

Niles City Council
Medical Marijuana Ordinance Talking Points

When: Monday, May 11, at 6:00 p.m.

Where: 1345 East Main Street, Niles, 49120

What: Hearing on Niles Medical Marijuana Ordinance

General Tips and Requests:

Be sure to be respectful and polite in your public comments and letters and to dress appropriately for a government hearing. Seek to educate these officials about our new law while not assuming that they have bad intentions.

If you attend the meeting, please e-mail MPP legislative analyst Noah Mamber at NMamber@mpp.org after its conclusion to share information about your public comment and the City Council's response.

Early in the meeting agenda, there is time set aside for "citizen participation." At that point, a person may address the City Council on this issue, or reserve time later to speak on this particular agenda item. For more information on the process, please see www.ci.niles.mi.us, under "Government", then "City Council", then "Attending a Council Meeting." When you address the City Council, you will probably want to stick to a couple main points, and speak to issues that you can best address on a personal level.

Talking Points:

* The proposed ordinance would violate Michigan's medical marijuana law. Initiated Law 1 of 2008 allows a primary caregiver to cultivate marijuana plants for medical use on behalf of five patients, anywhere in the state, as long as the plants are in an enclosed, locked facility. The law, which was passed by a majority of Berrien and Cass County residents, does not give authority to cities to further restrict the rights of caregivers. It prohibits the punishment of patients and caregivers acting within the law. Sec. 4 (a-b) says that qualifying patients and primary caregivers with registry identification cards "shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, for the medical use of marihuana in accordance with this act."

* According to the WNDU story, caregivers will be forced to move into designated zones (similar to those of adult entertainment venues) and to obtain special use permits, which is not appropriate because caregivers will not be running large-scale businesses. Many caregivers will be family members or home health aides who live in the same house as the patients. They often won't receive any compensation at all. It would be absurd to require a married couple to rent out a separate building in a designated district at great expense so the healthy spouse could grow plants for his or her seriously ill spouse. A city that tries to force them to do so through threat of criminal and civil penalty is overstepping its authority.

* Because of the major obstacles it creates for Michiganders who want to assist patients, this proposal would effectively nullify the caregiver provision of the law, forcing many seriously ill patients who are physically unable to grow their own medicine to get it from the criminal market. Because caregivers can only help five patients, there is no way they could afford the costs of a business place.

* Primary caregivers should not be regulated like large-scale businesses. Michiganders are allowed to sell their possessions on eBay from their homes, are able to grow unprocessed produce in home gardens and sell it at farmer's markets without any sort of licensing, and are able to receive compensation as live-in home health aides without being forced to operate in specially zoned areas. Niles residents should also be allowed to cultivate a small amount of medicine that is legal under state law on behalf of qualifying patients without being forced to incur the significant additional costs of operating outside their homes in a business district.

* The ordinance would ban outdoor cultivation completely for both qualifying patients and primary caregivers. Initiated Law 1 properly addressed the need to prevent theft and diversion while at the same time keeping costs down for the seriously ill. It requires all cultivation to occur in an enclosed, locked facility that only the patient or caregiver can access. However, the ordinance would go much further, requiring the cultivation to occur in buildings with walls and a roof. Forcing caregivers to purchase solid walls and a roof, as opposed to a secure chain-link fence enclosure, will dramatically drive up costs for caregivers.

* The ordinance also would prohibit consumption of marijuana at a primary caregiver's location. This is unnecessary and would have absurd results. If a primary caregiver is cultivating on behalf of his cancer-stricken wife, this provision would prevent the wife from using medicine in her own home. The caregiver could also be a family member with whom the patient would visit with for many hours or overnight. There is no reason to forbid the patient from using his or her medicine, which can be vaporized or eaten in food, at the caregiver's home. State law already forbids non-patients, including primary caregivers, from using marijuana for non-medicinal purposes.

* The proposed ordinance would bar primary caregivers who live within 1,000 feet of a drug-free school zone from cultivating or possessing marijuana on behalf of qualifying patients. A primary caregiver should not be prevented from offering compassionate services just because of where he or she lives. In many cases, the primary caregiver will be a family member or a live-in health aide who lives in the same home as the patient. That patient would likely have to go to drug dealers to obtain medicine if he or she could not have it grown at home.

* Violations of the ordinance will be a misdemeanor offense punishable by jail time and will also create a presumption of the operation of a nuisance *per se*, which carries liability for a civil suit or injunction. This creates additional penalties for conduct that is legal under state law, which is wholly inconsistent with Initiated Law 1 of 2008.