

ORDINANCE NO. 2017-1
CARROLL TOWNSHIP
WASHINGTON COUNTY, PENNSYLVANIA

AN ORDINANCE OF THE TOWNSHIP OF CARROLL, WASHINGTON COUNTY, PENNSYLVANIA, AMENDING THE CARROLL TOWNSHIP ZONING ORDINANCE ESTABLISHING A PROCESS AND STANDARDS FOR THE LOCATION AND PLACEMENT OF MEDICAL MARIJUANA GROWTH/PROCESSOR FACILITIES AND MEDICAL MARIJUANA DISPENSARIES PURSUANT TO THE PENNSYLVANIA MEDICAL MARIJUANA ACT (PA ACT 16 OF 2016) AND PROVIDING PENALTIES FOR VIOLATIONS THEREOF.

WHEREAS, pursuant to its authority under the MPC, the Board of Supervisors of Carroll Township have adopted a Township Code, including the Township Zoning Ordinance; and

WHEREAS, with Medical Marijuana becoming a legal product of the Commonwealth of Pennsylvania, there is an inherent need to regulate the land use activities to the extent the industry can be regulated under the Medical Marijuana Act; and

WHEREAS, the Township desires to amend the Township Zoning Ordinance to provide for and regulate activities related to said Act while protecting the health, safety and welfare of the residents of Carroll Township as well as the general public.

NOW THEREFORE, the Board of Supervisors hereby ordains and enacts as follows:

SECTION 1. TITLE AND PURPOSE.

A. To allow for the limited growing, manufacturing, processing, and dispensing of Medical Marijuana as provided for in Act 16 of 2016, the Medical Marijuana Act, by establishing regulations consistent with the Act and the Zoning and Land Use Regulations of the Township of Carroll in order to provide for a state regulated industry while protecting the health, safety and welfare of the residents of the community.

SECTION 2. DEFINITIONS.

ACADEMIC CLINICAL RESEARCH CENTER - An accredited medical school within this Commonwealth that operates or partners with an acute care hospital licensed within this Commonwealth.

CAREGIVER - The individual designated by a patient to deliver medical marijuana.

CERTIFIED MEDICAL USE - The acquisition, possession, use or transportation of medical marijuana by a patient, or the acquisition, possession, delivery, transportation or

administration of medical marijuana by a caregiver, for use as part of the treatment of the patient's serious medical condition, as authorized by certification by the Commonwealth.

CLINICAL REGISTRANT - An entity that:

1. Holds a permit both as a grower/processor and a dispensary; and
2. Has a contractual relationship with an academic clinical research center under which the academic clinic research center or its affiliate provides advice to the entity regarding, among other areas, patient health and safety, medical applications and dispensing and management of controlled substances.

DISPENSARY - A person, including a natural person, corporation, partnership, association, trust or other entity, or any combination thereof, which holds a permit issued by the Department of Health (DOH) of the Commonwealth to dispense medical marijuana.

FORM OF MEDICAL MARIJUANA - The characteristics of the medical marijuana recommended or limited for a particular patient, including the method of consumption and any particular dosage, strain, variety and quantity or percentage of medical marijuana.

GROWER/PROCESSOR - A person, including a natural person, corporation, partnership, association, trust or other entity, or any combination thereof, which holds a permit from the DOH to grow and process medical marijuana.

IDENTIFICATION CARD - A document issued by the DOH that permits access to medical marijuana.

MEDICAL MARIJUANA - Marijuana for certified medical use as legally permitted by the Commonwealth of Pennsylvania with Act 16.

MEDICAL MARIJUANA ORGANIZATION or FACILITY - A dispensary or a grower/processor of marijuana for medical purposes.

MEDICAL MARIJUANA DELIVERY VEHICLE OFFICE - Any facility used to house delivery vehicles for supplying marijuana plants or seeds to one or more marijuana grower/processors and/or dispensaries.

PROTECTED STRUCTURE - Any (public/private) hospital, school, cemetery, religious institution and/or other public building located within 1,000 feet of a Medical Marijuana Grower/Processor site.

REGISTRY - The registry established by the DOH for all medical marijuana organizations and practitioners.

SECTION 260-12. A-1 AGRICULTURAL DISTRICT.

A-1 of the Township Zoning Ordinance is amended by adding the following:

1. AGRICULTURAL DISTRICT. The following uses shall be permitted as a Conditional Use in the A-1 Agricultural District:

- Academic Clinical Research Center
- Medical Marijuana Grower/Processor
- Medical Marijuana Transport Vehicle Service

SECTION 260-45. M-1 LIGHT INDUSTRIAL DISTRICT. The following uses shall be permitted as a Use By Right in the M-1 Light Industrial District:

- Academic Clinical Research Center
- Medical Marijuana Grower/Processor
- Medical Marijuana Transport Vehicle Service

SECTION 260-75. M-2 HEAVY INDUSTRIAL DISTRICT. The following uses shall be permitted as a Use By Right in the M-2 Heavy Industrial District:

- Academic Clinical Research Center
- Medical Marijuana Grower/Processor
- Medical Marijuana Transport Vehicle Service

SECTION 3. USE REGULATIONS.

In addition to the specific zoning district regulations and any other applicable regulations, including the township's procedure for Conditional Use approval, the following uses are subject to the following:

A. ACADEMIC CLINIC RESEARCH CENTERS.

1. Written Summary. Applicant must include a written summary of how the facility will operate and provide a site plan which includes:

- (1) Overall site development time frame and calendar.
- (2) Access roads to site.
- (3) Proposed vehicle traffic and other related traffic to and from site.

2. An academic clinical research center may only grow medical marijuana in an indoor, enclosed, and secured building which includes electronic locking systems, electronic surveillance and other features required by the DOH. The grower/processor facility shall not be located in a trailer, cargo container, mobile or modular unit, mobile home, recreational vehicle or other motor vehicle.

3. All external lighting serving an academic clinical research center must be shielded in such a manner to not allow light to be emitted skyward or onto adjoining properties.

4. A buffer planting is required where an academic clinical research center adjoins a Residential or Village district.

B. MEDICAL MARIJUANA GROWER/PROCESSOR.

1. Written summary. Applicant must include a written summary of how the facility will operate and provide a site plan which includes:

- (1) Overall site development time frame and calendar.
- (2) Access roads to site.
- (3) Proposed vehicle traffic and other related traffic to and from site.
- (4) Permits. All applicable state, local and federal permits must be attached to the application or provided upon issue.

2. A medical marijuana grower/processor may only grow medical marijuana in a facility/manner required by and permitted by the DOH. The grower/processor facility shall not be located in a trailer, cargo container, mobile or modular unit, mobile home, recreational vehicle or other motor vehicle unless temporarily provided for as part of the conditional use approval.

3. The maximum floor area of a medical marijuana grower/processor shall be limited to 30,000 square feet, per 2 acres of land of which sufficient space (a minimum of 300 sq. ft. unless otherwise set by the State) must be set aside for secure storage of marijuana seeds, related finished product, and marijuana related materials used in production or for required laboratory testing.

4. A medical marijuana grower/processor shall meet the same municipal zoning and land use requirements as other manufacturing, processing and production facilities that are located in the same district, including but not limited to setbacks.

5. Marijuana remnants and byproducts shall be secured and properly disposed of in accordance with the DOH Policy and shall not be placed within any unsecure exterior refuse containers.

6. The grower/processor shall provide only wholesale products to other medical marijuana facilities. Retail sales and dispensing of medical marijuana and related products is prohibited at medical marijuana grower/processor facilities.

7. Grower/processors may not locate within 1,000 feet of a protected structure or 1,000 feet from the property line of a public, private, or parochial school or day-care center. This distance shall be measured in a straight line from the closest exterior wall of the building or portion thereof in which the business is conducted or proposed to be conducted, to the closest

property line of the protected use, regardless of municipality in which it is located.

8. All external lighting serving a medical marijuana grower/processor must be shielded in such a manner to not allow light to be emitted skyward or onto adjoining properties.

9. Parking requirements of the applicable zoning district.

10. A buffer planting is required where a medical marijuana grower/processor adjoins a Residential or Village district.

11. Entrances and driveways to a medical marijuana grower/processor must be designated to accommodate the anticipated vehicles used to service the facility:

A. All accesses must secure the appropriate highway occupancy permit and execute any necessary road bonding agreements.

12. Loading and off-loading areas within the structure are preferred. If an external loading dock arrangement is designed it should be from within a secure environment.

C. MEDICAL MARIJUANA TRANSPORT VEHICLE SERVICE

1. Written Summary. Applicant must include a written summary of how the facility will operate and provide a site plan which includes:

- (1) Overall site development time frame and calendar.
- (2) Access roads (that are not public roads) to site must be paved.
- (3) Proposed vehicle traffic and other related traffic to and from site.
- (4) Permits. All applicable state, local and federal permits must be attached to the application or provided upon issue.

2. A traffic impact study is required where the office is operated.

3. All external lighting serving a medical marijuana transport vehicle service must be shielded in such a manner to not allow light to be emitted skyward or onto adjoining properties.

4. A buffer planting is required where a medical marijuana transport vehicle service adjoins a Residential or Village district.

5. Entrances and driveways to a medical marijuana transport vehicle service must be designed to accommodate the anticipated vehicles used to enter and exit the premises.

A. All accesses must secure appropriate highway occupancy permit and execute any necessary road bonding agreements.

6. If for some reason a medical marijuana product is to be temporarily stored at a medical marijuana transport vehicle service facility, the facility must be secured to the same level as a medical marijuana grower/processor and dispensary.

7. Loading and off-loading areas within the structure are preferred. If an external loading dock arrangement is designed it should be from within a secure environment.

D. MEDICAL MARIJUANA DISPENSARY

1. Written Summary. Applicant must include a written summary of how the facility will operate and provide a site plan which includes:

(1) Overall site development time frame and calendar.

(2) Access roads (that are not public roads) to site must be paved.

(3) Proposed vehicle traffic and other related traffic to and from site.

(4) Permits. All applicable state, local and federal permits must be attached to the application or provided upon issue. Including proof of a current valid medical marijuana permit from the DOH.

2. A medical marijuana dispensary may only dispense medical marijuana in an indoor, enclosed, permanent, and secure building and shall not be located in a trailer, cargo container, mobile or modular unit, mobile home, recreational vehicle or other motor vehicle.

3. A medical marijuana dispensary may not operate on the same site as a facility used for growing and processing medical marijuana.

4. Medical marijuana dispensaries shall have a single secure public entrance and shall implement appropriate security measures to deter and prevent theft of marijuana and unauthorized entrance into areas containing medical marijuana.

5. Permitted hours of operation of a dispensary shall be 8:00 a.m. to 8:00 p.m. Monday through Friday and 9:00 a.m. to 9:00 p.m. on Saturday, unless otherwise set by the supplemental regulations of the zoning district in which use is located.

6. A medical marijuana dispensary shall be a maximum of 3,000 gross square feet, of which no more than 500 square feet shall be used for secure storage of product, and shall have an interior customer waiting area equal to a minimum of twenty-five (25) percent of the gross floor area.

7. A medical marijuana dispensary shall:

a. Not have a drive-through service;

b. Not have outdoor seating areas;

- c. Not have outdoor vending machines;
- d. Prohibit the administering of or the consumption of medical marijuana on the premises; and
- e. Not offer direct or home delivery service unless provided for by law.

8. A medical marijuana dispensary may dispense only medical marijuana to certified patients and caregivers and shall comply with all lawful, applicable health regulations.

9. A medical marijuana dispensary may not be located within 1,000 feet of a protected structure or the property line of a public, private or parochial school or a day care center. This distance shall be measured in a straight line from the closest exterior wall of the building or portion thereof in which the business is conducted or proposed to be conducted to the closest property line of the protected use, regardless of municipality in which it is located.

10. A medical marijuana dispensary shall be a minimum distance of 1,000 feet from the next nearest medical marijuana facility. This does not include complementing or supporting businesses covered by different definitions. This distance shall be measured in a straight line from the closest exterior walls of the buildings or portions thereof in which the businesses are conducted or proposed to be conducted, regardless of municipality in which it is located. This separation distance does not apply to the distance between grower/processor or academic clinical research centers and the specific dispensary they serve, or with which they partner.

11. Any medical marijuana facility lawfully operating shall not be rendered in violation of these provisions by the subsequent location of a public, private or parochial school or a day-care center.

12. All external lighting serving a medical marijuana dispensary must be shielded in such a manner to not allow light to be emitted skyward or onto adjoining properties.

13. A buffer planting is required where a medical marijuana dispensary adjoins a residential use or district.

14. Entrances and drive-ways to a medical marijuana dispensary must be designed to accommodate the anticipated vehicles used to service the facility.

A. All accesses must secure the appropriate occupancy permits and execute any necessary road bonding agreements.

15. Loading and off-loading areas within the structure are preferred. If an external loading dock arrangement is designed it should be from within a secure environment.

SECTION 4. FUTURE DEVELOPMENT ACTIVITIES.

The medical marijuana industry is brand new in the Commonwealth and is expected to change, develop and evolve with new technologies and operations occurring at a rapid pace. The continuous change involved in this industry makes it difficult for the Township to amend its ordinances and regulations to cover every possible activity involved with medical marijuana and related fields. The operations and activities related to medical marijuana may involve the use of potentially hazardous chemicals, heavily regulated seeds, plants, etc., increased interest in the area and noise, which if left unregulated could seriously threaten the public health, safety, and welfare of the residents and all premises within the Township. Therefore, the Township believes it to be necessary to enact a provision that requires any medical marijuana and related activities that are not specifically provided for or defined in this Ordinance or in the Township Code to apply for Conditional Use approval subject to the procedures for approval contained in the Township Zoning Ordinance as well as any additional conditions set by the Township Board of Supervisors.

SECTION 5. PENALTIES.

Any operator/Owner shall, upon being found liable therefore in a civil enforcement proceeding commenced by the Township before a Magisterial District Judge, pay a fine of not more than \$600.00, plus all court costs, including reasonable attorney's fees incurred by the township in the enforcement of this chapter. No judgment shall be imposed until the date of the determination of the violation by the Magisterial District Judge. If the defendant neither pays nor timely appeals the judgment, the Township may enforce the judgment pursuant to the applicable rules of civil procedure. Each day a violation exists shall constitute a separate offense. Further the appropriate officers or agents of the Township are hereby authorized to issue a cease-and-desist notice and/or to seek equitable relief, including injunction to enforce compliance herewith. No bond will be required if injunctive relief is sought by the township. A person who violates this ordinance shall also be responsible for the Township's attorney's fees, engineering fees, expert fees and court costs associated with enforcement.

SECTION 6. REPEALER.

Any Township Ordinances or provisions of the Township Code, which are inconsistent herewith are hereby repealed to the extent of any such inconsistency.

SECTION 7. SEVERABILITY.

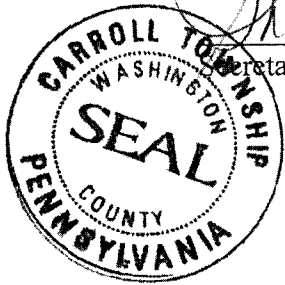
If any sentence, clause, section or other part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not

affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance would have been adopted and such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

ENACTED AND ORDAINED this 1st day of August, 2017.

ATTEST:

BOARD OF SUPERVISORS
TOWNSHIP OF CARROLL



Sharon Kerner
Secretary

Thomas Rapp
Chairman, Board of Supervisors

James L. Davis
Gary Lemmy