

ORDINANCE NO. 2016 – 6

AN ORDINANCE OF THE BOROUGH OF STEELTON, DAUPHIN COUNTY, PENNSYLVANIA, AMENDING THE CODE OF THE BOROUGH OF STEELTON, PENNSYLVANIA, CHAPTER 120, "ZONING", IN ORDER TO INCORPORATE THEREIN THE RELEVANT PROVISIONS OF THE PENNSYLVANIA MEDICAL MARIJUANA ACT BY AMENDING ZONING CHAPTER, ARTICLE II "DEFINITIONS", SECTION 120-9 "SPECIFIC DEFINITIONS", AMENDING ARTICLE III "REGULATIONS APPLICABLE IN ALL DISTRICTS", SECTION 120-11 "USE REGULATIONS" TO ADD A NEW SUBSECTION "W", TO INDICATE THE SPECIFIC REQUIREMENTS FOR ACADEMIC CLINICAL RESEARCH CENTERS, MEDICAL MARIJUANA GROWERS/PROCESSORS, MEDICAL MARIJUANA TRANSPORT VEHICLE SERVICES, AND MEDICAL MARIJUANA DISPENSARIES, AMENDING ARTICLES X, XII, AND XIII TO ESTABLISH IN SAID DISTRICTS AS PERMITTED USES, ACADEMIC CLINICAL RESEARCH CENTERS, MEDICAL MARIJUANA GROWERS/PROCESSORS, MEDICAL MARIJUANA TRANSPORT VEHICLE OFFICES, AND MEDICAL MARIJUANA DISPENSARIES; PROVISION FOR THE SEVERABILITY OF THE ORDINANCE UPON ANY SECTION FOUND TO BE INVALID OR INEFFECTIVE, REQUIREMENT THAT ALLEGED PROCEDURAL DEFECTS IN ENACTMENT MUST BE APPEALED AS PROVIDED BY LAW, PROVISION FOR REPEALER OF ORDINANCES DIRECTLY CONFLICTING WITH THE ORDINANCE, AND PROVISION FOR THE ORDINANCE TO TAKE EFFECT IMMEDIATELY UPON ITS ADOPTION.

BE IT ORDAINED AND ENACTED, AND IT IS HEREBY ORDAINED AND ENACTED by the Borough Council of the Borough of Steelton, Dauphin County, Pennsylvania, 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, P.L. 84, No. 16 (35 P.S. § 10231.101 et seq.) (hereinafter "Act"), to allow for the integration into the Steelton community of an allowed industry law providing for the protection of the health, safety, morals and general welfare of the public.

SECTION 2. The Code of the Borough of Steelton, Pennsylvania, Chapter 120, "Zoning", Article II, § 120-9 "Specific Definitions", is hereby amended by the incorporation therein of the following 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 or, if the patient is under 18 years of age, a parent or legal guardian, an individual designated by a parent or legal 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.

“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.

“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.

“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 pursuant to the provisions of the Act.

“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.

“Registry” – The registry established by the DOH for all medical marijuana organizations or practitioners.

SECTION 3. The Code of the Borough of Steelton, Pennsylvania, Chapter 120, “Zoning”, Article III, “Regulations Applicable in all Districts”, § 120-11 “Use Regulations”, is amended by the addition thereto of new Subsections W, X, Y, and Z to read as follows:

W. **ACADEMIC CLINICAL RESEARCH CENTERS.** In districts where permitted, academic clinical research centers shall comply with the following:

- (1) Parking requirements will follow the parking schedule found in Article XVI “Offstreet Parking”, Section 120-56 “Required Facilities” B “Offstreet Parking Space Requirements” listed for churches and schools.
- (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 vehicles.
- (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.

X. **MEDICAL MARIJUANA GROWER/PROCESSOR.**

- (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 Borough Zoning Officer 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 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) 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.
- (7) Parking requirements will follow the parking schedule found in Article XVI "Offstreet Parking", Section 120-56 "Required Facilities" B "Offstreet Parking Space Requirements" listed for churches and schools.
- (8) A buffer planting is required where a medical marijuana grower/processor adjoins a residential use or district.
- (9) 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. Accessways, driveways, and curbs shall meet the requirements of Article XVIII "Motor Vehicle Access" Sections 120-70 and 120-71.
  - C. The driveway must be designed and improved to the standards expressly described in Article V "Design Standards", Section 99-19 "Streets", A "General Standards" and F "Driveways" of the Code of the Borough of Steelton, Chapter 99 "Subdivision and Land Development".

- (10) 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.

Y. 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 XVI "Offstreet Parking", Section 120-56 "Required Facilities" B "Offstreet Parking Space Requirements" listed for open areas used for commercial purposes.
- (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. Accessways, driveways, and curbs shall meet the requirements of Article XVIII "Motor Vehicle Access" Sections 120-70 and 120-71.
  - C. The driveway must be designed and improved to the standards expressly described in Article V "Design Standards", Section 99-19 "Streets", A "General Standards" and F "Driveways" of the Code of the Borough of Steelton, Chapter 99 "Subdivision and Land Development".
- (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.

Z. MEDICAL MARIJUANA DISPENSARY.

- (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).
- (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) 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.

The above location prohibition may be adjusted or waived to the extent and pursuant to the conditions, if any, a medical marijuana dispensary seeks and receives from the DOH pursuant to §802(b) of the Act ( 35 P. S. §10231.802(b)).

- (10) A medical marijuana dispensary shall be a minimum distance of 1,000 feet from the next nearest medical marijuana facility. This does not preclude 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 XVI "Offstreet Parking", Section 120-56 "Required Facilities" B "Offstreet Parking Space Requirements" listed for medical and dental offices.
- (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. Accessways, driveways, and curbs shall meet the requirements of Article XVIII "Motor Vehicle Access" Sections 120-70 and 120-71.
  - C. The driveway must be designed and improved to the standards expressly described in Article V "Design Standards", Section 99-19 "Streets", A "General Standards" and F "Driveways" of the Code of the Borough of Steelton, Chapter 99 "Subdivision and Land Development".

- (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.

SECTION 4. The Code of the Borough of Steelton, Pennsylvania, Chapter 120, "Zoning", Article X, "C-1, Town Center District", § 120-44. "District Provisions". B. "Uses Permitted", is amended by the addition thereto of the following uses:

Academic clinical research centers in accordance with 120.11.W.

Medical marijuana grower/processor in accordance with 120.11.X.

Medical marijuana transport vehicle service in accordance with 120.11.Y.

Medical marijuana dispensary in accordance with 120.11.Z.

SECTION 5. The Code of the Borough of Steelton, Pennsylvania, Chapter 120, "Zoning", Article XII, "I-1, Industrial – Light Industrial District", § 120-46. "District Provisions", B. "Uses Permitted", is amended by the addition thereto of the following uses:

Academic clinical research centers in accordance with 120.11.W.

Medical marijuana grower/processor in accordance with 120.11.X.

Medical marijuana transport vehicle service in accordance with 120.11.Y.

Medical marijuana dispensary in accordance with 120.11.Z.

SECTION 6. The Code of the Borough of Steelton, Pennsylvania, Chapter 120, "Zoning", Article XIII, "I-2, Industrial – Heavy Industrial District", § 120-47. "District Provisions", B. "Uses Permitted by Right", is amended by the addition thereto of the following uses:

Academic clinical research centers in accordance with 120.11.W.

Medical marijuana grower/processor in accordance with 120.11.X.

Medical marijuana transport vehicle service in accordance with 120.11.Y.

Medical marijuana dispensary in accordance with 120.11.Z.

SECTION 7. SEVERABILITY.

If any sentence, clause, section or 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. It is hereby declared as the intent of the Borough Council of the Borough of Steelton that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

SECTION 8. PROCEDURAL DEFECTS AND ENACTMENT.

Allegations that this Ordinance or any amendment thereof was enacted in a procedurally defective manner shall be appealed as provided pursuant to Pennsylvania law.

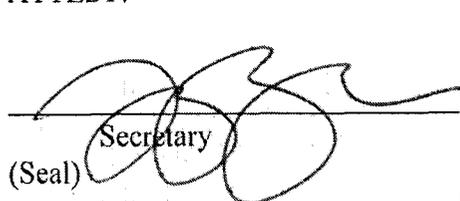
SECTION 9. All ordinances or parts of ordinances which are inconsistent herewith are hereby repealed.

SECTION 10. ENACTMENT AND EFFECTIVE DATE.

Under the authority conferred by the Pennsylvania Municipalities Planning Code, as amended, the Council of the Borough of Steelton hereby enacts and ordains this Ordinance to become effective immediately upon its adoption.

ADOPTED this 19<sup>th</sup> day of December, 2016.

ATTEST:

  
Secretary  
(Seal)

  
President of Borough Council

DECEMBER  
APPROVED this 19<sup>th</sup> day of May, 2016.

  
Mayor