

BOROUGH OF WEST CHESTER

CHESTER COUNTY, PENNSYLVANIA

ORDINANCE NO. 03-2018

AN ORDINANCE OF THE BOROUGH OF WEST CHESTER, CHESTER COUNTY, PENNSYLVANIA, AMENDING CHAPTER 112 OF THE WEST CHESTER CODE, TITLED, "ZONING", SECTION 112-3 TITLED "PURPOSE"; SECTION 112-4 TITLED, "INTERPRETATION"; SECTION 112-7 TO ADD THE DEFINITIONS OF "DISPENSARY," "GROWER/PROCESSOR," AND "MEDICAL MARIJUANA," AND TO AMEND THE DEFINITION OF "RETAIL STORE OR SHOP"; AND SECTION 112-40.A(1) TITLED, "ID INDUSTRIAL DISTRICT – USE REGULATIONS" TO ALLOW FOR GROWER/PROCESSOR USE.

BE IT ENACTED AND ORDAINED, and it is hereby enacted by authority of the Council of the Borough of West Chester that the Code of the Borough of West Chester, specifically, Chapter 112, titled, "Zoning", is hereby amended as follows:

SECTION 1. Section 112-3 titled "Purpose" shall be amended as follows:

"§ 112-3 Purpose.

- A. This chapter is enacted for the purpose of promoting, protecting and facilitating the public health, safety, and general welfare of the Borough. As established in the Comprehensive Plan, this includes promoting community and economic vitality, ensuring environmental sustainability, preserving the historic character and pedestrian scale of the Borough, coordinating development in context with Borough scale and capacity, and strengthening community partnerships particularly with West Chester University. Therefore, this Chapter has the following purposes:
- (1) Accomplish coordinated community and neighborhood development and planned density of population.
 - (2) Provide for the general welfare of residents, businesses, and property owners by protecting and guiding the development of amenity, convenience, governmental, economic, and social and cultural facilities.
 - (3) Guide the use of type and location of buildings, structures, streets, public grounds and other facilities.

- (4) Encourage the conservation of energy through the use of planning and building practices that promote the effective use of renewable energy sources and sustainable building practices.
- (5) Provide for the use of land as residential housing in the form of various dwelling types encompassing all basic forms of housing.
- (6) Promote business development and retention, employment opportunities, and economic growth.
- (7) Promote and facilitate the preservation of the Borough's cultural and historic sites and structures.
- (8) Promote and facilitate the protection and restoration of the Borough's streams, wetlands, floodplains, and other natural resources.
- (9) Lessen vehicular congestion and ensure safety on the streets, including pedestrian and bicyclist safety.
- (10) Promote and facilitate the provision of adequate vehicle parking and loading space.
- (11) Ensure safety from fire, flood, panic and other hazards to human health and property.
- (12) Ensure adequate light, clean air, and clean water by protecting the air, land, and water of the Borough from pollution. Prevent exposure to noxious fumes, offensive noise, vibration, dust, odor, heat, glare, and other disturbances that impair the peaceful enjoyment of neighborhoods.
- (13) Prevent the overcrowding of land.
- (14) Facilitate the adequate provision of safe, reliable and sufficient water supply, stormwater management, sewage disposal, transportation and recreational facilities.
- (15) Encourage the most appropriate and compatible use of land and buildings throughout the Borough.
- (16) Accommodate opportunities for development of a variety of nonresidential uses."

SECTION 2. Section 112-4 titled "Interpretation" shall be amended as follows:

"§ 112-4 Interpretation.

A. In interpreting and applying the provisions of this chapter, such provisions

shall be held to the minimum requirements for the promotion of the health, safety, and general welfare of the Borough. The provisions of any statute, other ordinance or regulation which impose greater restrictions than this chapter shall be controlling. Conversely, the provisions of this chapter shall be controlling when such provisions impose greater restrictions than those of any statute, other ordinance or regulation.

B. To implement the purposes set forth in § 112-3, the Comprehensive Plan has been formulated. In accordance with the community development goals and objectives of the Comprehensive Plan, the interpretation of this chapter's provisions shall be made with a view toward the following:

- (1) Promoting community and economic vitality in a manner that maintains a high quality of life, ensures adequate community facilities and services, and supports businesses and neighborhoods.
- (2) Enhancing the economic vitality of the Borough by promoting enduring and sustainable commercial uses, especially in the Town Center District, that are compatible with the scale and small town character of the community.
- (3) Protecting and enhancing the small town character of the Borough, through development and redevelopment in scale and proportion with the pattern of existing streets, streetscapes, blocks, lots and neighborhoods.
- (4) Maintaining and enhancing the quality of life in the Borough by providing for safe, clean, attractive, and environmentally sustainable streets, streetscapes, parks, plazas, and public spaces for mobility, recreation, gathering, and the display of public art.
- (5) Encouraging a sustainable future, including ecosystem restoration, energy conservation, and renewable energy generation; and utilization of renewable energy in buildings, developments, and neighborhoods.
- (6) Promoting coordinated and well-planned development and redevelopment in context with Borough scale and capacity, directed to future enhancement area.
- (7) Protecting and enhancing the historic and small town walkable character of the Borough. Ensure that development is in scale and in proportion, including height proportion, to existing buildings within and adjoining the district where it occurs. Insure that Town Center District development contributes to and complements the historic character of the downtown.

- (8) Instilling order and balance in the growth and development of the Borough by regulating the intensity, location and form of development in accordance with land use and environmental compatibility, with the availability of existing and planned utilities, community facilities and services, and with sound land use and environmental principles, planned density, and planned transportation.
- (9) Maintaining and enhancing the traditional street grid and streetscape character of the Borough, through the continuation of interconnected streets and alleys, overall streetscape widths consistent with existing conditions, and normative building placement consistent with the predominant street walls of existing blocks.
- (10) Encouraging the preservation, enhancement, maintenance, and rehabilitation of existing buildings, streets, streetscapes, blocks, and neighborhoods, and encouraging the adaptive reuse of existing viable, structurally sound, buildings as an alternative to demolition.
- (11) Promoting a variety of commercial uses in the Town Center District in order to maintain the economic vitality of the central business district of the Borough, especially on the ground floor of buildings within the Retail Overlay District.
- (12) Ensuring a mix of uses in the Town Center District that serves Borough residents and the region including office, retail, service, civic, arts, cultural, entertainment and residential. Concentrations of uses that impose a high demand on public services, affect the small town character of the community, or impact the peaceful enjoyment of neighborhoods shall be avoided.
- (13) Encouraging the transition of the East Market and East Gay Street Corridors to more pedestrian-oriented development that can relieve development pressure on the Town Center District.
- (14) Encouraging the maintenance and enhancement of existing community facilities and services to address education, safety, health and leisure needs and promoting the provision of services to meet recreational, fire protection, police protection and other safety and emergency protection needs.
- (15) Providing for modern environmentally sustainable infrastructure in support of public services for health and safety, mobility, environmental protection, and recreation to include fire and police, emergency services, transportation, sewage disposal, stormwater management, and solid waste management.

- (16) Maintaining a safe and efficient street system and encouraging the improvement and enhancement of streets and alleys, and overall circulation for both motorized and non-motorized vehicles.
- (17) Promoting the maintenance, development, preservation and/or restoration of pedestrian circulation systems including sidewalks, crosswalks, paths, multi-use trails, and bicycle routes.
- (18) Maintaining existing on-street and off-street parking areas, and encouraging innovative approaches for new parking areas and structures, while promoting shared parking facilities, and accommodating the needs of residences, businesses, and institutions.
- (19) Encouraging the use of public transportation systems involving trains, buses, and other mass transit opportunities by providing for a safe, interconnected, balanced, and sustainable transportation system for the movement of people and goods. A balanced and sustainable system includes mobility choices and complete streets, minimizes congestion, and considers the health, environmental, land use, and place making impacts of transportation choices.
- (20) Strengthening partnerships with West Chester University to collectively address a range of issues related to preserving quality of life in the Borough.
- (21) Encouraging collaboration and coordination of initiatives pertaining to planning, development, and redevelopment, with the County, adjoining municipalities, West Chester University, and other stakeholders.
- (22) Maintaining and enhancing existing institutional uses for various educational, cultural, community service and recreational pursuits.
- (23) Providing a diversity of housing types, forms, and intensities, that are compatible with existing neighborhoods.
- (24) Promoting housing suitable for all ages, abilities, and incomes such that the vibrant diversity of the Borough can be maintained. Promote development of owner occupied affordable housing through mechanisms such as community land trusts, density bonuses, and Transferable Development Rights (TDRs).
- (25) Encouraging a diversity of opportunities for housing, commerce, community facilities, and recreation.
- (26) Promoting increased owner occupancy.

- (27) Protecting physical, natural, and biological resources associated with streams, wetlands, floodplains, areas of steep slope, woodlands, forests, and other related resources, in accordance with Article I, Section 27, of the Constitution of the Commonwealth of Pennsylvania, which states: "The people have the right to clean air, pure water, and the preservation of the natural, scenic, historic, and esthetic values of the environment".
 - (28) Regulating development and disturbance in environmentally sensitive areas such as floodplains and steep slopes and improve management of sensitive areas to include mitigation measures such as riparian buffers and light imprint stormwater management techniques.
 - (29) Assuring the development and maintenance of existing and future utility systems to service all users and encouraging the development of additional supplies and/or capacities to serve future users.
 - (30) Providing for safe, modern, and environmentally sustainable public utilities including water, gas, electric, telecommunications, sewer, and stormwater, insuring that they are planned and developed in consideration of present and future needs while mitigating potentially adverse land use, aesthetic, and environmental impacts on the community.
 - (31) Encouraging local and regional cooperation and collaboration with the provision, planning and continuity of recreational, library and police services.
 - (32) Promoting the integration of the Plans for: Future Land Use and Housing; Transportation and Circulation; Community Facilities and Utilities; the Urban Center Revitalization Plan; and the Official Map.
- C. Insofar as these community development goals and objectives are consistent with the purpose set forth in § 112-3 and with the aforesaid minimum requirements thereof, the provisions of this chapter shall be interpreted, administered and applied in such manner as will facilitate the attainment of said goals and objectives."

SECTION 3. The definitions of "Dispensary," "Grower/Processor," and "Medical Marijuana" shall be added to Section 112-7 in alphabetical order as follows:

DISPENSARY- A person, including a natural person, corporation, partnership, association, trust or other entity, or any combination thereof, who holds a permit issued by the Department of Health (DOH) of the Commonwealth to dispense medical marijuana.

GROWER/PROCESSOR- A person, including a natural person, corporation, partnership, association, trust or other entity, or any combination thereof, who holds a permit issued by the Department of Health (DOH) of the Commonwealth to grow and process medical marijuana.

MEDICAL MARIJUANA- Marijuana for certified medical use as legally permitted by the Commonwealth of Pennsylvania pursuant to Act. 16.

SECTION 4. The definition of “Retail Store or Shop” in Section 112-7 shall be amended to state as follows:

“An enterprise engaged in the sale of goods or merchandise to the general public, and the rendering of services incidental to such sale, for items such as antiques, books, beverages, confections, dry goods, flowers and plants, foodstuffs, gifts, garden supplies, hardware, household appliances, jewelry, notions, paint, periodicals, stationary, tobacco or wearing apparel, including a dispensary.”

SECTION 5. Section 112-40(A)(1) “ID Industrial District – Use regulations” shall be amended to state as follows:

(1) Manufacturing, including grower processors.

SECTION 6. Severability. The provisions of this Ordinance are severable, and if any article, section, subsection, clause, sentence or part thereof shall be held or declared illegal, invalid or unconstitutional by any court of competent jurisdiction, the decision shall not affect or impair any of the remaining articles, sections, subsections, clauses, sentences or parts thereof of this Ordinance. It is hereby declared to be the intent of the Borough Council that this Ordinance would have been adopted if such illegal, invalid or unconstitutional article, section, subsection, clause, sentence or part thereof had not been included herein.


SECTION 7. Repealer. All ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent of any such inconsistency.

SECTION 8. Effective Date. This Ordinance shall become effective upon enactment as by law provided.

ENACTED AND ORDAINED THIS 21st DAY OF February,
2018.

**COUNCIL OF THE BOROUGH OF
WEST CHESTER**

ATTEST:

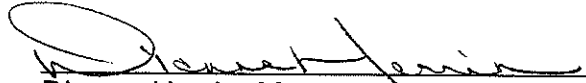


Michael A. Perrone, Secretary

By: 

Diane C. LeBold, President

APPROVED THIS 21st DAY OF February, 2018.



Dianne Herrin, Mayor