TOWNSHIP OF NEW SEWICKLEY

ORDINANCE NO. 220

AN ORDINANCE OF THE TOWNSHIP OF NEW SEWICKLEY, BEAVER COUNTY, PENNSYLVANIA, AMENDING ITS ZONING ORDINANCE, TO INCLUDE REGULATION SPECIFIC TO MEDICAL MARIJUANA DISPENSARIES AND MEDICAL MARIJUANA GROWERS/PROCESSORS

WHEREAS, as authorized by the Pennsylvania Municipalities Planning Code (MPC), the Board of Supervisors of the Township of New Sewickley regulates land use and zoning within the Township through its comprehensive Zoning Ordinance;

WHEREAS, upon the recommendation of Township Staff and the Township Planning Commission, the Township Board of Supervisors seeks to amend various provisions of its Zoning Ordinance, as follows: Amend the Table of Authorized Uses in the LI Light Industrial District to allow "Medical Marijuana Dispensary" and "Medical Marijuana Grower/Processor" a Conditional Use; and, Adding specific conditional use criteria for "Medical Marijuana Dispensary" and "Medical Marijuana Grower/Processor"; add definitions specific to the uses for "Medical Marijuana Dispensary" and "Medical Marijuana Grower/Processor"; and, lastly, add minimum parking requirements specific to the uses for "Medical Marijuana Dispensary" and "Medical Marijuana Grower/Processor".

WHEREAS, the Township has, in accordance with the requirements of the MPC, submitted the proposed amendments to its Planning Commission, which gave its recommendations regarding the proposed amendments at a duly noticed public meeting;

WHEREAS, on 12/01/20, the Township Board of Supervisors held a duly noticed, advertised, and posted public hearing to take public comment on the proposed zoning ordinance text amendments; and

WHEREAS, the Township Board of Supervisors, having received such public comment as may have been given at the Public Hearing, and having received the recommendations of the Township's Planning Commission, finds that enactment of the proposed zoning amendments will be beneficial to the health, safety, and welfare of the Township and consistent with the PA MPC.

NOW THEREFORE, be it Ordained and Enacted by the Township of New Sewickley Board of Supervisors, and it is hereby Ordained and Enacted by authority of same, as follows:

SECTION 1: AMENDMENTS REGARDING MEDICAL MARIJUANA DISPENSARIES AND MEDICAL MARIJUANA GROWERS/PROCESSORS IN THE LI LIGHT INDUSTRIAL ZONING DISTRICT.

That the Township Zoning Ordinance, Ordinance No. 208, as amended, is hereby further amended as follows:

1. Add the following definitions to Article 2, Section 201 (to be placed in alphabetical order):

   i. **CAREGIVER:** The individual designated by a patient to deliver medical marijuana.

   ii. **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.

   iii. **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.

   iv. **DOH**: Department of Health of the Commonwealth.

   v. **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.

   vi. **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.

vii. **IDENTIFICATION CARD:** A document issued by the DOH that permits access to medical marijuana.

viii. **MEDICAL MARIJUANA**: Marijuana for certified medical use as legally permitted by the Commonwealth of Pennsylvania with Act 16.

ix. **MEDICAL MARIJUANA ACT:** Act of April 17, 2016, P.L. 84, No. 16, and any subsequent amendments.

x. **MEDICAL MARIJUANA ORGANIZATION OR FACILITY:** A dispensary or a grower/processor of marijuana for medical purposes.

xi. **REGISTRY**: The registry established by the DOH for all medical marijuana organizations and practitioners.

2. Amend Article 3, Section 307, Table 307A to add the term "Medical Marijuana Dispensary (See Section 445)" to the list of permitted conditional uses.
3. Amend Article 3, Section 307, Table 307 A to add the term "Medical Marijuana Grower Processor (See Section 446)" to the list of permitted conditional uses.
4. Amend Article 4, to add Section 445 "Medical Marijuana Dispensary" as follows:

   A. A medical marijuana dispensary must be legally registered in the Commonwealth and possess a current valid medical marijuana permit from the Pennsylvania Department of Health.

   B. A medical marijuana dispensary must fully comply with all provisions of the Medical Marijuana Act, as amended from time to time, and must conform to the standards and requirements set forth by the Commonwealth of Pennsylvania.

   C. All persons, entities or organization wishing to establish a medical marijuana dispensary within the Township must apply for and be granted a conditional use permit for said use, a zoning permit, and a business license.

D. 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.

E. A medical marijuana dispensary may not operate on the same site as a facility used for growing and processing medical marijuana.

F. A medical marijuana dispensary may not be located within 1,000 feet of the property line of all Drug Free Zones including arcades, public, private or parochial school, libraries, daycare center, youth activity center, outdoor recreation facilities, or public park.

G. A medical marijuana dispensary may not be located within 1,000 feet of another medical marijuana dispensary or grower/processor.

H. A medical marijuana dispensary may sell medical devices and instruments which are needed to administer medical marijuana under the Medical Marijuana Act, 35 P.S. §§10231.106 et seq.

I. A medical marijuana dispensary may sell services approved by the Pennsylvania Department of Health related to the use of medical marijuana.

J. 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.

K. 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.

L. A medical marijuana dispensary shall:

(1) Not have a drive-through service;

(2) Not have outdoor seating areas;

(3) Not have outdoor vending machines;

(4) Prohibit the application of, administering of, or the consumption of medical marijuana on the premises.

(5) Not offer direct or home delivery service.

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

N. Persons under the age of 18 years of age are not permitted on the premises of any medical marijuana dispensary at any time except in the company of a qualified person (i.e. patient and/or caregiver) over the age of 18.

O. Buffer yards shall follow the requirements set forth in *Section 509.*

P. Entrances and driveways to a medical marijuana dispensary must be designed to accommodate the anticipated vehicles used to service the facility.

(1) All accesses must secure the appropriate highway occupancy permit (State, township or borough).

(2) A clear sight triangle must be considered and maintained as specified in the Design Standards promulgated in the Subdivision and Land Development Ordinance of the Township of New Sewickley.

(3) The driveway must be designed and improved to the standards expressly described in the Subdivision and Land Development Ordinance of the Township of New Sewickley

Q. 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.

R. Medical marijuana dispensaries shall be restricted to hours of operation between 9 AM and 9 PM.

5. Amend Article 4, to add Section 446 "Medical Marijuana Grower/Processor" as follows:

A. A medical marijuana grower/processor must have a valid and current permit issued by the Pennsylvania Department of Health.

B. A medical marijuana grower/processor must fully comply with all provisions of the Medical Marijuana Act, as amended from time to time, and must conform to the standards and requirements set forth by the Commonwealth of Pennsylvania.

C. All persons, entities or organization wishing to establish a medical marijuana dispensary within the Township must apply for and be granted a conditional use permit for said use, a zoning permit, and a business license.

D. A medical marijuana grower/processor includes cultivation, drying, processing, manufacturing and storage of marijuana and marijuana-infused products.

E. A medical marijuana dispensary may not be located within 1,000 feet of the property line of all Drug Free Zones including arcades, public, private or parochial school, libraries, daycare center, youth activity center, outdoor recreation facilities, or public park.

F. 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.

G. All materials and equipment shall be stored within a completely enclosed building. –

H. The storage or manufacture of hazardous or potentially hazardous materials shall not be permitted.

I. The Township Board of Supervisors upon recommendation of the Planning Commission, may impose restrictions on access to the facility, storage of vehicles or materials in the premise, hours of operation and other such matters as they deem necessary to insure that there is no adverse impact upon the functioning of the district or adjacent parcels.

J. A grower/processor may not be located within 1,000 feet of the property line of a public, private or parochial school, daycare facility or public

park, and may not be located within 750 feet of a residential use, and/or residential zoning district.

K. A grower/processor may not operate on the same site as a dispensary.

L. A medical marijuana grower/processor may not be located within 1,000 feet of another medical marijuana dispensary or grower/processor.

M. Buffer yards shall follow the requirements set forth in this Ordinance.

N. A medical marijuana grower/processor may only grow medical marijuana indoors within an enclosed, secure building which includes electronic locking systems, electronic surveillance and other features required by the Pennsylvania Department of Health as required by Act 16, as amended and not within a trailer, cargo container, mobile or modular unit, mobile home, recreational vehicle or other motor vehicle.

O. 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.

P. 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.

Q. 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.

R. Entrances and driveways to a medical marijuana grower/processor must be designed to accommodate the anticipated vehicles used to service the facility.

(1) All accesses must secure the appropriate highway occupancy permit (State or, township).

(2) A clear sight triangle must be considered and maintained as specified in the Design Standards promulgated in the Subdivision and Land Development Ordinance of the Township of New Sewickley.

(3) The driveway must be designed and improved to the standards expressly described in §503, §902, and Table No. 2 of Appendix A of the Subdivision and Land Development Ordinance of the Township of New Sewickley.

S. 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.

6. Amend Article 5, Table 515 to add "Medical Marijuana Dispensary" with required parking ratio of "1 per each 400 Square Feet of gross floor area."
7. Amend Article 5, Table 515 to add "Medical Marijuana Grower/Processor" with required parking ratio of "1 per each staff on the largest shift plus 3 designated visitor parking spaces."

SECTION 2: REPEALER.

That any and all previous Ordinance(s) which are inconsistent with the terms and provisions of this Ordinance are hereby repealed.

SECTION 3: SEVERABILITY.

That 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 Board of Supervisors that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

SECTION 4: EFFECTIVE DATE.

That this Ordinance shall take effect immediately upon enactment as provided by law.

ORDAINED AND ENACTED into law this 1st day of December, 2020.

ATTEST:

Township Secretary

TOWNSHIP OF NEW SEWICKLEY

BY: _____
Chairman, Board of Supervisors

BY: _____
Member, Board of Supervisors

BY: _____
Member, Board of Supervisors

BY: _____
Member, Board of Supervisors

BY: _____
Member, Board of Supervisors

APPROVED AS TO FORM:

Solicitor