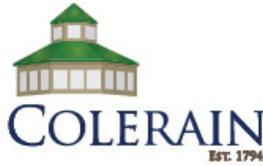


COLERAIN TOWNSHIP ZONING COMMISSION
Regular Meeting
Tuesday, April 17 - 6:00 p.m.

Colerain Township Government Complex
4200 Springdale Road - Cincinnati, OH 45251

1. Meeting called to order.
Pledge of Allegiance.
Roll Call.
2. Approval of Minutes: February 20, 2018 meeting.
3. Public Address: None.
4. Final Development Plan: None.
5. **Public Hearings:**
ZA2018-01 Text Amendment: Medical Marijuana
6. Informal Concept Review: None.
7. Old Business: None.
8. New Business: None.
9. Administration: None.
10. Announcements: None.
11. Next Meeting: June 19, 2018
12. Adjournment.



Zoning Resolution Text Amendment

Medical Marijuana

April 17, 2018

Prepared By: Marty Kohler

Senior Planner

PROJECT SUMMARY:

The purpose of the zoning text amendment is to define the various aspects of medical marijuana and to add the uses to the table of uses in commercial and residential zones. In August 2017 the Colerain Township Trustees adopted Resolution No. 38-17 imposing a one-year extension of a previous moratorium on the issuance and processing of permits allowing retail dispensaries, cultivators, or processors of medical marijuana within Colerain Township. On February 13, 2018, the Colerain Township Board of Trustees made a motion to initiate this text amendment. The Zoning Commission followed suit with a motion to initiate the text amendment on February 20, 2018.

The text amendment was sent to the Hamilton County Regional Planning Commission for review and recommendation at their April 5, 2018 regular meeting. This recommendation will be passed back to the Colerain Township Zoning Commission for Public Hearing at the April 17, 2018 regular meeting and then make a recommendation back to this Board of Trustees for a second Public Hearing and final decision in May of 2018.

PROJECT HISTORY:

Ohio House Bill 523 effective September 8, 2016 legalized medical marijuana in Ohio. Rules for the administration of the program are still in the development phase, however the HB 523 gives local communities the ability to regulate or prohibit certain aspects of the program. Local communities do not have the ability to prohibit the usage of medical marijuana by individuals if properly prescribed by a physician. HB 523 separates the licensing of facilities for the cultivation, processing and dispensing of medical marijuana and gives local communities the ability to regulate these aspects of the program.

According to research by the Hamilton County Regional Planning Commission staff, the following area communities have taken steps to regulate medical marijuana:

Columbia Township

As of November 14th, 2017, Columbia Township adopted Resolution No. 2017-36, initiating the prohibition of medical marijuana cultivating and processing in Columbia Township, and to limit the number and location of marijuana retail dispensaries to property located in the unincorporated area. Columbia Township, pursuant to its powers under the Ohio Revised Code, has limited permitted dispensaries to one, depicted in the same unincorporated area. The resolution does not prohibit research related to marijuana conducted at a state university, academic medical center, or private research and development organization as part of a research protocol approved by an institutional review board or equivalent entity.

Liberty Township

As of January 2018, Liberty Township approved a proposed text amendment similar to the current proposal by Colerain Township, to prohibit the cultivation, processing, and retail dispensing of medical marijuana in their March 2018 update of the Liberty Township Zoning Resolution.

Sycamore Township

As of May 2, 2017, Sycamore Township adopted Resolution No. 2017-47 initiating a change to the text of the Sycamore Township Zoning Resolution to prohibit medical marijuana cultivators, processors, and retail dispensary establishments licensed under Ohio Revised Code Chapter 3796 within the unincorporated territory of Sycamore Township. The section prohibiting cultivators, processors, and retail dispensary establishments does not apply to the in-patient dispensing of medical marijuana by a licensed hospital.

Symmes Township

Symmes Township adopted a standalone resolution on September 6, 2016, prohibiting the establishment and operation of medical marijuana cultivation, processing, and retail dispensaries as a land use matter in Symmes Township. This resolution did not amend the Symmes Township Zoning Resolution.

PROPOSED TEXT AMENDMENT:

The proposed amendment has two key components. The first is a definition to the meaning of the term “Medical Marijuana” which is to be added to Chapter 16 of the Zoning Resolution. The second is to add “Medical Marijuana” to the table of land uses in both residential zones (section 7.2.1) and commercial zones (section 8.2). The table of uses gives the ability to categorize uses as “P” permitted, “P*” permitted with stipulations, “C” conditional subject to BZA review, and shaded to indicate that the use is prohibited within the zoning district. The proposal is that the use table is shaded for “medical marijuana” in all residential and commercial zone classifications. This shading indicates that any use falling within the definition of “Medical Marijuana” is prohibited in all zoning districts of the township.

GENERAL DISCUSSION

This text amendment is intended to be somewhat proactive with respect to the changes in Ohio law. Once the final rules on this program are released sometime this fall, licenses will be issued for cultivation, processing and dispensing of medical marijuana within still undefined parameters. Once establishments receive Zoning Certificates for operation the use is “Grandfathered” as a permitted use and the Township will need to accept unanticipated consequences of the new use. By prohibiting local use, the Township will have the ability to learn from other communities about possible negative impacts of the new use. It is easier to add the medical marijuana uses back into the Zoning Resolution in the future rather than to try to

prohibit the uses one they have already been established. Based on future track records for other communities who permit medical marijuana in the future, Colerain may decide to allow any or all aspects of the cultivation, processing and dispensing of medical marijuana and can place stipulations on any of these functions as deemed appropriate.

CONFORMANCE WITH COMPREHENSIVE PLAN:

The Colerain Comprehensive Plan makes no specific reference to the use of medical marijuana. The Township has taken measures in the past to regulate businesses that potential have negative impacts such as alternative financial lenders.

REGIONAL PLANNING REVIEW

The Hamilton County Regional Planning Commission reviewed the proposed amendment at their April 5, 2018 meeting and voted unanimously in favor. During discussions the Commission members expressed concerns that the State Legislature may make further changes to the legislation to retract the local option to regulate if too many communities vote to totally prohibit medical marijuana. They were also concerned about the lengthy amendment process necessary if Colerain decides to take a different approach in the future.

RECOMMENDATION:

STAFF RECOMMENDS APPROVAL AS PRESENTED.



COLERAIN POLICE DEPARTMENT

4200 SPRINGDALE ROAD ● COLERAIN, OHIO 45251 ● 513-321-COPS

WWW.COLERAINPOLICE.ORG



Mark C. Denney, CLEE
Chief of Police

Michael Owens, CLEE
Support Services Commander

To: Jenna LeCount
From: Mark C. Denney
Re: Marijuana Dispensary Concerns

In regards to the pending question about allowing marijuana dispensaries in Colerain Township, the Police Department has several concerns.

First, the possession, cultivation and distribution of marijuana remain a violation of federal law. Any business set-up in violation of this law faces the possibility of legal action from Federal law enforcement. Attorney General Sessions has communicated a desire to enforce existing law and oppose the trend to legalize marijuana.

Another concern is the fact that dispensaries not only possess drugs, but also large sums of cash. Funds derived from the cultivation or selling of illegal drugs are not generally permitted in accounts held by federally insured banks. This causes the accumulation of large sums of money, which make them attractive candidates for armed robberies.

Another trend witnessed by other states that have enacted these laws is the presence of "black market" dealers near established dispensaries. These dealers undercut the cost of the State-sponsored dispensaries, establishing open-air drug markets near these stores.

I would urge the Township to oppose the establishment of any medical marijuana dispensaries in Colerain Township. Given the fact that is many negatives to this and very few, if any, positives, I do not see the wisdom of testing the waters in our community. The only revenue the Township would see would be the tax on property value. That revenue would hardly cover the additional costs of public safety resources they would need to operate safely.

7.2.3 Conditional Uses

A “C” in a cell indicates that a use category is allowed only if reviewed and approved as a Conditional Use by the Board of Zoning Appeals in accordance with Section 4.4 (Appeals, Variances, and Conditional Uses). Conditional uses are subject to all other applicable regulations of this Resolution, including, but not limited to provisions in Articles 10 through 15.

7.2.4 Prohibited Uses

A shaded cell indicates that a use is prohibited in the respective zoning district.

7.2.5 Numerical References

The numbers contained in the “Additional Regulations” column are references to additional standards and requirements that apply to the use type listed. Standards referenced in the Additional Regulations column apply in all zoning districts unless otherwise expressly stated.

Table 7-1: Residential Use Table								
Use P=Permitted Use P* = Permitted with Conditions C= Conditional Use	Zoning Districts							Additional Regulations
	R-1	R-2	R-3	R-4	R-5	R-6	R-7	Refer to Section:
Agricultural Uses								
<u>Agricultural Uses</u>	P*	P*	P*	P*	P*	P*	P*	Section 7.4.2
Riding Stables	P*	C						Section 7.4.11
Residential Uses								
<u>Adult Family Homes</u> or Small Residential Facilities	P	P	P	P	P	P	P	
<u>Adult Group Homes</u> or Large Residential Facilities							P	
Group Homes for Children	P*	P*	P*	P*	P*	P*	P*	Section 7.4.13
Adult or Child Day Care Centers							P	
Institutional Housing						P*	P*	Section 7.4.6
Multi-Family Dwellings						P*	P	Section 7.4.7
<u>Medical Marijuana</u>								
Open Space Residential Developments	P*	P*	P*					Section 7.4.8
Permanently Sited Manufactured Homes	P*	P*	P*	P*	P*	P*		Section 7.4.9
Single-Family Dwellings	P	P	P	P	P	P		
Two-Family Dwellings						P	P	
Commercial and Office Uses								
<u>Bed and Breakfast Establishments</u>	C	C	C	C	C	C		Section 7.4.3
Telecommunications Towers	P*	P*	P*	P*	P*	P*	P*	Section 7.4.12

Table 8-1: Business Use Table

Use <small>P=Permitted Use</small>	Zoning Districts					Additional
	B-1	B-2	B-3	O-1	I-1	Refer to
<u>Brewery</u>					P	
<u>Broadcasting Studios</u>			P	P		
<u>Clubs</u>	C	P	P	P		
Commercial Kennels		P*	P*		P*	Section 8.4.4
<u>Contractor or Construction Sales</u>		P*	P		P	Section 8.4.5
Day Care Centers	P	P	P	P		
Distillery					P	
Distribution Facilities					P	
Drive-Through Facilities	P*	P*	P*	P*		Section 8.4.6
Funeral Services		P*	P*	P*	P	Section 8.4.7
Heavy Industrial Uses					C	Section 8.4.8
Hotels and Motels		P	P	P		
Laboratories			P	P	P	
Light Industrial Uses			P		P	
<u>Medical Marijuana</u>						
Micro Brewery			P			
Micro Distillery			P			
Nurseries		P			P	
Personal Services	P	P				
Professional or Business Offices	P	P	P	P		
Restaurants	P	P		P*		Section 8.4.9
Retail Commercial Uses	P	P	P*	P*		Section 8.4.10
Service Commercial Uses	P	P	P*	P*		Section 8.4.11
Storage Facilities					P	
Telecommunications Towers	P	P	P	P	P	
Theaters		P				
Type A Family Day Care Home	P	P		P		
Vendor Markets	P*	P*				Section 8.4.13
Veterinary Facilities	P*	P*		P*	P	Section 8.4.12
Warehouses			P		P	
Wholesale Commercial Uses			P		P	
Institutional/Public Uses						
<u>Active Parks and Recreational Facilities</u>	P*	P*	P*	P*	P*	Section 7.4.1
Cemeteries	P*	P*	P*	P*	P*	Section 7.4.4
Educational Facilities	C	P*	P*	P*		Section 7.4.5
Essential Services and Utilities	P	P	P	P	P	

-The structure was manufactured after January 1, 1995; and

-The structure is not located in a manufactured home park as defined in Section 3733.01 of the Ohio Revised Code.

Maximum Extent Feasible shall mean that no feasible and prudent alternative exists, and all possible efforts to comply with the regulation or minimize the potential harm or adverse impacts have been undertaken. Economic considerations may be taken into consideration.

Medical Marijuana shall mean the uses related to cultivation, processing, or retail dispensing of medical marijuana and any business, building, structure, or land used for the cultivation, processing, or retail dispensing of Medical Marijuana as defined by Ohio Revised Code Section 3796.01(A)(2).

Meteorological Tower shall mean a facility consisting of a tower and related wind-measuring devices, which is used solely to measure winds preliminary to construction of a small wind energy conversion system. Meteorological Towers shall not be allowed for time periods in excess of six months, and shall be removed prior to the installation of the wind energy conversion system for which they are measuring. A request to install a meteorological tower shall be included in the application to install a small wind energy conversion system.

Micro Antenna. Micro antennas are defined as antennas and transmission facilities only, with no supporting structures other than brackets. Micro antennas shall be equal to or less than 5 feet in height and with an area of not more than 580 square inches.

Micro Brewery shall mean an establishment that is primarily used for the production of beer and ale and must include restaurant/bar space, tasking or retail space. The brewing operation processes the ingredients to make beer and ale by mashing, cooking and fermenting. The brewing operation does not include the production of any alcoholic beverage other than beer or ale. The brewery shall not produce more than 10,000 barrels of beer or ale per year.

Micro Distillery shall mean an establish that is primarily used for the production of spirits and liquor, including wine, in small quantities of a maximum of 52,000 cases or a maximum of 50,000 proof gallons annually and must include restaurant/bar space, tasking or retail space.

Mineral Extraction shall mean any artificial or mechanical act by which earth, sand, rock or any other similar material is dug into, cut, quarried, uncovered, removed, displaced, relocated or moved and shall include the conditions resulting therefrom, including but not limited to gravel pits and not including the impacts of such operation.

Mixed-Use Development shall mean the development of a lot or structure with 2 or more different uses such as, but not limited to, residential, office,