

ORDINANCE NO. 2017-001

AN ORDINANCE OF HILLTOWN TOWNSHIP, BUCKS COUNTY, PENNSYLVANIA, AMENDING CHAPTER 160 OF THE HILLTOWN TOWNSHIP CODE OF ORDINANCES PROVIDING FOR “MEDICAL MARIJUANA DISPENSARY FACILITIES” IN THE PC-1 ZONING DISTRICT, AND FOR “MEDICAL MARIJUANA GROWING/PROCESSING FACILITIES” IN THE LI AND HI ZONING DISTRICTS, AND FOR ASSOCIATED REGULATIONS GOVERNING THESE USES.

WHEREAS, Section 1516 (53 P.S. Section 665116) of the Pennsylvania Second Class Township Code provides that the corporate powers of the Board of Supervisors of Hilltown Township (the “Board of Supervisors”) include the ability to plan for the development of the Township through Zoning, Subdivision and Land Development Regulations under the Act of July 13, 1968 (P.L. 805, No. 247), known as the “Pennsylvania Municipalities Planning Code; and

WHEREAS, the Hilltown Township Zoning Ordinance, as amended, is codified in Chapter 160 of the Code of Ordinances of Hilltown Township (“the Code”); and

WHEREAS, Section 1601 of the Second Class Township Code provides that the Board of Supervisors may adopt Ordinances in which general or specific powers of the Township may be exercised and, by the enactment of subsequent Ordinances, the Board of Supervisors may amend, repeal or revise existing Ordinances (53 P.S. Section 66601); and

WHEREAS, the Pennsylvania General Assembly recently passed Act 16 of 2016 (formerly SB3), known as the Medical Marijuana Act (the “Act”), which the Governor approved on April 17, 2016; and

WHEREAS, the Act *inter alia* legalizes and regulates certain activities regarding the growing, processing, dispensation, use and research of medical marijuana; and

WHEREAS, the Township desires to update its Zoning Ordinances to address the new land uses provided for in the Act to *inter alia* allow access to medical marijuana for local citizens while protecting the public health, safety and welfare; and

WHEREAS, Federal law still classifies marijuana as a Schedule 1 drug despite the enactment of the Act in Pennsylvania; and

WHEREAS, the U.S. Department of Justice has issued several memoranda regarding state laws and medical marijuana; and

WHEREAS, the U.S. Drug Enforcement Administration has issued a policy statement on increasing the number of facilities that are federally authorized to grow marijuana for research purposes; and

WHEREAS, Section 2107 of the Act provides guidance to municipalities regarding local zoning and land use requirements; and

WHEREAS, the proposed amendments have been advertised, considered and reviewed in accordance with the Municipalities Planning Code, Section 609 (53 P.S. Section 10609).

NOW, THEREFORE, in consideration of the foregoing, be it ENACTED and ORDAINED by the Board of Supervisors of Hilltown Township, Bucks County, Pennsylvania, as follows:

I. ADD to Chapter 160, Section 160-23, a new subsection E25, as follows:

(25) E25 Medical Marijuana Dispensary Facility. An activity or operation owned and operated by a “dispensary”, as that term is defined in Act 16 of 2016, known as the Medical Marijuana Act (the “Act”). As used in this subsection 160-23. E25, “dispensary company” shall have the same meaning as the term “dispensary” defined in the Act. Medical marijuana dispensary facilities shall be subject to the following regulations:

- (a) A medical marijuana dispensary facility shall be owned and operated in accordance with all applicable laws and regulations, including the Medical Marijuana Act and federal memoranda regarding medical marijuana.
- (b) No medical marijuana dispensary facility shall be located within one thousand (1,000) feet of the property line of a public, private or parochial school or daycare center.
- (c) A medical marijuana dispensary facility shall be clearly identified as such in its signage.
- (d) A medical marijuana dispensary facility shall be subject to quarterly inspection by the Township Zoning Officer or other Township designee.
- (e) Permit Application Requirements.

[1] A copy of the permit issued to the dispensary company by the Pennsylvania Department of Health under the Act.

[2] Documentation of procedures and measures used or to be used by the medical marijuana dispensary facility and its owner and/or operator to ensure compliance or to abide by:

[a] The Medical Marijuana Act;

[b] Federal memoranda regarding medical marijuana including *inter alia* the August 29, 2013 U.S. Department of Justice memorandum (known as the “Cole memorandum”); and

[c] All other applicable laws and regulations governing the dispensary company or the medical marijuana dispensary facility, including the Township’s Code of Ordinances.

[3] Documentation that the dispensary company has provided the following information to the Pennsylvania State Police and the Hilltown Township Police Department:

[a] Contact information (name, phone number(s), email, mailing address) for two (2) individuals at the medical marijuana dispensary facility and two (2) individuals of the dispensary company who the Pennsylvania State Police and the Hilltown Township Police Department may contact should suspicions of illegal activity or other concerns arise regarding the medical marijuana dispensary facility.

[b] All information required under 160-23. E25(e)[2] above.

(f) Parking Loading and Buffer requirements will be the same as for Use E-1 Retail Store.

(g) Effect on Federal Law. Nothing in this subsection 160-23. E25 shall counteract the substance, interpretation, effect, or application of any federal law, statute, regulation, act, administrative or judicial court decision, departmental directive or guideline promulgated or authorized by an entity of the Federal government respecting the distribution, use, sale, growing, processing or dispensing of marijuana.

II. ADD to Chapter 160, a Section 160-23, a new subsection G10, as follows:

(10) **G10 Medical Marijuana Growing/Processing Facility.** An activity or operation owned and operated by a “medical marijuana growing/processing facility”, as that term is

defined in Act 16 of 2016, known as the Medical Marijuana Act (the "Act"). As used in this subsection 160-23. G10, "medical marijuana growing/processing facility" shall have the same meaning as the term "grower/processor" defined in the Act. Medical marijuana growing/processing facilities shall be subject to the following regulations:

- (a) A medical marijuana growing/processing facility shall be owned and operated in accordance with all applicable laws and regulations, including the Medical Marijuana Act and Federal memoranda regarding medical marijuana.
- (b) No medical marijuana growing/processing facility shall be located within one thousand (1,000) feet of the property line of a public, private or parochial school or daycare center.
- (c) A medical marijuana growing/processing facility shall be clearly identified as such in its signage.
- (d) A medical marijuana growing/processing facility shall be subject to quarterly inspection by the Township Zoning Officer or other Township designee.
- (e) A medical marijuana growing/processing facility shall not be permitted as an Agricultural (Use A1) or Intensive Agricultural (Use A3) in any zoning district within Hilltown Township.
- (f) Permit Application Requirements.

[1] A copy of the permit issued to the grower/processor by the Pennsylvania Department of Health under the Act.

[2] Documentation of procedures and measures used or to be used by the medical marijuana growing/processing facility and its owner and/or operator to ensure compliance or to abide by:

- [a] The Medical Marijuana Act;
- [b] Federal memoranda regarding medical marijuana including *inter alia* the August 29, 2013 U.S. Department of Justice memorandum (known as the "Cole memorandum"); and
- [c] All other applicable laws and regulations governing the grower/processor or the marijuana growing/processing facility, including the Township's Code of Ordinances.

[3] Documentation that the grower/processor has provided the following information to the Pennsylvania State Police and the Hilltown Township Police Department:

[a] Contact information (name, phone number(s), email, mailing address) for two (2) individuals at the medical marijuana growing/processing facility and two (2) individuals of the grower/processor who the Pennsylvania State Police and the Hilltown Township Police Department may contact should suspicions of illegal activity or other concerns arise regarding the medical marijuana growing/processing facility.

[b] All information required under 160-23. G10(e)[2] above.

(f) Parking, Loading and Buffering requirements shall be the same as for Use H-1 Manufacturing.

(g) Effect on Federal Law. Nothing in this subsection 160-23. G10 shall counteract the substance, interpretation, effect, or application of any federal law, statute, regulation, act, administrative or judicial court decision, departmental directive or guideline promulgated or authorized by an entity of the Federal government respecting the distribution, use, sale, growing, processing or dispensing of marijuana.

III. AMEND Chapter 160-22, Table of Use Regulations as follows:

	RR	CR-1	CR-2	VC	LI	HI	PC-1	PC-2	MHP	Q	AQRC
E25 Medical Marijuana Dispensary Facility							P				
G-10 Medical Marijuana Growing/Processing Facility					P	P					

IV. PARTIAL REPEALER.

All other provisions of the Hilltown Township Zoning Ordinance, as amended, shall remain in full force and effect. All other Ordinances or provisions of the Zoning Ordinance inconsistent herewith or in conflict with any of the terms hereof are, to the extent of said inconsistencies or conflicts, hereby specifically repealed.

V. SEVERABILITY.

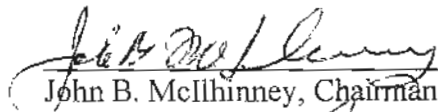
The provisions of this Ordinance are severable. If any section, clause, sentence, part or provision thereof shall be held illegal, invalid, or unconstitutional by a court of competent jurisdiction, the effect of such decision shall be limited to those provisions which are expressly stated in the decision to be invalid or ineffective, and such decision of the court shall not affect or impair any of the remaining sections, clauses, sentences, parts or provisions of this Ordinance. It is hereby declared to be the intent of the Board of Supervisors that this Ordinance would have been adopted if such illegal, invalid or unconstitutional section, clause, sentence or part of a provision had not been included herein.

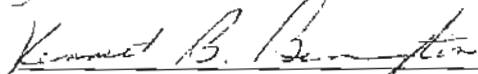
VI. EFFECTIVE DATE

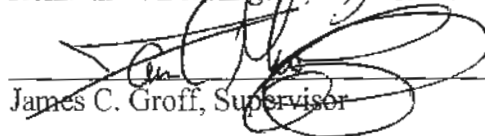
All provisions of this Ordinance shall become effective five (5) days after the approval and adoption.

ENACTED and ORDAINED this 22nd day of May, 2017.

HILLTOWN TOWNSHIP
BOARD OF SUPERVISORS


John B. McIlhinney, Chairman


Kenneth B. Bennington, Vice-Chairman


James C. Groff, Supervisor