

CITY OF IMLAY CITY

ZONING ORDINANCE AMENDMENT

Section 2.39 Caregiver Cultivation of Marijuana for Medical Use

A Zoning Ordinance Amendment to adopt Section 2.39 to Article 2 of the City of Imlay City Zoning Ordinance No. 6.1, the purpose of which is to classify and zone the caregiver cultivation of marijuana for medical use pursuant to the Michigan Medical Marihuana Act of 2008, MCL 333.26421 *et seq* (as amended), within the City of Imlay City, as an accessory use to a residential dwelling allowed in any district where residential dwellings are allowed and to provide regulations and requirements specific to the caregiver cultivation of marijuana for medical use; to classify the caregiver cultivation of marijuana for medical purposes as being an accessory use to residential dwellings permitted in the R-1, R-2, RT, RM-1, RMH, and B-2 Districts; and to provide definitions related to the caregiver cultivation of marijuana for medical use.

THE CITY OF IMLAY CITY ORDAINS:

1. That the City of Imlay City hereby adopts, in its entirety, Section 2.39 of Article 2 of the City of Imlay City Zoning Ordinance No. 6.1, as provided in "Exhibit A", which is hereby incorporated into this Zoning Ordinance Amendment as though fully and completely recited herein;

2. That the City of Imlay City hereby Amends, Section 4.3 of Article 4 of the City of Imlay City Zoning Ordinance No. 6.1, to add subsection "O", as provided in "Exhibit A", which is hereby incorporated into this Zoning Ordinance Amendment as though fully and completely recited herein;

3. That the City of Imlay City hereby Amends, Section 5.3 of Article 5 of the City of Imlay City Zoning Ordinance No. 6.1, to add subsection "O", as provided in "Exhibit A", which is hereby incorporated into this Zoning Ordinance Amendment as though fully and completely recited herein;

4. That the City of Imlay City hereby Amends, Section 6.3 of Article 6 of the City of Imlay City Zoning Ordinance No. 6.1, to add subsection "P", as provided in "Exhibit A", which is hereby incorporated into this Zoning Ordinance Amendment as though fully and completely recited herein;

5. That the City of Imlay City hereby Amends, Section 7.3 of Article 7 of the City of Imlay City Zoning Ordinance No. 6.1, to add subsection "H", as provided in "Exhibit A", which is hereby incorporated into this Zoning Ordinance Amendment as though fully and completely recited herein;

6. That the City of Imlay City hereby Amends, Section 10.3 of Article 10 of the City of Imlay City Zoning Ordinance No. 6.1, to add subsection "T", as provided in "Exhibit A", which is hereby incorporated into this Zoning Ordinance Amendment as though fully and completely recited herein; and

7. That the City of Imlay City hereby Amends, Section 29.2 of Article 29 of the City of Imlay City Zoning Ordinance No. 6.1, to add definition for "Caregiver", "Cultivation", "Marijuana (also known as Marihuana)", and "Medical use of Marijuana", as provided in "Exhibit A", which is hereby incorporated into this Zoning Ordinance Amendment as though fully and completely recited herein

The undersigned Mayor and Clerk of the City of Imlay City hereby certify that this Zoning Ordinance Amendment was duly adopted by the Imlay City Commission on the 6th day of July 2021 and was published in the Tri-City Times on the 14th day of July 2021. This Ordinance shall take effect fifteen (15) days after said date of publication.


Joi Kempf, Mayor


Dawn Sawicki-Franz, Clerk

First Reading: 06/15/2021
Second Reading: 07/06/2021
Date of Publication: 07/14/2021

EXHIBIT A

ARTICLE 2 GENERAL PROVISIONS

Section 2.01 Application Procedures in General

The process for application and review by the city for site plan review, Special Land Use approval, Planned Unit Developments (PUDs), amendments to this zoning ordinance and rezonings of land is described in Article 16 Site Plan Review, Article 17 Rezoning And Ordinance Amendments, Article 18 Condominium Development Standards, Article 19 Planned Unit Development, and Article 20, Special Land Uses. Submittal dates, application forms and information of fee requirements are available at the City Clerk's office. Additionally, a zoning compliance permit shall be acquired from the Zoning Administrator before any construction is undertaken or any structure is moved within the City and before any change in the use of any land, structure, or building is undertaken. The words "change in the use" shall mean a land use which is new to or different from how the property was previously used. However, a use that is accessory to an existing land use (and which conforms to this Ordinance) is not considered a change in use. Except that, "Home Occupations" and the "Caregiver Cultivation of Marijuana for Medical Use" within residential dwellings shall be deemed changes in the use requiring a zoning permit. Furthermore, it will be presumed that a change in the use occurs when electrical equipment that has an ampacity of more than 200 amperes is to be installed at a residential property. This presumption can be overcome by the Applicant filing a "Accessory Use Affidavit" (in a form to be supplied by the City) with the Zoning Administrator, which indicates that the purpose for the installation is not for a home occupation or the caregiver cultivation of marijuana for medical use. City representatives have the right to conduct annual or random inspections to verify compliance.

Section 2.39 Caregiver Cultivation of Marijuana for Medical Use

The caregiver cultivating marijuana for medical use pursuant to the Michigan Medical Marijuana Act of 2008, found at MCL 333.26421 *et seq* (as amended), is allowed as a permitted accessory use to a residential dwelling in any district where residential dwellings are allowed, subject to the following:

A. The caregiver(s) seeking approval to cultivate marijuana for medical use in the City must submit proof (as part of the zoning application) that he or she is a properly licensed caregiver with the State of Michigan.

B. A caregiver cultivating marijuana for medical use must reside in the dwelling where the marijuana is being cultivated.

C. The caregiver cultivation of marijuana for medical use shall be clearly accessory, incidental, and subordinate to the residential dwelling use.

D. There shall be no change in the outside appearance of the dwelling or other visible evidence of the conduct of the caregiver cultivation of marijuana for medical use.

E. No outdoor display and/or storage of materials, goods, supplies, or equipment used in the caregiver cultivation of marijuana for medical use shall be permitted on the premises.

F. Traffic generated by the caregiver cultivation of marijuana for medical use shall not be greater than would normally be expected in a residential neighborhood, or in any case, it shall not be more than ten (10) vehicular trips per day.

G. The caregiver cultivation of marijuana for medical use must be conducted within the confines of the dwelling.

H. Any necessary parking spaces for vehicles generated by the caregiver cultivation of marijuana for medical use shall be provided on the site in a normal driveway or designated parking area, but not within any required yard area.

I. No equipment of process shall be used in the caregiver cultivation of marijuana for medical use which creates noise, vibration, glare, fumes, or odor detectable to the normal senses off the premises on which the caregiver cultivation of marijuana for medical use is located. In addition, no equipment or process shall be used in the caregiver cultivation of marijuana for medical use which causes visible or audible interference with radio or television receivers off the premises or causes fluctuation in the line of voltage off premises.

J. A floor plan shall be provided to verify the location and type of hazardous material (herbicides, pesticides, fertilizers, etc.) proposed to be stored or use onsite. Material Data Sheets (MDS) shall be provided for all chemicals onsite. An inventory of the chemicals include quantity and location shall be provided. The applicant shall provide the City with an updated inventory as changes occur, but at minimum the inventory shall be updated on a quarterly basis.

K. City representatives have the right to conduct annual or random inspections to verify compliance.

(Am. Ord. 6.1, passed 07/06/2021)

ARTICLE 4
R-1 AND R-2 SINGLE-FAMILY RESIDENTIAL DISTRICTS

Section 4.3 Special Land Uses

* * *

- O. caregiver cultivation of marijuana for medical use as an accessory use to a single-family detached dwelling in accordance with Section 2.39 Caregiver Cultivation of Marijuana for Medical Use.

(Am. Ord. 6.1, passed 07/06/2021)

ARTICLE 5
RT TWO-FAMILY RESIDENTIAL DISTRICT

Section 5.3 Special Land Uses

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- O. caregiver cultivation of marijuana for medical use as an accessory use to a single-family detached dwelling or a two-family dwelling in accordance with Section 2.39 Caregiver Cultivation of Marijuana for Medical Use.

(Am. Ord. 6.1, passed 07/06/2021)

ARTICLE 6
RM-1 MULTIPLE FAMILY RESIDENTIAL DISTRICT

Section 6.3 Special Land Uses

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- P. caregiver cultivation of marijuana for medical use as an accessory use to a single-family detached dwelling, a two-family dwelling, or a multiple-family dwelling in accordance with Section 2.39 Caregiver Cultivation of Marijuana for Medical Use.

(Am. Ord. 6.1, passed 07/06/2021)

**ARTICLE 7
RMH MANUFACTURED HOUSING COMMUNITY DISTRICT**

Section 7.3 Special Land Uses

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- H. caregiver cultivation of marijuana for medical use as an accessory use to a manufactured housing dwelling in accordance with Section 2.39 Caregiver Cultivation of Marijuana for Medical Use.

(Am. Ord. 6.1, passed 07/06/2021)

**ARTICLE 10
B-2 CENTRAL DISTRICT**

Section 10.3 Special Land Uses

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- T. caregiver cultivation of marijuana for medical use as an accessory use to a residential dwelling above or behind a non-residential use in accordance with Section 2.39 Caregiver Cultivation of Marijuana for Medical Use.

(Am. Ord. 6.1, passed 07/06/2021)

**ARTICLE 29
DEFINITIONS**

Section 29.2 Definitions

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Caregiver: A person who is at least 21 years old and who has agreed to assist with a patient's medical use of marijuana, as defined and used by the Michigan Medical Marijuana Act of 2008, MCL 333.26421 *et seq* (as amended).

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Cultivation: The act of preparing, growing, tending to, caring for, and/or harvesting a particular plant or crop.

* * *

Marijuana (also known as Marihuana): All parts of the plant *Cannabis sativa* L., growing or not; the seeds of that 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. Marihuana does not include 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. Marihuana does not include industrial hemp, as used by the Michigan Medical Marihuana Act of 2008, MCL 333.26421 *et seq* (as amended), and as defined in the Public Health Code of 1978, MCL 333.7106(4) (as amended).

* * *

Medical Use (Marijuana): The acquisition, possession, cultivation, manufacture, extraction, use, internal possession, delivery, transfer, or transportation of marihuana, marihuana-infused products, or paraphernalia relating to the administration of marihuana to treat or alleviate a registered qualifying patient's debilitating medical condition or symptoms associated with the debilitating medical condition, pursuant to the term "Medical Use of Marijuana" as defined and used in the Michigan Medical Marihuana Act of 2008, MCL 333.26421 *et seq* (as amended).

* * *

Reside: The place that you live in as your permanent residence and if absent intend to return. It shall be the address that appears on your driver's license or Michigan identification card as well as on your voter registration card. Vacation homes, seasonal homes, and income property are not considered where you reside.

(Am. Ord. 6.1, passed 07/06/2021)