

**TOWNSHIP OF LOWER NAZARETH
NORTHAMPTON COUNTY, PENNSYLVANIA**

ORDINANCE NO. 221-05-17

AN ORDINANCE

**AMENDING THE LOWER NAZARETH TOWNSHIP ZONING
ORDINANCE TO PROVIDE FOR THE ESTABLISHMENT OF AND
REGULATION OF MEDICAL MARIJUANA FACILITIES.**

WHEREAS, the Supervisors of Lower Nazareth Township, Northampton County, Pennsylvania, under the powers vested in them by the "Second Class Township Code" of Pennsylvania and the authority and procedures of the "Pennsylvania Municipalities Planning Code," as amended, as well as other laws of the Commonwealth of Pennsylvania including the Pennsylvania Medical Marijuana Act (PA Act 16 of 2016), do hereby enact and ordain the following amendment to the text of the Lower Nazareth Township Zoning Ordinance; and

WHEREAS, the Board of Supervisors of Lower Nazareth Township desires to amend its Zoning Ordinance by providing for the establishment of Medical Marijuana Facility uses in certain Zoning Districts of the Township of Lower Nazareth and providing for regulations of same.

NOW, THEREFORE, be it enacted and ordained by the Board of Supervisors of Lower Nazareth Township, Northampton County, Pennsylvania, and the same is hereby ordained and enacted as follows, to wit:

SECTION 1: The Supervisors of Lower Nazareth Township, Northampton County, Pennsylvania, under the powers vested in them by the "Second Class Township Code" and the "Pennsylvania Municipalities Planning Code," as amended, as well as other laws of the Commonwealth of Pennsylvania, including the Pennsylvania Medical Marijuana Act (PA Act 16 of 2016) do hereby ordain and enact the following amendment to the text of the Lower Nazareth Township Zoning Ordinance.

SECTION 2: PURPOSE: The Purpose of this Zoning Ordinance amendment 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) (the "Act") and 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 3: Article II, DEFINITIONS, Section 202, TERMS DEFINED, is hereby amended to add the following 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 pursuant to the Act.

- 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 pursuant to the Act.
- D. CLINICAL REGISTRANT - An entity that:
 - 1. Holds a **permit** both as a Grower/Processor and Dispensary pursuant to the Act; 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. COMMONWEALTH - Shall mean the Commonwealth of Pennsylvania.
- F. DISPENSARY - A person, including a natural person, corporation, partnership, association, trust or other entity, or any combination thereof, which holds a current and valid permit issued by the Department of Health ("DOH") of the Commonwealth to dispense Medical Marijuana pursuant to the provisions of the Act.
- G. DISPENSARY FACILITY - Any building or structure used to dispense Medical Marijuana by a licensed Dispensary.
- H. 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, variant and quantity of percentage of Medical Marijuana or particular active ingredient.
- I. GROWER/PROCESSOR - A person, including a natural person, corporation, partnership, association, trust or other entity, or any combination thereof, which holds a current and valid permit from the DOH to grow and process Medical Marijuana in the Commonwealth, pursuant to the provisions of the Act.
- J. GROWER/PROCESSOR FACILITY - Any building or structure used to grow Medical Marijuana by a licensed Grower/Processor that has a current and valid license from the DOH pursuant to the Act.

- K. MEDICAL MARIJUANA - Marijuana for certified medical use as legally permitted by the Commonwealth and provisions of the Act.
- L. MEDICAL MARIJUANA FACILITY - A Dispensary Facility or a Grower/Processor Facility.
- M. MEDICAL MARIJUANA DELIVERY VEHICLE OFFICE - Any facility used to house delivery vehicles for supplying marijuana plants or seeds to one or more Grower/Processor Facilities and/or Dispensary Facilities.
- N. REGISTRY - The registry established by the DOH for all Medical Marijuana organizations and practitioners in the Commonwealth pursuant to the provisions of the Act.

SECTION 4: Article XXI, HEALTH CARE OVERLAY DISTRICT, Section 2103(A), USES, is hereby amended to add the following use as a use permitted by right:

- 10. Academic Clinical Research Center

SECTION 5: Article X, PLANNED INDUSTRIAL COMMERCIAL DISTRICT, Section 1002(E), DISTRICT REGULATIONS, is hereby amended to add the following uses as conditional uses:

- 4. Dispensary Facility
- 5. Grower/Processor Facility
- 6. Medical Marijuana Delivery Vehicle Office

SECTION 6: Article XV, ADDITIONAL REQUIREMENTS FOR SPECIFIC USES, Section 1502(A), ADDITIONAL REQUIREMENTS FOR SPECIFIC PRINCIPAL USES, shall be amended to add the following:

- 70. Academic Clinical Research Centers
 - a. Parking requirements will follow the parking regulations found in ARTICLE XVII, OFF-STREET PARKING AND LOADING, TABLE 17.1, OFF-STREET PARKING REQUIREMENTS, Item #D, Institutional and Education Uses, for Colleges, Universities and Trade Schools.
 - b. 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 for the DOH. The portions of the Academic Clinical Research Center where the Medical Marijuana is grown shall not be located in a trailer, cargo container, mobile or modular unit, mobile home, recreational vehicle or other motor vehicle.
 - c. All external lighting serving an Academic Clinical Research Center must be shielded in such a manner not to allow light to be emitted skyward or onto adjoining properties. See Article XVI, Section 1614.
 - d. A buffer yard is required pursuant to Article XIV, Section 1404.D.1.

- e. Any and all other provisions contained in the Act affecting the construction, use and operation of an Academic Clinical Research Center.
- f. The Academic Clinical Research Center shall require a Site Plan review and approval if it is utilizing an existing facility and Land Development review and approval if a new facility is being built and utilized.

71. Grower/Processor Facility

- a. Grower/Processor Facility which grows Medical Marijuana must be owned and operated by a Grower/Processor legally registered with the Commonwealth and possess a current and valid Medical Marijuana Permit from DOH pursuant to the Act.
- b. Grower/Processor Facility which grows Medical Marijuana can only do so 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.
- c. The maximum floor area of a Grower/Processor Facility 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.
- d. There shall be no emission of dust, fumes, vapors, odors, or waste into the environment from any Grower/Processor Facility where Medical Marijuana growing, processing or testing occurs.
- e. Marijuana remnants and byproducts shall be secured and properly disposed of in accordance with the DOH policy or policies and shall not be placed within any unsecure exterior refuse containers.
- f. The Grower/Processor Facility shall provide only wholesale products to other Medical Marijuana Facilities. Retail sales and dispensing of Medical Marijuana and related products is specifically prohibited at a Grower/Processor Facility.
- g. Grower/Processor Facility may not be located within 1,000 feet of the property line of a public, private, or parochial school or 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.
- h. All external lighting serving a Grower/Processor Facility must be shielded in such a manner not to allow light to be emitted skyward or onto adjoining properties. See Article XVI, Section 1614.

- i. Parking requirements will follow the parking regulations found in Article XVII, OFF-STREET PARKING AND LOADING, Section 1701, REQUIRED NUMBER OF OFF-STREET PARKING SPACES, Table 17.1(F), Industrial, Wholesale and Warehousing Uses, as applied to distribution warehousing uses, one off-street parking space per employee, plus one off-street parking space for each company vehicle based at the lot.
- j. A buffer yard is required pursuant to Article XIV, Section 1404.D.1.
- k. Entrances and driveways to a Grower/Processor Facility must be designed to accommodate the anticipated vehicles used to service the facility.
- l. The Grower/Processor Facility shall require a Site Plan review and approval if it is utilizing an existing facility and Land Development review and approval if a new facility is being built and utilized.
- m. Any and all other provisions contained in the Act affecting the construction, use and operation of a Grower/Processor Facility.
- n. Any Medical Marijuana Facility lawfully operating pursuant to the Act shall not be considered in violation of these provisions by the subsequent location of public, private or parochial school or day care center.

72. Medical Marijuana Delivery Vehicle Office

- a. A traffic impact study is required where the office is to be located and operated.
- b. Parking requirements will follow the parking regulations found in Article XVII, OFF-STREET PARKING AND LOADING, Section 1701, REQUIRED NUMBER OF OFF-STREET PARKING SPACES, Table 17.1(F), Industrial, Wholesale and Warehousing Uses, as applied to distribution warehousing uses, one off-street parking space per employee, plus one off-street parking space for each company vehicle based at the lot.
- c. All external lighting serving a Medical Marijuana Delivery Vehicle Office must be shielded in such a manner not to allow light to be emitted skyward or onto adjoining properties. See Article XVI, Section 1614.
- d. A buffer yard is required pursuant to Article XIV, Section 1404.D.1.
- e. Entrances and driveways to a Medical Marijuana Delivery Vehicle Office must be designed to accommodate the anticipated vehicles used to service the facility.
- f. The Medical Marijuana Delivery Vehicle Office shall require a Site Plan review and approval if it is utilizing an existing facility and Land Development review and approval if a new facility is being built and utilized.

- g. If for some reason a Medical Marijuana product is to be temporarily stored at Medical Marijuana Delivery Vehicle Office, the office must be secured to the same level as a Grower/Producer Facility and Dispensary Facility.
- h. Any and all other provisions contained in the Act affecting the construction, use and operation of a Medical Marijuana Vehicle Office.

73. Dispensary Facility

- a. A Dispensary Facility must be owned and operated by a legally registered Dispensary in the Commonwealth and possess a current and valid Medical Marijuana permit from the DOH pursuant to the Act.
- b. A Dispensary Facility 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.
- c. Dispensary Facility may not operate on the same site that a Grower/Processor Facility is located.
- d. Dispensary Facility 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, all of which shall be in accordance with the Act.
- e. Permitted hours of operation of a Dispensary Facility shall be 8 AM to 8 PM (of the same calendar day).
- f. A Dispensary Facility 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 Medical Marijuana, and shall have an interior customer waiting area equal to a minimum of twenty-five (25) percent of the gross floor area of the Dispensary Facility.
- g. Dispensary Facility shall:
 - (1) Not have a drive-through service;
 - (2) Not have outdoor seating areas;
 - (3) Not have outdoor vending machines;
 - (4) Prohibit the administering of, or the consumption of, Medical Marijuana on the premises; and
 - (5) Not offer direct or home delivery service.
- h. A Dispensary Facility may dispense only Medical Marijuana to certified patients and caregivers as set forth in the Act and shall

comply with all lawful, applicable health regulations, including those of the DOH.

- i. A Dispensary Facility may not be located within 1,000 feet of a property line of a public, private, or parochial school or day-care center. The 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.
- j. Dispensary Facility shall be a minimum distance of 1,000 feet from the nearest Medical Marijuana Facility. This does not include complimenting 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 district does not apply to the distance between the Grower/Processor Facility or Academic Clinical Research Centers and the specific Dispensary Facility they serve, or with which they partner.
- k. Any Medical Marijuana Facility lawfully operating pursuant to the Act shall not be considered in violation of these provisions by the subsequent location of public, private or parochial school or day-care center.
- l. All external lighting serving a Dispensary Facility must be shielded in such a manner not to allow light to be emitted skyward or onto adjoining properties. See Article XVI, Section 1614.
- m. Parking requirements will follow the parking regulations found in Article XVII, OFF-STREET PARKING AND LOADING, Section 1701, REQUIRED NUMBER OF OFF-STREET PARKING SPACES, Table 17.1(E), pertaining to retail sales, one off-street parking space per 150 square feet total floor area (except one per 250 square feet of total leasable floor area if the total leasable floor area is greater than 25,000 square feet) plus one off-street parking space for each employee.
- n. A buffer yard is required pursuant to Article XIV, Section 1404.D.1.
- o. Entrances and driveways to a Dispensary Facility must be designed to accommodate the anticipated vehicles used to service the facility.
- p. The Dispensary Facility shall require a Site Plan review and approval if it is utilizing an existing facility and Land Development review and approval if a new facility is being built and utilized.
- q. Any and all other provisions contained in the Act affecting the construction, use and operation of a Dispensary Facility.

SECTION 7: SEVERABILITY. If a Court of competent jurisdiction declares any provisions of this Ordinance to be invalid in whole or in part, the effect of such decision shall be limited to those provisions expressly stated in the decision to be

invalid, and all other provisions of the Zoning Ordinance shall continue to be separately and fully effective.


SECTION 8: REPEALER. All provisions of Township Ordinances and Resolutions or parts thereof that are in conflict with the provisions of this Ordinance are hereby repealed.

SECTION 9: ENACTMENT. This Ordinance shall be effective five (5) days after the date of passage.

ORDAINED AND ENACTED this 24 day of May, 2017.

LOWER NAZARETH TOWNSHIP

ATTEST:


TIMM A. TENGES, Secretary

BY: 
GERALD GREEN, Vice Chairman