

**LEHIGH TOWNSHIP
NORTHAMPTON COUNTY, PENNSYLVANIA
ORDINANCE 2017-3**

AN ORDINANCE ENACTED BY THE BOARD OF SUPERVISORS OF LEHIGH TOWNSHIP, NORTHAMPTON COUNTY, PENNSYLVANIA AMENDING THE ZONING ORDINANCE SET FORTH IN CHAPTER 180 OF THE LEHIGH TOWNSHIP CODE OF ORDINANCES ADOPTING THE LEHIGH TOWNSHIP MEDICAL MARIJUANA ORDINANCE TO REGULATE THE LAND USE ACTIVITIES TO THE EXTENT PERMITTED UNDER THE MEDICAL MARIJUANA ACT.

THE BOARD OF SUPERVISORS OF LEHIGH TOWNSHIP, County of Northampton, Commonwealth of Pennsylvania, hereby enacts and ordains the following amendments to Lehigh Township Zoning Ordinance and as set forth in the Code of the Lehigh Township Zoning Ordinance Chapter 180 and as subsequently amended; and

WHEREAS, the Township believes this ordinance is necessary to comply with the Medical Marijuana Act and to guide and regulate the orderly growth, development and redevelopment of the Township in accordance with the goals, objectives and plans of the Township's Comprehensive Plan. These goals, objectives and plans are hereby incorporated as objectives of this Ordinance; and

WHEREAS, to protect the established character and the social and economic well-being of private and public property and to ensure proper development and uses of property and to ensure all uses are accounted for and developed in accordance with the characteristics of the surrounding neighborhood.

NOW THEREFORE, BE IT ENACTED AND ORDAINED, AND IT IS HEREBY ENACTED AND ORDAINED BY THE BOARD OF SUPERVISORS OF LEHIGH TOWNSHIP, COUNTY OF NORTHAMPTON AND COMMONWEALTH OF PENNSYLVANIA AND SAME IS HEREBY ORDAINED AND ENACTED BY ADDING THE FOLLOWING TO THE LEHIGH TOWNSHIP ZONING ORDINANCE:

1. SECTION 1. PURPOSE.

The purpose of this section is 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.

2. SECTION 2. DISTRICT REGULATIONS.

- A. Academic Clinical Research Centers are permitted by special exception in the Industrial (I), Office Business (OB) and General Commercial (GC) Zoning Districts with consideration for the applicable performance standards found in §4A of this ordinance.
- B. Medical Marijuana Grower/Processors are permitted by special exception in the General Commercial (GC) and the Industrial (I) Zoning Districts with consideration for the applicable performance standards found in §4B of this ordinance. It shall be a conditional use in the Neighborhood (NC) Zoning District.
- C. Medical Marijuana Transport Vehicle Offices are Special Exceptions within the General Commercial (GC) and Industrial (I) Zoning Districts, with consideration for the applicable performance standards found in §4C of this ordinance.
- D. Medical Marijuana Dispensaries are permitted by special exception in the General Commercial (GC), Neighborhood Commercial (NC) and Planned Resort Residential Community (PRRC) Zoning Districts, with consideration for the applicable performance standards found in §4D of this ordinance.

3. SECTION 3. DEFINITIONS.

The following definitions will be incorporated into Article II, Section 180-15 entitled Definitions; word usage.

- A. **ACADEMIC CLINICAL RESEARCH CENTER** - An accredited medical school within this Commonwealth that operates or partners with an acute care hospital licensed within this Commonwealth.
- B. **CAREGIVER**. - The individual designated by a patient to deliver medical marijuana.
- C. **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.

D. 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 clinical 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.

E. 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.

F. 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.

G. 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.

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

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

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

K. 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.

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

4. SECTION 4. USE REGULATIONS.

The following performance standards will be incorporated into Article V, entitled “Specific Criteria” in new Section 180-108 Performance Standards and be entitled “Medical Marijuana Facilities” criteria.

A. ACADEMIC CLINICAL RESEARCH CENTERS.

1. Parking requirements will follow the parking schedule found in Article III, Section 180-37, “Off-Street Parking and loading” regulations and/or as listed for “Institutional and Educational Uses” as appropriate.
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 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 in accordance with other Sections of Zoning Ordinance regarding lighting requirements.

4. A buffer planting is required where an academic clinical research center adjoins a residential use or district pursuant to the requirements of Section 180-33.

B. MEDICAL MARIJUANA GROWER/PROCESSOR.

1. A medical marijuana grower/processor shall meet the same Township's zoning and land use requirements as other manufacturing, processing and production facilities that are located in the same district.
2. 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.
3. A medical marijuana grower/processor shall meet the setback, parking, landscaping, coverage, and building height requirements required in the Zoning District in which the use is permitted by right to determine the building envelope and lot coverage and shall meet all the bulk requirements of the underlying zoning district.
4. The maximum floor area of a medical marijuana grower/processor shall be limited to 20,000 square feet, of which sufficient space 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.

5. 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. If on lot wells will be used to supply water the requirements of Section 147-20D shall be complied with. All storm water discharge shall comply with Chapter 138 entitled stormwater management requirements for other manufacturing, processing and production facilities.
6. 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.
7. 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.
8. Grower/processors may not locate within 1,000 feet of the property line of a public, private, or parochial school or day-care center.
9. 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 in accordance with lighting requirements set forth in the zoning ordinance including but not limited to the requirements for proper lighting in Section 180-37.

10. Parking and loading facilities shall be designed in accordance with the requirements found in Article III, Section 180-37 entitled “Off-Street Parking and Loading” regulations.
11. A buffer planting is required where a medical marijuana grower/processor adjoins a residential use or district in accordance with the requirements in Section 180-33.
12. 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 from the Department of Transportation or in the case of local road by Lehigh Township.
 - B. The clear sight triangle found in Article III, Section 180-29 General Regulations must be considered and maintained.
 - C. The driveway must be designed and improved to the standards expressly described in Article IV, Section 147-17 of the Subdivision and Land Development Ordinance.
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 and located in the rear of the building.

C. MEDICAL MARIJUANA TRANSPORT VEHICLE SERVICE.

1. A traffic impact study is required where the office is operated.
2. Parking and loading requirements will follow the parking schedule found in Article III, Section 180-37 entitled “Off-Street Parking and

loading” regulations for motorized vehicle services. Parking shall be provided for 1 vehicle and 1 employee.

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 in accordance with the requirements in Section 180-37 and 180-52.
4. A buffer planting is required where a medical marijuana transport vehicle service adjoins a residential use or district in accordance with Section 180-33.
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 the appropriate highway occupancy permit from the Department of Transportation and/or Lehigh Township for non-state owned roads.
 - B. The clear sight triangle found in Article III, Section 180-29 must be considered and maintained.
 - C. The driveway must be designed and improved to the standards expressly described in Article IV, Section 147-17 of the Subdivision and Land Development Ordinance.
6. The medical marijuana product shall not be stored at a medical marijuana transport vehicle service facility.
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 located in the rear of the building.

D. MEDICAL MARIJUANA DISPENSARY.

1. A medical marijuana dispensary shall meet the same municipal zoning and land use requirements as other commercial facilities that are located in the same district.
2. A medical marijuana dispensary must be legally registered in the Commonwealth and possess a current valid medical marijuana permit from the DOH.
3. 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.
4. A medical marijuana dispensary may not operate on the same site as a facility used for growing and processing medical marijuana.
5. Medical marijuana dispensaries 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.
6. Permitted hours of operation of a dispensary shall be 8:00 am to 8:00 pm [of the same calendar day].
7. A medical marijuana dispensary shall meet the setback, parking, loading landscaping, coverage and building height requirements of the zoning district in which the use is permitted to determine the building envelope, lot coverage and maximum allowable floor area.

8. 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.
9. 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,
10. A medical marijuana dispensary may dispense only medical marijuana to certified patients and caregivers and shall comply with all lawful, applicable health regulations.
11. A medical marijuana dispensary may not be located within 1,000 feet of 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.
12. 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 to the closest property of the protected use 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.

13. 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.
14. 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 in accordance with lighting requirements of Section 180-37 and 180-52.
15. Parking requirements will follow the parking schedule found in Article III, Section 180-37 “Off-Street Parking and loading” regulations as listed for medical offices.
16. A buffer planting is required where a medical marijuana dispensary adjoins a residential use or district in accordance with Section 180-33 of the zoning ordinance.
17. 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 the Department of Transportation and/or Lehigh Township for non-state owned roads.
 - B. The clear sight triangle found in Article III, General Requirements Section 180-29 must be considered and maintained.
 - C. The driveway must be designed and improved to the standards expressly described in Article IV, Section 147-17 of the Subdivision and Land Development Ordinance.
18. 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.
19. In the event the Controlled Substance, Drug, Device and Cosmetic Act relating to marijuana conflicts with a provision of Act 16, PA Act 16 is declared to take precedence.

5. SECTION 5. ADMINISTRATION AND ENFORCEMENT.

- A. Building and Zoning Permits/Approvals.
 - 1. A zoning permit shall be required prior to obtaining a building permit. For the construction or erection of a building; the alteration of a building or portion thereof; the use or change in use of a building or land; or any adjustments to a nonconforming use.
 - 2. The Township's zoning permit application must be completed.
 - 3. Permit fees shall be as stipulated in the fee schedule adopted by resolution of the Municipal Governing Body in effect at the time of application.

4. Permits may be denied if the applicant, in the reasonable opinion of the Lehigh Township Board of Supervisors is failing to comply with any state or local law or regulation.
5. In the case of new construction, meeting the Pennsylvania Municipal Planning Code definition land development plan application is required to be submitted and an approval secured, prior to establishment of the use.
6. If the application is to change the use of a building, or needs to demonstrate allocation of space within a structure, the applicant shall provide architectural drawings prepared by an architect registered in the Commonwealth of Pennsylvania.
7. A medical marijuana grower/processor must be legally registered in the Commonwealth and possess a current valid Medical Marijuana Permit from the DOH.

6. SECTION 6. PENALTIES.

Any Owner, Operator, or other person who violates or permits a violation of this chapter shall, upon being found liable therefore in a civil enforcement proceeding before a Magisterial District Judge, pay to Lehigh Township a fine of not more than \$500.00, plus all court costs, including but not limited to reasonable attorney's fees incurred by Lehigh Township on account of such violation. No penalty or cost shall be imposed until the date the determination of the violation by the Magisterial District Judge becomes final. If the defendant neither pays nor timely appeals the judgment, the Township may enforce the judgment as provided by law. Each day a violation exists after final judgment shall constitute a separate offense. The amount of the fine imposed shall be multiplied by the number of such days and may be charged and collected by Lehigh Township without further judicial proceedings. Further, the appropriate officers or agents of Lehigh 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 Lehigh Township. A person who violates this Ordinance shall also be responsible for Lehigh Township's attorney's fees, engineering fees, expert fees and court costs reasonably incurred by Lehigh Township on account of such violation.

7. SECTION 7. SEVERABILITY.

The provisions of this Ordinance shall be severable, and if any provision hereof shall be declared unconstitutional, illegal or invalid, such decision shall not affect the validity of any of the remaining provisions of this Ordinance. It is hereby declared as a legislative intent of the Township that this Ordinance would have been amended as if such unconstitutional, illegal or invalid provision or provisions had not been include herein.

8. SECTION 8. REPEALER.

All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

ORDAINED AND ENACTED as an ordinance as a regular meeting of Board of Supervisors of Lehigh Township, Northampton County, Pennsylvania, this _____ day of _____ 2017.

ATTEST:

LEHIGH TOWNSHIP

Secretary

Chairman, Board of Supervisors