

## TRI-COUNTY REGIONAL PLANNING COMMISSION

### MODEL MEDICAL MARIJUANA ORDINANCE

*revised January 3, 2017*

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#### INTRODUCTION

In April 2016, the PA State Legislature passed the Pennsylvania “Medical Marijuana Act” (PA Act 16, 2016) to legalize the growth, processing, storage, transport and dispensing of medical marijuana to those issued a permit for its use.

With Medical Marijuana scheduled to become a legal product of the Commonwealth, there is an inherent need to regulate the land use activities to the extent the industry can be regulated under the Medical Marijuana Act. In this breath the Act 16 of 2016 houses two sections (§§ 2107(1) and 2107(2)) which preempt any municipal zoning ordinance assertion to regulate beyond the commercial and industrial establishments within the applicable zoning district.

The purpose of the ordinance is to recognize the land use ventures associated with the pursuit of business ventures emanating from this law and to protect the health, safety and welfare of the general public. The model ordinance has been developed to serve as an amendment to an existing zoning ordinance. Municipal officials should review this ordinance, examine their local situation, and adopt the regulations that make the most sense for their municipality, modifying anything they deem appropriate. **Portions highlighted indicate areas not required by the new law, but those which municipalities can determine whether or not to include as appropriate to their particular situation.**

The Tri-County Regional Planning Commission has assembled this model ordinance primarily to serve the anticipated need of our member municipalities. We recognize making this model ordinance available on our website others will also have access to this information, and it is our hope that you will also find benefit from our research, labor and effort devoted to this project. As the regulations from this law become more refined, revisions to this model may be made, and municipalities should adjust their ordinance accordingly.

Any questions regarding this Model Ordinance may be directed to either Diane Myers-Krug [dkrug@tcrpc-pa.org](mailto:dkrug@tcrpc-pa.org) or Jason Finnerty [jfinnerty@tcrpc-pa.org](mailto:jfinnerty@tcrpc-pa.org) of our staff.

(Insert Municipality Name) ORDINANCE NO. \_\_\_\_\_  
**An Ordinance Amending Ordinance No. \_\_\_\_\_ of  
(Insert Municipality Name), known as the (Insert Municipality Name) Zoning  
Ordinance, providing for the regulation Medical Marijuana Facilities**

(Insert Municipal Governing Body Name) hereby amends Ordinance No. \_\_\_\_\_  
known as the (Insert Municipality Name) Zoning Ordinance, by adding the following:

**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.

**Section 2. DISTRICT REGULATIONS.**

- A. Academic Clinical Research Centers are permitted in the Commercial (C), and Industrial (I) Districts with consideration for the applicable performance standards found in §4A of this ordinance.
- B. Medical Marijuana Grower/Processors are permitted in the Commercial (C), and Industrial (I) Districts with consideration for the applicable performance standards found in §4B of this ordinance.

**Editor’s note:** *Medical Marijuana Grower/Processors could be considered for inclusion in an Agricultural District under a conditional use or arrangement provided the applicable district already imposes strong coverage requirements.*

- C. Medical Marijuana Transport Vehicle Offices are permitted in either a Commercial (C) and Industrial (I) District, with consideration for the applicable performance standards found in §4C of this ordinance.
- D. Medical Marijuana Dispensaries are permitted in either a Commercial (C) and Industrial (I) District, with consideration for the applicable performance standards found in §4D of this ordinance.

**Section 3. DEFINITIONS.**

The following definitions will be incorporated into Article/Part \_\_\_\_\_ § \_\_\_\_\_, Definitions)

- 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.

#### **Section 4. USE REGULATIONS.**

The following performance standards will be incorporated into Article/Part        §       , Performance Standards.

**Editor's note:** PA Act 16 of 2016 contains two sections (§§2107(1) and 2107(2)) addressing the location of medical marijuana growers/processors and dispensaries. The

*following performance standard recommendations are offered as guidance, targeting particular areas of focus with respect to each particular use. Each individual requirement should be evaluated with respect to the applicable section with care to not go beyond the allowances highlighted in yellow alongside the use.*

A. ACADEMIC CLINICAL RESEARCH CENTERS.

1. Parking requirements will follow the parking schedule found in Article/Part § Off-Street Parking Regulations and/or as listed for colleges, universities, technical or fine arts schools, 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.
4. A buffer planting is required where an academic clinical research center adjoins a residential use or district.

B. MEDICAL MARIJUANA GROWER/PROCESSOR.

**Editor's Note:** *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. That is, requirements cannot be more stringent than those placed on the other facilities. PA Act 16 of 2016, §2107(1).*

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.

**Editor's Note:** *Municipalities should apply the setback, parking, landscaping, coverage, and building height requirements of the applicable zoning district to determine the building envelope and maximum allowable floor area.*

2. The maximum floor area of a medical marijuana grower/processor shall be limited to #### 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.

**OR** *as an alternative*

The floor area of a medical marijuana grower/processor shall include 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.

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 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.
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. Grower/processors may not locate within 1,000 feet of the property line of a public, private, or parochial school or day-care center.
7. 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.
8. Parking requirements will follow the parking schedule found in Article/Part [REDACTED] § [REDACTED] Off-Street Parking Regulations.
9. A buffer planting is required where a medical marijuana grower/processor adjoins a residential use or district.
10. 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 (State, township or borough).
  - B. The clear sight triangle found in Article/Part [REDACTED] § [REDACTED] must be considered and maintained.
  - C. The driveway must be designed and improved to the standards expressly described in Article/Part [REDACTED] § [REDACTED] of the Subdivision and Land Development Ordinance.
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.

### C. MEDICAL MARIJUANA TRANSPORT VEHICLE SERVICE

1. A traffic impact study is required where the office is operated.
2. Parking requirements will follow the parking schedule found in Article/Part [REDACTED] § [REDACTED] Off-Street Parking Regulations.

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 use or 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 the appropriate highway occupancy permit (State, township or borough).
  - B. The clear sight triangle found in Article/Part [REDACTED] § [REDACTED] must be considered and maintained.
  - C. The driveway must be designed and improved to the standards expressly described in Article/Part [REDACTED] § [REDACTED] of the Subdivision and Land Development Ordinance.
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/producer 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

**Editor's Note:** *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. That is, requirements cannot be more stringent than those placed on the other facilities. PA Act 16 of 2016, §2107(2).*

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 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 marijuana and unauthorized entrance into areas containing medical marijuana.

5. Permitted hours of operation of a dispensary shall be 8 am to 8 pm [of the same calendar day].

**Editor's Note:** *Municipalities should apply the setback, parking, landscaping, coverage, and building height requirements of the applicable zoning district to determine the building envelope and maximum allowable floor area.*

6. A medical marijuana dispensary shall be a maximum of ##### gross square feet, of which no more than ### 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.
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 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 the 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. Parking requirements will follow the parking schedule found in Article/Part \_\_\_\_\_ § \_\_\_\_\_ Off-Street Parking Regulations as listed for medical and dental offices including outpatient clinics.

14. A buffer planting is required where a medical marijuana dispensary adjoins a residential use or district.
15. 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 (State, township or borough).
  - B. The clear sight triangle found in Article/Part \_\_\_\_\_ § \_\_\_\_\_ must be considered and maintained.
  - C. The driveway must be designed and improved to the standards expressly described in Article/Part \_\_\_\_\_ § \_\_\_\_\_ of the Subdivision and Land Development Ordinance.
16. 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.

**Editor's Note:** *If a provision of 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. (PA Act 16, § 2101 Conflict)*

## **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 (municipal) 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 (Municipal Governing Body), is failing to comply with any state or local law or regulation.
  5. In the case of new construction, meeting the PA MPC 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.

**Section 6. SEVERABILITY.**

If any section, subsection, sentence, clause or phrase or portion of this document is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion thereof.

**Section 7. 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 (Municipality Name) a fine of not more than \$500, plus all court costs, including but not limited to reasonable attorney's fees incurred by the (Municipality) 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 (Municipality) 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 the (Municipality) without further judicial proceedings. Further, the appropriate officers or agents of the (Municipality) 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 (Municipality). A person who violates this Ordinance shall also be responsible for the (municipality's) attorney's fees, engineering fees, expert fees and court costs reasonably incurred by the (Municipality) on account of such violation.

**Section 8. EFFECTIVE DATE.**

This ordinance shall take effect \_\_\_\_\_.

**Section 9. ENACTMENT.**

Enacted and ordained into an ordinance this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

(Insert Municipal Governing Body Name)

Attest: \_\_\_\_\_

(Secretary)

\_\_\_\_\_

(Chairperson or President)

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\_\_\_\_\_