

WESTFALL TOWNSHIP

ORDINANCE NO. 171

An Ordinance of Westfall Township, Pike County, AMENDING, the Zoning Ordinance of Said Township, to include new definitions relating to medical marijuana dispensaries and medical marijuana growers/processors, consistent with the Pennsylvania Medical Marijuana Act, and Allowing marijuana dispensaries as a conditional use in the C-2 and C-3 Zone and Marijuana Growers/Processors as a Conditional Use in the C-2 and C-3 Zone

WHEREAS, pursuant to the Second Class Township Code, 53 P.S. Section 66506, the Board of Supervisors may make and adopt any ordinances, bylaws, rules and regulations not inconsistent with or restrained by the Constitution and laws of this Commonwealth necessary for the proper management, care and control of the Township and its finances and the maintenance of peace, good government, health and welfare of the Township and its citizens, trade, commerce and manufactures; and

WHEREAS, pursuant to the Municipalities Planning Code, 53 P.S. Section 10101 et seq., as amended, The Board of Supervisors may enact and amend zoning ordinances; and

WHEREAS, the Pennsylvania General Assembly has recently enacted, and the Governor signed, Act No. 16 of April 17, 2016, P.L. 84, known as the “Medical Marijuana Act” which purports to permit, among other things: 1) the use of marijuana for medical purposes; and 2) the distribution of marijuana for such medical use by authorized dispensaries; and

WHEREAS, the Pennsylvania Department of Health has recently promulgated regulations pursuant to the Medical Marijuana Act regulating, among other things, authorized dispensaries; and

WHEREAS, the Township Board of Supervisors believes it to be prudent to create certain standards by which any authorized medical marijuana facility, that may be located within the Township, must abide; and

WHEREAS, the Township Board of Supervisors desire to amend its Zoning Ordinance by providing for the establishment of a medical marijuana facility uses in certain Zoning Districts of the Township, and providing for the regulation of same.

NOW THEREFORE, BE IT ORDAINED AND ENACTED by the Westfall Township Supervisors, and it is hereby ordained and enacted by the authority of same as follows:

SECTION 1. Purpose. The purpose of this Ordinance is to provide the process and standards for the establishment, construction, and operations of medical marijuana facilities, pursuant to the Pennsylvania Medical Marijuana Act, Act of April 17, 2016, hereinafter “Act”, to allow for the integration into the Township of an allowed industry law providing for the protection of the health, safety, morals and general welfare of the public.

SECTION 2. The Township Zoning Ordinance is hereby amended by the incorporation therein of the following definitions:

“Caregiver”- the individual designated by a patient, or if the patient is under 18 years of age, a parent or legal guardian, an individual designated by a parent or guardian, or an appropriate individual approved by the Pennsylvania Department of Health upon a sufficient showing that no parent or legal guardian is appropriate or available, 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, including enabling the patient to tolerate treatment for the serious medical condition.

“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 or particular active ingredient.

“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.

“Medical Marijuana”- Marijuana for certified medical use as legally permitted by the Commonwealth of Pennsylvania, pursuant to the provisions of the Act.

“Medical marijuana organization or facility”- A dispensary or a grower/processor of marijuana for medical purposes or a medical marijuana delivery vehicle office.

“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.

SECTION 3. The Township Zoning Ordinance shall be amended by the addition of the following sections:

A. MEDICAL MARIJUANA GROWER/PROCESSOR. In districts where permitted, a medical marijuana grower/processor shall comply with 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 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.

2) The medical marijuana grower/processor shall demonstrate to the satisfaction of the Township that the floor area of its facilities includes sufficient space for production, secure storage of marijuana seed, related finished product cultivation, and marijuana related materials and equipment used in production and cultivation or for required laboratory testing. The building envelope and maximum allowable floor area shall be determined by applying the setback, parking, landscaping, coverage, and building height requirements of the applicable zoning district in which the facilities are to be located.

3) There shall be no emission of dust, fumes, vapors, odors or waste into the environment from any facility where medical marijuana growing, processing or testing occurs.

4) Marijuana remnants and by-products shall be secured and properly disposed of in accordance with DOH policy and shall not be placed in any unsecure exterior refuse containers.

5) 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.

6) 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.

7) Said grower/processor shall abide by all other requirements of the zone in which they are located as well as provided below.

B. MEDICAL MARIJUANA TRANSPORT VEHICLE SERVICE. In districts where permitted, a medical marijuana transport vehicle service shall comply with the following:

1) A traffic impact study is required where the office is located.

2) If 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 grower/processor and dispensary.

3) 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.

4) Said medical marijuana transport vehicle service shall abide by all other requirements of the zone in which they are located as well as provided below.

C. MEDICAL MARIJUANA DISPENSARY. In districts where permitted, a medical marijuana dispensary shall comply with the following:

1) A medical marijuana dispensary must be legally registered in the

Commonwealth and possess a current valid medical marijuana permit from the DOH.

2) A medical marijuana dispensary shall 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 shall not operate on the same site as a facility used for growing and processing medical marijuana.

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

5) Permitted hours of operation shall be 8 a.m. to 8 p.m. of the same calendar day.

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 products and shall have an interior customer waiting area equal to a minimum of twenty-five (25%) per cent 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 consumption of medical marijuana on the premises; and
- e. Not offer direct or home delivery service.

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

9) 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.

10) Said medical marijuana transport vehicle service shall abide by all other requirements of the zone in which they are located as well as provided below.

SECTION 4. In addition to above, a medical marijuana facility shall comply with the following:

1) A medical marijuana facility shall not be located within 500 feet of the property line of:

- a) A public, private or parochial school or other education facility;
- b) A day-care center or other child care facility;
- c) Playground;
- d) Park;
- e) Church, Synagogue, Mosque, or other similar place of worship;
- f) Library;
- g) Camp; and
- h) Amusement Park.

2) A medical marijuana facility shall not be rendered in violation of this provision by the subsequent location of a school defined above or a day care center.

3) A medical marijuana facility shall not be located within 500 feet of any residential district and shall not be located within 500 feet of any structure whose use is principally residential.

4) A medical marijuana facility shall not be located within 1,000 feet from the nearest medical marijuana facility. This does not preclude complementing or supporting

businesses covered by different definitions. This separation does not apply to the distance between the grower/processor and the specific dispensary they serve, or with which they partner.

5) The distance between any such medical marijuana facility and any of the protected land uses specified herein shall be measured in a straight line, without regard to intervening structures, from the closest point of the structure in which such establishment is located to the closest point on the property line or structure of such protected land use.

6) A medical marijuana facility shall be prohibited in all districts except for the C-2 and C-3 Zone.

7) Off street parking shall be provided at the rate of one space per 200 square feet of floor area open to the public and one space per every 1.0 employee for dispensaries and one space per every 1.1 employees and one space per every ten managers on site for growers/processors.

8) The proposed establishment shall not be detrimental to the use of adjoining properties and must meet the following performance standards:

- a) Lighting in accordance with current zoning requirements; and
- b) All parking areas shall be screened and include at least a 20-foot buffer from all private properties adjacent to the site.

9) The proposed medical marijuana facility shall not constitute a nuisance due to noise or to loitering outside of the building.

10) The Applicant is required to obtain approval of a land development plan under the Subdivision and Land Development Ordinance of Westfall Township, as amended.

11) All other Federal, State and other permits shall be obtained prior to the issuance

of a certificate of occupancy.

12) The proposed medical marijuana facility shall comply with all laws, rules and regulations of the United States of America, the Commonwealth of Pennsylvania and their respective agencies and instrumentalities.

13) The proposed medical marijuana facility shall have a minimum of one (1) contiguous acre for development. All owners of record must join in the application for development.

14) The Applicant is required to obtain conditional use approval which shall include a review and recommendation by the Eastern Pike Regional Police Department and a community impact analysis which includes an evaluation of the potential impacts upon the following community facilities;

- a) Emergency services and fire protection;
- b) Solid waste disposal;
- c) Recreation;
- d) Surrounding roadway systems;
- e) School facilities and school district budget;
- f) Water supply;
- g) Sewage disposal;
- h) Township revenues and expenses;

SECTION 5. In the event any provision, section, sentence or clause or part of the Ordinance shall be held invalid, such invalidity shall not impair or affect any remaining provision, section, sentence, clause or part of the Ordinance from remaining in full force and effect. This Ordinance shall become effective in accordance with the provisions of the Act.

SECTION 6. All ordinances or parts of ordinances that are inconsistent herewith are repealed.

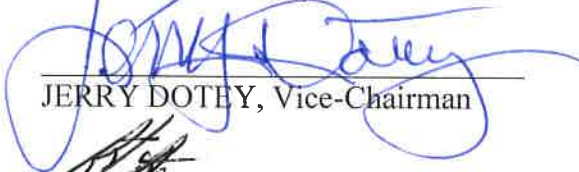
SECTION 7. Any ordinance or part of ordinances conflicting with the provisions of this Ordinance is hereby repealed insofar as they are inconsistent with this Ordinance provisions.

SECTION 8. The failure of the Township to enforce any provision of this Ordinance shall not constitute a waiver by the Township of its rights of future enforcement hereunder.

ORDAINED AND ENACTED into an Ordinance at a regular meeting of the Board of Supervisors of the Township of Westfall, Pike County, Pennsylvania, this 2nd day of April, 2018



ROBERT MELVIN, Chairman




JERRY DOTY, Vice-Chairman



ROBERT BOSTINTO, Supervisor



PAUL FISCHER, Supervisor



MICHELLE WILKINS, Supervisor

ATTEST:



JODI HULSE, SECRETARY