of children under 18.
3. Within 1,000 feet of the property line of any church, house of worship or other religious facility or institution.
4. Within 1,000 feet of any public park, publically owned building or recreational area commonly used by minor children.
5. Within 1,000 feet of any other “Medical Marijuana Dispensary” business.
The distance measurement provided for in this subsection shall be a straight line from the boundary line of the “Medical Marijuana Dispensary” business to the boundary line of the location it is to be separated from.

Sec. 4-63.

A “Medical Marijuana Dispensary” shall be located only within a Business or Industrial district.

Sec. 4-64.

A "Medical Marijuana Dispensary" shall be permitted only by special land use approval granted by the Village Council after review and recommendation of the Planning Commission, and after a public hearing pursuant to the discretionary decisions pertaining to special and conditional land uses. The following criteria must be satisfied and complied with for the special land use to be approved: *(These criteria must also be complied with on an ongoing basis)*

1. The hours of operation shall be restricted to between 8:00 a.m. and 8:00 p.m., Monday through Friday.
2. The business shall be subject to inspection by law enforcement, Village building officials and members of the Michigan Department of Community Health during the hours of operation.
3. A "Medical Marijuana Dispensary" shall at all times comply with each and every provision of the Michigan Medical Marijuana Act of 2008 (MCL 333.26421).
4. A "Medical Marijuana Dispensary" must possess a valid registration card issued by the Michigan Department of Community Health for such purpose.
5. No alcoholic beverage shall be sold, conveyed or consumed on the premises of any "Medical Marijuana Dispensary". Nor shall any person be present on the premises of a "Medical Marijuana Dispensary" while intoxicated and/or under the influence of alcohol or any controlled substance without a valid prescription.
6. Persons under the age of eighteen (18) years of age are not permitted to be on the premises of any "Medical Marijuana Dispensary" unless they possess a valid Medical Marijuana Registry Card issued by the State of Michigan or another state.
7. A "Medical Marijuana Dispensary" business must maintain a list of its