

Part 25

25.000 - MEDICAL MARIJUANA CAREGIVER PERMIT ORDINANCE Adopted: December 21, 2020

AN ORDINANCE TO REQUIRE MEDICAL MARIJUANA CAREGIVERS TO OBTAIN A PERMIT TO OPERATE AND TO PROVIDE PENALTIES FOR VIOLATION OF THIS ORDINANCE

The Township of Atlas, Genesee County, Michigan Ordains:

25.001 - Title.

Sec. 1. This ordinance shall be known as and may be cited as the Atlas Township Medical Marijuana Caregiver Permit Ordinance.

(Ord. No. 20.01, § 1, 12-21-2020)

25.002 - Definitions.

1. *Marijuana.* The substance defined as such in Section 7106 of the Public Health Code, PA 368 of 1976.
2. *Michigan Medical Marijuana 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 Marijuana by a primary caregiver conducted in accordance with the Act and further subject to the requirements of this Ordinance.
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 Marijuana plants may be kept under the Act.
8. *Outdoor Enclosed Locked Facility.* An outdoor facility where Marijuana plants may be grown or kept in accordance with the definition of an enclosed locked facility under MCL 333.26423 of the Act.

(Ord. No. 20.01, 12-21-2020)

25.002 - Permit.

Sec. 2. Caregivers identified by the Michigan Medical Marijuana Act (MMMA) shall be required to obtain a permit from the Township to operate following the submission of a completed application and materials to the Township of Atlas on a form to be provided by the Township.

(a) *Permit Application.*

- (1) Requests for a permit shall be made on a form provided by the Township. Requests must be made in person or online.
- (2) The Caregiver must pay a fee to be determined by the Township Board by resolution.
- (3) Operation without a permit will result in penalties assessed as specified in Section 4.
- (4) Permits are valid for one year.

(b) *Permit Issued/Conditions.* The Township is authorized to issue permits for Medical Marijuana Caregivers, and may attach to such permit such conditions as are necessary at its discretion to minimize offensive or objectionable characteristics or to minimize the potential for illegal operations.

(Ord. No. 20.01, § 2, 12-21-2020)

25.004 - Requirements for primary caregiver operations.

Sec. 3. Primary caregiver operations shall only be allowed after securing a permit from the Township, and subject to the following requirements:

1. A primary caregiver operation must comply with applicable state statutes, MMMA regulations, and Atlas Township Ordinances.
2. A primary caregiver operation may be allowed within a principal building, accessory building, or within an enclosed locked facility on property that may or may not have a principal building
3. All medical Marijuana must be grown and contained within an enclosed locked facility to which only the primary caregiver and/or registered patient has access.
4. 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 Marijuana are located. The premises shall be inspected annually thereafter for continued compliance with all applicable requirements of this Ordinance, Construction Code and Fire Code requirements.

4.

If a room with windows is utilized as a growing location, any lighting methods that exceed usual residential periods between the hours of 10 p.m. and 7 a.m. shall employ shielding methods, without alteration to the exterior of the residence, to prevent ambient light spillage that may create a distraction or annoyance for adjacent residential properties.

5. A primary caregiver operation shall not bear on the premise any sign, emblem, display, or other mark indicating the presence of the operation.
6. A primary caregiver operation shall only be conducted by a primary caregiver who resides on the property. If no residence has been established, a copy of a deed, or valid lease shall be provided. If property is leased, Applicant shall provide a statement from the owner/landlord that allows Medical Marijuana cultivation by the applicant/tenant.
7. 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 Marijuana to a qualifying patient to whom the primary caregiver is linked through the state registration system.
8. No equipment or process shall be used in growing, processing, or handling of medical Marijuana which creates noise, vibration, glare, light, fumes, odors, or electrical interference detectable to the normal senses at or beyond the property line of the primary caregiver's property. 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.
9. A primary caregiver operation shall not be located within:
 - a. One thousand (1,000) feet of a public or private elementary or secondary school, public or private preschool or licensed day care facility; or,
 - b. Five hundred (500) feet of a public park, public beach or public recreational area.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.

Exceptions. This Ordinance shall not be deemed to prohibit or restrict or require registration for the following:

1. The cultivation, storage and/or use of Marijuana 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 Marijuana 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 Marijuana 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.

(Ord. No. 20.01, § 3, 12-21-2020)

25.005 - Violations and penalties.

Sec. 4.

1. Any person who fails to obtain a permit shall be deemed to be responsible for the violation of this ordinance. A violation of this ordinance is deemed to be a nuisance per se.
2. A violation of this ordinance is a municipal civil infraction, for which the fines shall not be less than \$100.00, and not more than \$500.00, in the discretion of the Court. The fine for a repeat offense shall not be less than \$200.00, and not more than \$1,000.00, in the discretion of the Court. The foregoing sanctions shall be in addition to the rights of the Township to proceed at law or equity with other appropriate and proper remedies. Additionally, the violator shall pay costs which may include all expenses, direct and indirect, which the Township incurs in connection with the municipal civil infraction.
3. Each day during which any violation continues shall be deemed a separate offense.
4. In addition, the Township may seek injunctive relief against persons alleged to be in violation of this ordinance, and such other relief as may be provided by law.
5. This ordinance shall be administered and enforced by the Ordinance Enforcement Officer of the Township or by such other person(s) as designated by the Township Board from time to time.

(Ord. No. 20.01, § 4, 12-21-2020)

25.006 - Severability.

Sec. 5. 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.

(Ord. No. 20.01, § 5, 12-21-2020)

25.007 - Repeal.

Sec. 6. All ordinance or parts of ordinances in conflict herewith are hereby repealed.

(Ord. No. 20.01, § 6, 12-21-2020)

25.008 - Effective date.

Sec. 7. This ordinance shall take effect 30 days after publication after publication.

(Ord. No. 20.01, 12-21-2020)