

**CITY OF NEW BALTIMORE  
MACOMB COUNTY, MICHIGAN  
NOTICE OF ADOPTION  
ORDINANCE NO. 224**

**TO AMEND CITY OF NEW BALTIMORE CODE OF ORDINANCES, CHAPTER 32, SEC. 32-201, BY PERMITTING AND RESTRICTING MARIHUANA RECREATIONALLY AS SET FORTH IN THE MICHIGAN REGULATION AND TAXATION OF MARIHUANA ACT, TO PROVIDE FOR DEFINITIONS, LAWFUL ACTS, UNLAWFUL ACTS, TO PROVIDE FOR PENALTIES, SEVERABILITY, REPEALER, AND EFFECTIVE DATE.**

**THE CITY OF NEW BALTIMORE ORDAINS:**

**Section 1.** Chapter 32, Sec. 32-201 of the City of New Baltimore Code of Ordinances is hereby amended to provide as follows:

**Sec. 32-201. - Possession, sale or distribution prohibited generally.**

It shall be unlawful for any person to possess, sell, offer for sale, distribute, consume, administer, dispense, prescribe or give away any controlled substance as defined in Article 7, Michigan Public Health Code (MCL 333.7101 et seq.), except as permitted by law and pursuant to the Michigan Regulation and Taxation of Marihuana Act, and as specifically provided below:

(a) Marijuana.

(1) Definitions. The following words, as used in this section, shall have the following meanings, unless the context otherwise requires:

- a. *Cultivate* shall mean to propagate, breed, grow, harvest, dry, cure, or separate parts of the marijuana plant by manual or mechanical means.
- b. *Deliver* or *delivery* shall mean the actual, constructive or attempted transfer from one person to another of marijuana, whether or not there is an agency relationship.
- c. *Marijuana* shall mean the substance or material identified and defined as "Marihuana" in section 3 of the Michigan Regulation and Taxation of Marihuana Act. It means all parts of the plant of the genus *cannabis*, growing or not; the seeds of the plant; the resin extracted from any part of the

plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin, including marijuana concentrate and marijuana-infused products. For purposes of this act, marijuana does not include:

- i. The mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted from those stalks, fiber, oil, or cake, or any sterilized seed of the plant that is incapable of germination;
  - ii. Industrial hemp; or
  - iii. Any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other products.
- d. *Marijuana accessories* shall mean any equipment, product, material, or combination of equipment, products, or materials, which is specifically designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, ingesting, inhaling, or otherwise introducing marijuana into the human body.
- e. *Marijuana concentrate* shall mean the resin extracted from any part of the plant of the genus cannabis.
- f. *Person* shall mean an individual, corporation, limited liability company, partnership of any type, trust, or other legal entity.
- g. *Process or Processing* shall mean to separate or otherwise prepare parts of the marijuana plant and to compound, blend, extract, infuse, or otherwise make or prepare marijuana concentrate or marijuana-infused products.
- h. *Remuneration* shall mean payment, compensation, and the act of paying or compensating.
- i. *Sale* shall include barter, exchange, or otherwise offer for remuneration.

- (2) Lawful acts. Except as otherwise provided in this section, the following acts by a person 21 years of age or older are not unlawful:
- a. Except as permitted in subsection (2)(b), possessing, using or consuming, internally possessing, purchasing, transporting, or processing 2.5 ounces or less of marijuana, except that not more than 15 grams of marijuana may be in the form of marijuana concentrate.
  - b. Within the person's residence, possessing, storing, and processing not more than 10 ounces of marijuana and any marijuana produced by marijuana plants cultivated on the premises and cultivating not more than 12 marijuana plants for personal use, provided that no more than 12 marijuana plants are possessed, cultivated, or processed on the premises at once.
  - c. Assisting another person who is 21 years of age or older in any of the acts described in this section.
  - d. Giving away or otherwise transferring without remuneration up to 2.5 ounces of marijuana, except that not more than 15 grams of marijuana may be in the form of marijuana concentrate, to a person 21 years of age or older, as long as the transfer is not advertised or promoted to the public.
- (3) Unlawful acts. Unless otherwise authorized by the State of Michigan or City of New Baltimore to conduct such activities, it shall be unlawful for any person to:
- a. Operate, navigate, or be in physical control of any motor vehicle, aircraft, snowmobile, off-road recreational vehicle, or motorboat while under the influence of marijuana.
  - b. Transfer of marijuana or marijuana accessories to a person under the age of 21.
  - c. Be under the age of 21 and possess, consume, purchase, or otherwise obtain, cultivate, process, transport, or sell marijuana and/or marijuana accessories.

- d. Separate or attempt to separate plant resin by butane extraction or another method that utilizes a substance with a flashpoint below 100 degrees Fahrenheit in any public place, motor vehicle, or within the curtilage of any residential structure.
- e. Consume marijuana in a public or smoke marijuana where prohibited by the person who owns, occupies, or manages the property, except for purposes of this subsection (3)(e), a public place does not include an area the city has designated as an authorized area of consumption that is not accessible to persons under the age of 21.
- f. Cultivate marijuana plants if the plants are visible from a public place without the use of binoculars, aircraft, or other optical aids or outside of an enclosed area equipped with locks or other functioning security devices that restrict access to the area.
- g. Consume marijuana while operating, navigating, or being in physical control of any motor vehicle, aircraft, snowmobile, off-road recreational vehicle, or motorboat, or smoke marijuana within the passenger area of a vehicle upon a public way.
- h. Possess marijuana accessories or possess or consume marijuana on the grounds of a public or private school where children attend classes in preschool programs, kindergarten programs, or grades 1 through 12, in a school bus, or on the grounds of any correctional facility.
- i. Possess more than 2.5 ounces of marijuana within a person's place of residence unless the excess marijuana is stored in a container or area equipped with locks or other functioning security devices that restrict access to the contents of the container or area.

(4) Penalty. A person who commits any of the following acts, and is not otherwise authorized by the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951 *et. seq.*, or the City of New Baltimore Code of Ordinances, may be punished as follows:

- a. A person who violates subsection (3)(e), (3)(f), or (3)(i), where the person otherwise possesses not more than the

amount of marijuana allowed, cultivates not more than the amount of marijuana allowed, delivers without receiving remuneration to a person who is at least 21 years of age not more than the amount of marijuana allowed, or possesses with intent to deliver not more than the amount of marijuana allowed, is responsible for a civil infraction and may be punished by a fine of \$100 and forfeiture of the marijuana.

b. A person who possess not more than twice the amount of marihuana allowed, cultivates not more than twice the amount of marijuana allowed, delivers without receiving remuneration to a person who is at least 21 years of age not more than twice the amount of marijuana allowed, or possesses with intent to deliver not more than twice the amount of marijuana allowed, is punishable as follows:

i. For a first violation, is responsible for a civil infraction and may be punished by a fine of not more than \$500 and forfeiture of the marijuana.

ii. For a second violation, is responsible for a civil infraction and may be punished by a fine of not more than \$1,000 and forfeiture of the marijuana

iii. For a third or subsequent violation, is guilty of a misdemeanor and may be punished by a fine of not more than \$500 and forfeiture of the marijuana.

iv. If a person engages in any of the activities prohibited by subsection (3) while possessing more than the amount of marijuana allowed, cultivating more than the amount of marijuana allowed, delivering without receiving remuneration to a person who is at least 21 years age more than the amount of marijuana allowed, or possessing with intent to deliver more than the amount of marijuana

allowed, the violation is punishable as a misdemeanor, with a fine not to exceed \$500 or by imprisonment not to exceed 90 days, or both such fine and imprisonment, in the discretion of the court.

c. Except for a person who engaged in conduct described by subsection (3)(a), (3)(d), or (3)(g), a person under 21 years of age who possesses not more than 2.5 ounces of

marijuana or who cultivates not more than 12 marijuana plants:

i. For a first violation, is responsible for a civil infraction and may be punished as follows:

a) If less than 18 years of age, by a fine of \$100 or community service, forfeiture of the marijuana, and completion of 4 hours of drug education or counseling.

b) If at least 18 years of age, by a fine of \$100 and forfeiture of the marijuana.

ii. For a second violation, is responsible for a civil infraction and may be punished as follows:

a) If less than 18 years of age, by a fine of \$500 or community service, forfeiture of marijuana, and completion of 8 hours of drug education or counseling.

b) If at least 18 years of age, by a fine of \$500 and forfeiture of the marijuana.

d. A person who possesses more than twice the amount of marijuana allowed, cultivates more than twice the amount allowed, or delivers without receiving any remuneration to a person who is at least 21 years of age more than twice the amount of marijuana allowed, is punishable as follows:

ii. A person shall also be subject to imprisonment in the discretion of the court if the violation was habitual, willful, and for a commercial purpose, or if the violation involved violence.

e. A person who violates subsection (3)(b), (3)(d), or (3)(g), is responsible for a misdemeanor, with a fine not to exceed \$500 or by imprisonment not to exceed 90 days, or both such fine and imprisonment, in the discretion of the court.

f. A person 21 years or older who violates subsection (3)(h), is responsible for a misdemeanor, with a fine not to exceed \$500 or by imprisonment not to exceed 90 days, or both such fine and imprisonment, in the discretion of the court.

- (5) Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951 et. seq., and all future amendments, revisions, and or changes to the Michigan Regulation and Taxation of Marihuana Act when they are effective in this state are incorporated and adopted by reference.

**Section 2 Severability.** If any chapter, article, section, subsection, sentence, clause, phrase, or portion of this ordinance is held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of remaining provisions, it being the intent of the city that this ordinance shall be fully severable.

**Section 3. Repealer.** All ordinances or parts of ordinances in conflict herewith are repealed only to the extent to give this ordinance full force and affect.

**Section 4. Effective Date.** This ordinance shall be effective twenty (20) days after publication following adoption.

**ORDINANCE DECLARED ADOPTED.**

#### **CERTIFICATION**

I, Marcella Shinska, City Clerk for the City of New Baltimore, County of Macomb, State of Michigan, do hereby certify that Ordinance No. 224 was adopted by the City Council of New Baltimore, assembled in regular session on February 25, 2019. Said Ordinance was posted in the following places:

Notice of said posting was published in The Voice Newspaper March 13, 2019.