

TOWNSHIP OF ATLAS
COUNTY OF GENESEE, STATE OF MICHIGAN
ORDINANCE NO. 21-01

MEDICAL MARIHUANA PRIMARY CAREGIVER OPERATIONS
ZONING ORDINANCE AMENDMENT

AN ORDINANCE ADDING A NEW SECTION 300.341 TO ARTICLE III (GENERAL PROVISIONS) OF THE ATLAS TOWNSHIP ZONING ORDINANCE TO DEFINE AND REGULATE MEDICAL MARIHUANA PRIMARY CAREGIVER OPERATIONS

The Township of Atlas, Genesee County, Michigan Ordains:

SECTION 1 – ZONING ORDINANCE AMENDMENT

Article III (General Provisions) of the Atlas Township Zoning Ordinance is hereby amended to add a new Section 300.341 (Medical marihuana primary caregiver operations) to read as follows:

300.341 - Medical marihuana primary caregiver operations

Sec. 3.41

- A. It is the intent of this Section to give effect to the intent of the Michigan Marihuana Act, PA 2008 Initiated Law, MCL 333.26421 et seq as approved by the electors and not to determine and establish an altered policy with regard to marihuana. This Section is designed to recognize the fundamental intent of the Act to allow the creation and maintenance of a private and confidential patient-caregiver relationship to facilitate the statutory authorization for the limited cultivation, storage, distribution and use of marihuana for medical purposes; and to regulate this fundamental intent in a manner that does not conflict with the Act so as to address issues that would otherwise expose the Township and its residents to significant adverse conditions. Nothing in this Section shall be construed as allowing persons to engage in conduct that endangers others or causes a public nuisance, or to allow the use, cultivation, growth, possession or control of marihuana not in strict accordance with the express authorizations of the Act and this Section; and nothing in this Section shall be construed to undermine or provide immunity from federal and state law as it may be enforced by the federal or state government relative to the cultivation, storage, distribution or use of marihuana.
- B. Definitions
1. *Marihuana*. The substance defined as such in Section 7106 of the Public Health Code, PA 368 of 1976.
 2. *Michigan Medical Marihuana Act or "Act."* Michigan Initiated Law 1 of 2008, MCL 333.26421, et seq.

3. *Primary Caregiver.* A primary caregiver defined as such in MCL 333.26423 of the Act, and who has been issued and possesses a Registry Identification Card under the Act.
 4. *Primary Caregiver Operation.* The cultivation, storage and/or distribution of marihuana by a primary caregiver conducted in accordance with the Act and further subject to the requirements of this Section.
 5. *Qualifying Patient.* A qualifying patient defined as such in MCL 333.26423 of the Act, and who has been issued and possesses a Registry Identification Card under the Act.
 6. *Registry Identification Card.* The document defined as such in MCL 333.26423 of the Act and which is issued by the State of Michigan to identify a person as a registered qualifying patient or registered primary caregiver.
 7. *Enclosed Locked Facility.* A facility defined as such in MCL 333.26423 of the Act where marihuana plants may be kept under the Act.
 8. *Outdoor Enclosed Locked Facility.* An outdoor facility where marihuana plants may be grown or kept in accordance with the definition of an enclosed locked facility under MCL 333.26423 of the Act.
- C. **Primary Caregiver Operation Registration Permit Requirement.** Prior to establishing a primary caregiver operation under this Section, a permit shall be obtained in accordance with Ordinance No. 20.01, the Atlas Township Medical Marijuana Caregiver Permit Ordinance.
- D. **Requirements for Primary Caregiver Operations.** Primary caregiver operations shall only be allowed on property zoned M-1, Light Manufacturing District or M-2, Heavy Manufacturing District, subject to the following requirements:
1. All medical marihuana must be grown and contained within an enclosed locked facility or an outdoor enclosed locked facility to which only the primary caregiver and/or registered patients have access.
 2. All necessary building, electrical, plumbing, and mechanical permits shall be obtained for any portion of the principal building, accessory building or outdoor enclosed locked facility in which electrical wiring, lighting and/or watering devices that support the cultivation, growing, or harvesting of marihuana are located.
 3. If a room with windows is utilized as a growing location, any lighting methods between the hours of 10 pm and 7 am shall employ shielding methods, without alteration to the exterior of the building, to prevent ambient light spillage that may create a distraction or annoyance for adjacent properties.

4. No person other than the primary caregiver shall be engaged or involved in the primary caregiver operation, except to the extent that the primary caregiver lawfully transfers medical marihuana to a qualifying patient to whom the primary caregiver is linked through the state registration system.
5. No equipment or process shall be used in growing, processing, or handling of medical marihuana which creates noise, vibration, glare, light, fumes, odors, or electrical interference detectable to the normal senses at or beyond the property line. In case of electrical interference, no equipment or process shall be used which creates visual or audible interference with any radio, television, or similar receiver off the premises or causes fluctuation of line voltage off the premises.
6. A primary caregiver operation shall not be located within one-thousand (1,000) feet of the following: public or private elementary or secondary school; public or private preschool; licensed day care or child foster care facility; public park, beach or recreational area; or, church, synagogue, temple or similar place of worship. Measurement shall be from the closest point of the property line containing the primary caregiver operation to the closest point of the property line containing the above listed facilities.
7. Any portion of an outdoor enclosed locked facility shall be:
 - a. Set back at least eighty (80) feet from any lot line.
 - b. Set back at least one-hundred fifty (150) feet from any residential district.
 - c. Set back at least twenty-five (25) feet from any other outdoor enclosed locked facility on the same property.

E. Exceptions. This Section shall not be deemed to prohibit or restrict or require permits for the following:

1. The cultivation, storage and/or use of marihuana by a qualifying patient solely for his/her personal use at his/her residence or at a hospital or hospice at which he/she is receiving care and in accordance with the provisions of the Act and the administrative rules adopted thereunder.
2. The cultivation, storage and/or distribution of marihuana in accordance with the Act by a primary caregiver solely to provide services to not more than one qualifying patient who is a member of the primary caregiver's household and whose residence is shared with the primary caregiver.
3. The provision of assistance to a qualifying patient by his/her designated primary caregiver relating to medical marihuana use, including distribution or other assistance, in accordance with the Act and the administrative rules adopted thereunder, at the residence of the qualifying patient or at a hospital or hospice at which the qualifying patient is receiving care.

- F. Enforcement. Any violation of this Section shall be subject to enforcement penalties as set forth in Section 300.1307. The Building Inspector, or any other representatives designated by the Township Board, shall have the right at any time, to enter and inspect the premises for safety and compliance purposes for cause shown.

SECTION 2 – SEVERABILITY

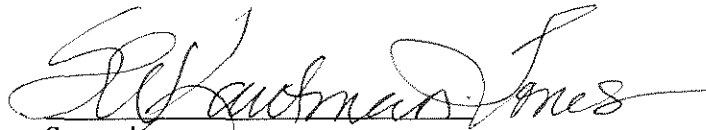
The provisions of this ordinance are hereby declared to be severable. If any clause, sentence, word, section or provision is hereafter declared void or unenforceable for any reason by a court of competent jurisdiction, it shall not affect the remainder of such ordinance which shall continue in full force and effect.

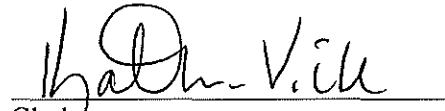
SECTION 3 – REPEAL

All ordinance or parts of ordinances in conflict herewith are hereby repealed.

SECTION 4 – EFFECTIVE DATE


This ordinance shall take effect 7 days after publication.


Supervisor


Clerk

CLERK'S CERTIFICATION

I, Katherine Vick, the duly elected, qualified and acting clerk of the Township of Atlas, Genesee County, Michigan do certify that the above Ordinance was adopted at a special meeting of the Township Board held in the Government Center, 7386 S. Gale Road, Goodrich, Michigan, on the 18th day of February, 2021 by a majority of the members of the board present and voting.


Clerk