

CAERNARVON TOWNSHIP ORDINANCE NO. 302

An Ordinance Amending Ordinance No. 239 of Caernarvon Township, known as the Caernarvon Township Zoning Ordinance, to provide for the regulation of Medical Marijuana Facilities and Amending Off-Street Parking Requirements for Medical, Dental, and Paramedical Offices/Clinics.

WHEREAS, The Pennsylvania Legislature enacted the Pennsylvania Medical Marijuana Act, Pennsylvania Act 16, adopted April 17, 2016; and

WHEREAS, the Board of Supervisors of Caernarvon Township desire to amend its Zoning Ordinance to provide for medical marijuana facilities in certain zoning districts of the Township of Caernarvon and providing for the regulation of same;

WHEREAS, the Board of Supervisors of Caernarvon Township further desires to amend its Zoning Ordinance by providing for additional off-street parking facilities at medical, dental, and paramedical offices and clinics;

IT IS HEREBY ENACTED and ORDAINED, by the Caernarvon Township Board of Supervisors, Berks County, Pennsylvania, that the Caernarvon Township Zoning Ordinance, as amended, shall be further amended as follows:

SECTION 1. MEDICAL MARIJUANA FACILITIES

Article VI of the Caernarvon Township Zoning Ordinance of 2007 is amended as follows:

A. 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) to allow for the integration of an allowed industry while providing for the protection of the public's health, safety, morals, and general welfare.

B. District Regulations

1. Medical Marijuana Grower/Processor Facilities and Medical Marijuana Delivery Vehicle Offices are permitted as a conditional use in accordance with Section 705, in the:
 - (a) I-1 Limited Industrial District subject to Sections 584 through 587 Section 656 herein, and
 - (b) I-2 General Industrial District subject to Sections 594 through 597 and Section 656 herein

2. Medical Marijuana Dispensaries are permitted as a conditional use in accordance with Section 705 in the:
 - (a) IOP Industrial Office Park District subject to compliance with Sections 579D through 579G and Section 657 herein, and
 - (b) C-3 Highway Commercial District subject to compliance with Sections 574 through 577 and Section 657 herein.

3. Academic Clinical Research Centers are permitted as a conditional use in accordance with Section 705 in the:
 - (a) I-1 Limited Industrial District subject to Sections 584 through 587 and Section 658 herein, and
 - (b) I-2 General Industrial District subject to Sections 594 through 597 and Section 658 herein

C. Uses Permitted by Conditional Use.

1. Section 583.1 and Section 593.1 shall be established, entitled “Uses Permitted by Conditional Use”, which shall permit the following uses by conditional use:
 - A. Medical Marijuana Grower/Processor Facilities; and
 - B. Medical Marijuana Delivery Vehicle Offices
 - C. Academic Clinical Research Centers

2. Section 579.C.1 shall be established, entitled “Uses Permitted by Conditional Use”, which shall permit the following use by conditional use:
 - A. Medical Marijuana Dispensaries

3. Section 573.1 shall be established, entitled “Uses Permitted by Conditional Use”, which shall permit the following use by conditional use:
 - A. Building Height Exceptions in accordance with Section 574.A (Ordinance No. 285)
 - B. Medical Marijuana Dispensaries

D. Definitions

Section 300 of the Caernarvon Township Zoning Code, “Definitions” is hereby amended to include the following:

1. **ACADEMIC CLINICAL RESEARCH CENTER** – An accredited medical school within this Commonwealth that operates or partners with an acute care hospital licensed within this Commonwealth to study or research Medical Marijuana.

2. **CAREGIVER** - The individual designated by a patient to deliver Medical Marijuana.

3. 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.
4. 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.
5. DEPARTMENT OF HEALTH (DOH)- The Pennsylvania Department of Health
6. 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.
7. IDENTIFICATION CARD - A document issued by the DOH that permits access to medical marijuana.
8. MEDICAL MARIJUANA - Marijuana for certified medical use as legally permitted by the Pennsylvania Medical Marijuana Act, Pennsylvania Act 16 of 2016.
9. MEDICAL MARIJUANA 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. The term does not include a health care medical marijuana organization under Chapter 19 of the Pennsylvania Medical Marijuana Act, Pennsylvania Act 16 of 2016.
10. 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.
11. MEDICAL MARIJUANA 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 to dispense medical marijuana. The term does not include a health care medical marijuana organization under Chapter 19 of the Pennsylvania Medical Marijuana Act, Pennsylvania Act 16 of 2016.
12. MEDICAL MARIJUANA ORGANIZATION or FACILITY - A dispensary or a grower/processor of marijuana for medical purposes.

13. REGISTRY - The registry established by the DOH for all medical marijuana organizations and practitioners.

E. Use Regulations

Article VI of the Caernarvon Township Zoning Code, "General Regulations," is hereby amended to add the following:

Section 655. Medical Marijuana Grower/Processor Facility

1. Medical Marijuana Grower/Processor Facilities shall be permitted in accordance with the procedures of Section 705 "Conditional Use Procedures."

2. A Medical Marijuana Grower/Processor Facility must be owned and operated by a grower/processor legally registered in the Commonwealth and possess a current valid medical marijuana permit from the DOH.

3. A Medical Marijuana Grower/Processor Facility 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 Medical Marijuana Grower/Processor Facility shall not be located in a trailer, cargo container, mobile or modular unit, mobile home, recreational vehicle or other motor vehicle.

4. The floor area of a Medical Marijuana Grower/Processor Facility 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.

5. 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.

6. 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.

7. The Medical Marijuana Grower/Processor Facility 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.

8. All external lighting must be shielded in such a manner to not allow light to be emitted skyward or onto adjoining properties, and must also be in accordance with Section 610 of the Caernarvon Township Zoning Ordinance, "Lighting."

9. Off-street parking shall be provided in accordance with the parking requirements applicable to Wholesaling, Warehouse or Industrial Uses in Subsection 11.b of Section 613 of the Caernarvon Township Zoning Ordinance, "Off-Street Parking."

10. A buffer planting is required when Medical Marijuana Grower/Processor Facility is immediately adjacent to a residential use or residentially zoned district, in accordance with Section 609 of the Caernarvon Township Zoning Ordinance, "Landscaping."

11. Entrances and driveways must be designed to accommodate the anticipated vehicles used to service the facility and in accordance with Section 516 of the SALDO (Ordinance No. 225).

- A. All accesses must secure the appropriate highway occupancy permit (State, township).
- B. The clear sight triangle found in Subsection 2 of Section 620 of the Caernarvon Township Zoning Ordinance, "Obstructions," must be considered and maintained.
- C. The driveway must be designed and improved to the standards expressly described in Subsections 3 and 4 of Section 608 of the Caernarvon Township Zoning Ordinance, "Highway Frontage Development in Commercial and Industrial Districts" and in Subsection 6 of Section 613 of the Caernarvon Township Zoning Ordinance, "Off-Street Parking."
- D. All manners of ingress/egress shall comply with SALDO Section 516 (Ordinance No. 225).

12. Loading and off-loading areas within the structure are preferred. If an external loading dock arrangement is designed it should be from within an enclosed secure environment.

Section 656. Medical Marijuana Delivery Vehicle Office

- 1. A Medical Marijuana Delivery Vehicle Office shall be permitted in accordance with the procedures of Section 705 "Conditional Use Procedures."
- 2. A traffic impact study is required and shall be prepared in accordance with Section 516.1 of the Caernarvon Township Subdivision and Land Development Ordinance ("SALDO") (Ordinance No. 174).
- 3. Off-street parking shall be provided in accordance with the parking requirements applicable to Wholesaling, Warehouse or Industrial Uses in Subsection 11.b of Section 613 of the Caernarvon Township Zoning Ordinance, "Off-Street Parking."
- 4. All external lighting serving a medical marijuana delivery vehicle office must be shielded in such a manner to not allow light to be emitted skyward or onto adjoining properties, and must also be in accordance with Section 610 of the Code of the Township of Caernarvon, "Lighting."
- 5. A buffer planting is required where a Medical Marijuana Delivery Vehicle Office is immediately adjacent to a residential use or a residential zoning

district, in accordance Section 609 of the Caernarvon Township Zoning Ordinance, “Landscaping.”

6. Entrances and driveways to a Medical Marijuana Delivery Vehicle Office must be designed to accommodate the anticipated vehicles used to service the facility and in accordance with Section 516 of the SALDO (Ordinance No. 225).
 - A. All accesses must secure the appropriate highway occupancy permit (State, township).
 - B. The clear sight triangle found in Subsection 2 of Section 620 of the Caernarvon Township Zoning Ordinance, “Obstructions,” must be considered and maintained.
 - C. The driveway must be designed and improved to the standards expressly described in Subsections 3 and 4 of Section 608 of the Caernarvon Township Zoning Ordinance, “Highway Frontage Development in Commercial and Industrial Districts” and in Subsection 6 of Section 613 of the Caernarvon Township Zoning Ordinance, “Off-Street Parking.”
 - D. All manners of ingress/egress shall comply with SALDO Section 516 (Ordinance No. 225).
7. Loading and off-loading areas within the structure are preferred. If an external loading dock arrangement is designed it should be from within an enclosed secure environment.

Section 657. Medical Marijuana Dispensary

1. A Medical Marijuana Dispensary shall be permitted only in accordance with the procedures of Section 705 “Conditional Use Procedures.”
2. A Medical Marijuana Dispensary must be legally registered in the Commonwealth and possess a current valid medical marijuana permit from the DOH.
3. 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.
4. A Medical Marijuana Dispensary may not operate on the same site as a facility used for growing and processing medical marijuana.
5. A Medical Marijuana Dispensary 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.
6. Permitted hours of operation of a Medical Marijuana Dispensary shall be 8 am to 8 p.m. of the same calendar day.
7. 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.

8. 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.
9. A Medical Marijuana Dispensary may dispense only medical marijuana to certified patients and caregivers and shall comply with all lawful, applicable health regulations.
10. 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.
11. A Medical Marijuana Dispensary shall be a minimum distance of 1,000 feet from the next nearest Medical Marijuana Dispensary. 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.
12. Any Medical Marijuana Dispensary 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.
13. Off-street parking shall be provided in accordance with the parking requirements applicable to Retail and Service Establishments in Subsection 11(d)(iii) of Section 613 of the Caernarvon Township Zoning Ordinance, "Off-Street Parking."
14. 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, and must also be in accordance with Section 610 of the Caernarvon Township Zoning Ordinance, "Lighting."
15. A buffer planting is required where a Medical Marijuana Dispensary adjoins a residential use or district, in accordance Section 609 of the Caernarvon Township

Zoning Ordinance, "Landscaping."

16. Entrances and driveways to a Medical Marijuana Dispensary must be designed to accommodate the anticipated vehicles used to service the facility and in accordance with Section 516 of the SALDO (Ordinance No. 225).
 - a. All accesses must secure the appropriate highway occupancy permit (State, township).
 - b. The clear sight triangle found in Subsection 2 of Section 620 of the Caernarvon Township Zoning Ordinance, "Obstructions," must be considered and maintained.
 - c. The driveway must be designed and improved to the standards expressly described in Subsections 3 and 4 of Section 608 of the Caernarvon Township Zoning Ordinance, "Highway Frontage Development in Commercial and Industrial Districts" and in Subsection 6 of Section 613 of the Caernarvon Township Zoning Ordinance, "Off-Street Parking."
 - d. All manners of ingress/egress shall comply with SALDO Section 516 (Ordinance No. 225).

17. Loading and off-loading areas within the structure are preferred. If an external loading dock arrangement is designed it should be from within an enclosed secure environment.

Section 658. Clinical Registrants and Academic Clinical Research Centers

An Academic Clinical Research Center and Clinical Registrants shall be subject to the following:

1. Academic Clinical Research Centers and Clinical Registrants shall be permitted only in accordance with the procedures of Section 705 "Conditional Use Procedures."
2. One off-street parking space shall be provided per 600 square feet of gross floor area.
3. Medical Marijuana may only grow in an indoor, enclosed, and secure building which includes electronic locking systems, electronic surveillance and other features required by the DOH.
4. An Academic Clinical Research Center may not be located in a trailer, cargo container, mobile or modular unit, mobile home, recreational vehicle or other motor vehicle.
5. An Academic Clinical Research Center shall comply with any other lawful and applicable requirements or restrictions imposed by state and/or local laws or regulations.

SECTION 2. OFF-STREET PARKING REQUIREMENTS

Section 613 Subsection 11 of the Caernarvon Township Zoning Ordinance of 2007 is amended as follows:

Section 613. Off-Street Parking . . .

11. Off-street parking requirements shall be as follows: . . .

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| d. (iii) Marijuana Dispensary: | One Space per each employee and a minimum of five (5) spaces for clients. |
| g. Medical, Dental, and Paramedical Offices/Clinics: | 1.5 spaces per employee (includes owner, practitioner) plus 1.5 spaces per exam room or patient care station |

All other provisions within Section 613 of the Zoning Ordinance not expressly amended herein shall remain in full force and effect.

SECTION 3. RENUMBERING.

- A. Section 653, entitled “Casinos and Gambling Facilities and/or Casino/Hotels” established by enactment of Ordinance No. 297 shall be renumbered as Section 654.
- B. Section 653, entitled Solar Energy Systems Standards” established by enactment of Ordinance No. 257 shall remain numbered as Section 653.

SECTION 4. 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 5. 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 6. EFFECTIVE DATE.

This ordinance shall take effect five (5) days after enactment.

SECTION 6. ENACTMENT.

Enacted and ordained into an ordinance this 9th day of March, 2021.

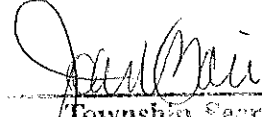
**BOARD OF SUPERVISORS
CAERNARVON TOWNSHIP**

ATTEST:


Secretary

By:


Sandra Styer, Chair

This a true and correct copy of
Ordinance # 302 that was
adopted by the Caernarvon
Township Board of Supervisors on
March 9, 2021

Township Secretary