

AN ORDINANCE

NO. _____

AN ORDINANCE To Amend The Code Of The Township Of Lower Merion, Chapter 155 To Provide Definitions Of Academic Clinical Research Center, Caregiver (Medical Marijuana), Certified Medical Marijuana Use, Form Of Medical Marijuana, Identification Card, Medical Marijuana, Medical Marijuana Act, Medical Marijuana Delivery Vehicle Office, Medical Marijuana Dispensary, ~~Medical Marijuana Facility~~, Medical Marijuana Grower/Processor, And Medical Marijuana Registry; And To Permit A Medical Marijuana Dispensary In The C1 and C2 Commercial Districts, the Mixed-Use Special Transportation District, the MC Medical Center District, the BMMD Bryn Mawr Medical District, the Bryn Mawr Village District, the City Avenue District Regional Center Area (RCA), and the ROHO Rock Hill Overlay District , ~~And M Manufacturing And Industrial District~~, Subject To Regulations; And To Permit Medical Marijuana Grower/Processor And Medical Marijuana Delivery Vehicle Office In The M Manufacturing And Industrial Districts, And To Permit An Academic Clinical Research Center In The MC Medical Center District and the BMMD Bryn Mawr Medical District, Subject To Regulations.

The Board of Commissioners of the Township of Lower Merion does hereby enact and ordain:

Section 1. **PURPOSE.** The purpose of this Ordinance is to amend the Zoning Code in order to establish a process and standards for the establishment, construction, and operations of medical marijuana facilities, pursuant to the Pennsylvania “Medical Marijuana Act” (PA Act 16, 2016) to allow for the integration of an allowed industry while providing for the protection of the public’s health, safety, morals, and general welfare.

Section 2. The Code of the Township of Lower Merion, Chapter 155, Zoning, Article II, Definitions, §155-4, Terms Defined, subsection B thereof, shall be amended by the addition of the following definitions in alphabetical order:

Article II. Definitions

§155-4 Terms Defined

B. Words and terms defined. Unless otherwise expressly stated, the following words and phrases shall be construed throughout this chapter to have the meanings indicated in this article:

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 (MEDICAL MARIJUANA) - The individual designated by a patient to deliver medical marijuana.

CERTIFIED MEDICAL MARIJUANA 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.

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 or particular active ingredient.

IDENTIFICATION CARD - A document issued by the Pennsylvania Department of Health that permits access to medical marijuana.

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

MEDICAL MARIJUANA ACT – The Act of April 17, 2016, P.L. 84, No. 16, as amended from time to time (53 P.S. 10231.101, et.seq.).

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

MEDICAL MARIJUANA 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 Pennsylvania Department of Health to dispense medical marijuana; the term includes the facility from which medical marijuana is dispensed.

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

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 Pennsylvania Department of Health to grow and process medical marijuana.

MEDICAL MARIJUANA REGISTRY - The registry established by the Pennsylvania Department of Health for all medical marijuana organizations and practitioners.

Section 3. The Code of the Township of Lower Merion, Chapter 155, Zoning, Article XVI, C 1 Commercial Districts, §155-71, Use Regulations, shall be amended by the addition of a new subsection X, to provide as follows:

Article XVI. C 1 Commercial Districts

§155-71 Use regulations.

A building or combination of two or more buildings, which shall include a condominium, may be erected or used and a lot may be used or occupied for any of the following purposes and no other:

X. Medical Marijuana Dispensary, subject to the following:

- (1) A medical marijuana dispensary must be legally registered in the Commonwealth and possess a current valid medical marijuana permit from the Pennsylvania Department of Health.
- (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 the theft of medical marijuana and unauthorized entrance into areas containing medical marijuana.
- (5) Permitted daily hours of operation of a medical marijuana dispensary shall be 8:00 am to 8:00 pm.

(6) 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.

(7) A medical marijuana dispensary may only dispense medical marijuana to certified patients and medical marijuana caregivers, and shall comply with all lawful, applicable state and local health regulations.

(8) A medical marijuana dispensary shall comply with the separation requirements set forth in the Medical Marijuana Act. The separation 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.

(9) Parking requirements will follow the parking schedule for retail uses applicable to the district in which the dispensary is located.

(10) Entrances and driveways to a medical marijuana dispensary must be designed to accommodate the anticipated vehicles used to service the facility.

(11) 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. The Code of the Township of Lower Merion, Chapter 155, Zoning, Article XVIIB, Mixed-Use Special Transportation District, §155-87.21, Use Regulations, subsection C, shall be amended by the addition of a new paragraph (4.1), to provide as follows:

Article XVIIB. Mixed-Use Special Transportation District

§155-87.21 Use regulations.

A building may be erected or used and a lot may be used or occupied only for the purposes listed below. The applicant is encouraged to create a mixed-use development. Developments shall adhere to the development design standards in § 155-87.25.

C. The following uses are permitted on grade level and upper level floors:

(4.1) Medical marijuana dispensary subject to the regulations at §155-71(X).

Section 5. The Code of the Township of Lower Merion, Chapter 155, Zoning, Article XVIII, M Manufacturing and Industrial Districts, §155-89, Use Regulations, shall be amended by the addition of new subsection ~~-FG~~, and ~~H-G~~ to provide as follows:

Article XVIII. M Manufacturing and Industrial Districts

§155-89 Use regulations.

A. A building or combination of two or more buildings may be erected or used and a lot may be used or occupied for any lawful purpose, except for the purposes specified in Subsection **B**, and subject to the regulations set forth below.

~~F. A lot may be used for a Medical Marijuana Dispensary, subject to the following:~~

- ~~(1) A medical marijuana dispensary must be legally registered in the Commonwealth and possess a current valid medical marijuana permit from the Pennsylvania Department of Health.~~
- ~~(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 the theft of~~

~~medical marijuana and unauthorized entrance into areas containing medical marijuana.~~

- ~~(5) Permitted hours of operation of a dispensary shall be 8:00 am to 8:00 pm [of the same calendar day].~~

~~A medical marijuana dispensary shall be a maximum of 5,000 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.~~

- ~~(6) 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.~~

- ~~(7) A medical marijuana dispensary may dispense only medical marijuana to certified patients and medical marijuana caregivers and shall comply with all lawful, applicable state and local health regulations.~~

- ~~(8) A medical marijuana dispensary may not be located within 1,000 feet of the property line of a public, private, or parochial school, a religious use, 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.~~

- ~~(9) A medical marijuana dispensary shall be a minimum distance of 1,000 feet from the next nearest medical marijuana dispensary. 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 the grower/processor or academic~~

~~clinical research centers and the specific dispensary they serve, or with which they partner.~~

~~(10) 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, a religious use, or a day care center.~~

~~(11) Parking requirements will follow the parking schedule for retail uses found in the Rock Hill Overlay District Parking Table 1.~~

~~(12) Entrances and driveways 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 highway occupancy permit.~~

~~(13) 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.~~

F. A lot may not be used for a Medical Marijuana Dispensary, but may be used for a Medical Marijuana Grower/Processor when authorized as a conditional use in accordance with Article XXV, 155-141.2, subject to the following:

(1) A medical marijuana grower/processor may only grow medical marijuana in an indoor, enclosed, and secure building which includes electronic locking systems, electronic surveillance and other features required by the Pennsylvania Department of Health. 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.

(2) The maximum floor area of a medical marijuana grower/processor shall be limited to 20,000 square feet, of which include sufficient space must be set aside for ~~production~~, secure storage of marijuana seeds, related finished product ~~cultivation~~, and marijuana related materials ~~and equipment~~ used in production ~~and cultivation~~ or for required laboratory testing.

(3) Marijuana remnants and byproducts shall be secured and properly disposed of in accordance with the Pennsylvania Department of Health Policy and shall not be placed within any unsecure exterior refuse containers.

- (4) 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.
- (5) Grower/processors may not locate within 1,000 feet of the property line of a public, private, or parochial school, religious use, or day-care center.
- (6) Parking requirements will follow the parking schedule found in Article XX, Off-Street Parking Regulations, Section M. A minimum 20 feet buffer planting is required where a medical marijuana grower/processor adjoins a residential use or district.
- (7) Entrances and driveways to a medical marijuana grower/processor must be designed to accommodate the anticipated vehicles used to service the facility.
- (a) All accesses must secure the appropriate highway occupancy permit.
- (b) 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.
- (8) A medical marijuana grower/processor must be legally registered in the Commonwealth and possess a current valid Medical Marijuana Permit from the Pennsylvania Department of Health.
- (9) Any odor must be managed by ventilation and exhaust equipment with operable filtration so that any odors are effectively confined to the interior of the building. There shall be no emission of dust, fumes, vapors, odors, or waste into the environment that can be seen, smelled, or otherwise perceived beyond the facility.
- (10) A plan shall be provided demonstrating that all external and internal lighting, including light for nighttime growing, is shielded in such a manner to not allow light to be emitted skyward or onto adjoining properties.
- (11) A minimum 50 feet buffer planting is required where a grower/processor facility adjoins a residential, hotel or apartment hotel use or district.
- (12) The facility must not be within 3,000 feet of another medical marijuana grower/processor facility.

(13) No pictures, photographs, drawings or other depictions of marijuana or marijuana paraphernalia shall appear on the outside of any medical marijuana grower/processor facility or any sign associated therewith.

14) A medical marijuana grower/processor shall comply with any other lawful and applicable requirements or restrictions imposed by state and/or local laws or regulations.

H. A lot may be used for Medical Marijuana Delivery Vehicle Office when authorized as a conditional use in accordance with Article XXV, § 155-141.2, and subject to the following:

(1) Parking requirements will follow the parking schedule found in Article XX, Section L, Office Buildings.

(2) A minimum ~~20-50~~ feet buffer planting is required where a medical marijuana transport vehicle service adjoins a residential use or district.

(3) Entrances and driveways to a Medical Marijuana Delivery Vehicle Office must be designed to accommodate the anticipated vehicles used to enter and exit the premises.

(a) All accesses must secure the appropriate highway occupancy permit (State, township or borough).

(4) 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/producer and dispensary.

(5) 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.

(6) No pictures, photographs, drawings or other depictions of marijuana or marijuana paraphernalia shall appear on the outside of any medical marijuana delivery vehicle office or any sign associated therewith.

~~(6)~~(7) A medical marijuana delivery vehicle office shall comply with any other lawful and applicable requirements or restrictions imposed by state and/or local laws or regulations.

Section 6. The Code of the Township of Lower Merion, Chapter 155, Zoning, Article XXXI, MC Medical Center District, §155-182, Use Regulations, shall be amended by the addition of new subsections D.1 and D.2, to provide as follows:

Article XXXI. MC Medical Center District

§155-182 Use Regulations.

A building may be erected, altered or used, and a lot may be occupied or used, in whole or in part, for any of the following uses and no other, provided that such uses shall comply with the district regulations established in this article and all other applicable provisions of this chapter.

D.1 Medical marijuana dispensary subject to the regulations at §155-71(X).

D.2 . Academic Clinical Research Center, subject to the following:

- (1) Parking requirements will follow the parking schedule found in Article XX, Section 95 Facilities Required, Subsection O Medical Facilities, (4) Medical laboratory.
- (2) An academic clinical research center may only grow medical marijuana in an indoor, enclosed, and secure building, which includes electronic locking systems, electronic surveillance and other features required by the Department of Health. The academic clinical research center shall not be located in a trailer, cargo container, mobile or modular unit, mobile home, recreational vehicle or other motor vehicle.

(3) An academic clinical research center shall comply with any other lawful and applicable requirements or restrictions imposed by state and/or local laws or regulations.

Section 7. The Code of the Township of Lower Merion, Chapter 155, Zoning, Article XXXII, BMMD Bryn Mawr Medical District, §155-191, Use Regulations, shall be amended by the addition of new subsections D.1 and D.2, to provide as follows:

Article XXXII. BMMD Bryn Mawr Medical District

§155-191 Use Regulations.

B. The following uses are permitted in the BMMD-2 District:

(14) Medical marijuana dispensary subject to the regulations at §155-71(X).

(15) Academic Clinical Research Center, subject to the regulations at §155-182(D.2).

Section 8. The Code of the Township of Lower Merion, Chapter 155, Zoning, Article XXXIII, ROHO Rock Hill Overlay District, §155-201, Use Regulations, shall be amended by the addition of new subsection s D, to provide as follows:

Article XXXIII. ROHO Rock Hill Overlay District

§155-201 Use provisions.

A building may be erected or used and a lot may be used or occupied for one or more of the uses set forth below:

D. Medical marijuana dispensary, subject to the regulations at §155-71(X).

Section 9. The Code of the Township of Lower Merion, Chapter 155, Zoning, Article XXXIV, Bryn Mawr Village District, §155-212. Use regulations for BMV1, BMV3 and BMV4 Village Districts, Use regulations, Subsection A, shall be amended by the addition of a new subsection (1.1), Medical Marijuana Dispensary, to provide as follows:

Article XXXIV. Bryn Mawr Village District

§155-212 Use regulations for BMV1, BMV3 and BMV4 Village Districts

In the BMV1, BMV3 and BMV4 Village Districts, the following regulations shall apply.

A. The following uses are permitted on grade level and upper level floors:

(1.1) Medical marijuana dispensary, subject to the regulations at §155-

71(X).

Section 10. The Code of the Township of Lower Merion, Chapter 155, Zoning, Article XXXV, City Avenue District, §155-217. City Avenue District: Regional Center Area (RCA), Section B. Use regulations, Subsection (2) shall be amended by the addition of a new subsection (a.1), Medical Marijuana Dispensary, and renumbering of subsequent sections to provide as follows:

Article XXXV. City Avenue District

§155-217 City Avenue District: Regional Center Area (RCA).

B. Use regulations. A building or group of buildings may be erected or used and a lot may be used or occupied only for the purposes listed below:

(2) Nonresidential uses.

(a.1) Medical Marijuana Dispensary, subject to the regulations at §155-71(X).

Section 11. Nothing in this Ordinance or in Chapter 155 of the Code of the Township of Lower Merion, as hereby amended, shall be construed to affect any suit or proceedings in any Court, any rights acquired or liability incurred, any permit issued, or any cause or causes of action existing under the said Chapter 155 prior to the adoption of this amendment.

Section 12. The provisions of this Ordinance are severable, and if any section, sentence, clause, part, or provision thereof shall be held illegal, invalid, or unconstitutional by any Court of competent jurisdiction, such decision of this court shall not affect or impair the remaining sections, sentences, clauses, parts or provisions of this ordinance. It is hereby declared to be the intent of the Board that this ordinance would have been adopted if such illegal, invalid, or unconstitutional section, sentence, clause, part, or provision had not been included

herein.

Section 13. This Ordinance shall take effect and be in force from and after its approval as required by law.

Approved by the Board this day of , 2017.

BOARD OF COMMISSIONERS OF THE
TOWNSHIP OF LOWER MERION

Daniel S. Bernheim, President

ATTEST:

Jody L. Kelley, Secretary