**ORDINANCE NO. 2017- 11**

**AN ORDINANCE OF THE BOROUGH OF SOUTH GREENSBURG, WESTMORELAND COUNTY, AMENDING CHAPTER 163 OF THE CODE OF THE BOROUGH OF SOUTH GREENSBURG TO REGULATE MEDICAL MARIJUANA ESTABLISHMENTS**

**WHEREAS**, pursuant to the Medical Marijuana Act, Act No. 16 of 2016, the Commonwealth of Pennsylvania authorized the use of medical marijuana by certified patients who have a serious medical condition, as defined by state law; and

**WHEREAS**, the Borough of South Greensburg desires for this new industry to be located within its borders subject to reasonable and responsible controls designed to protect and enhance the public health, safety, and welfare; and

**WHEREAS**, the Borough of South Greensburg desires to amend its Zoning Code to provide appropriate and lawful land use controls on Medical Marijuana Organizations as authorized by the Municipalities Planning Code, 53 P.S. §10601, *et seq.*, and the Medical Marijuana Act, 35 P.S. §10231.2107.

**NOW, THEREFORE**, be it enacted and ordained by Counsel of the Borough of South Greensburg in a regular meeting assembled and by authority of the same:

SECTION 1. That South Greensburg Code Chapter 163, Section 163-7, is amended to include the following terms, inserted into Section 163-7(B) in alphabetical order:

Medical marijuana: Marijuana for certified medical use as set forth in the Medical Marijuana Act, Act No. 16 of 2016, as amended.

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 of Health of the Commonwealth to dispense medical marijuana.

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 Department of Health of the Commonwealth to grow and process medical marijuana.

MEDICAL MARIJUANA ORGANIZATION: A Medical Marijuana Dispensary or Medical Marijuana Grower/Processor.

MEDICAL MARIJUANA PERMIT: A permit issued by the Department of Health of the Commonwealth authorizing a Medical Marijuana Organization to conduct activities under the Medical Marijuana Act, Act No. 16 of 2016.

SECTION 2. That South Greensburg Code Chapter 163, Section 163-21, is amended to add the following subsection:

F. Medical Marijuana Dispensary.

SECTION 3. That South Greensburg Code Chapter 163, Section 163-24, is amended to add the following subsections:

B. Medical Marijuana Dispensary.

C. Medical Marijuana Grower/Processer.

SECTION 4. That South Greensburg Code Chapter 163, Section 163-28, is amended to add the following subjections:

B. Medical Marijuana Dispensary.

C. Medical Marijuana Grower/Processer.

SECTION 5. That South Greenburg Code Chapter 163 is amended to add an Article XIV, entitled “Medical Marijuana Organizations,” as follows:

**Article XIV
Medical Marijuana Organizations**

§163-73. Medical Marijuana Organizations.

Medical Marijuana Organizations shall only be permitted as a special exception in the zone districts so designated in this Chapter 163, if in compliance with the provisions of this Article XIV.

§163-74. State Law.

Where state law, rules, and/or regulations provide more strict standards, the state law, rules, and/or regulations shall be controlling over this Article XIV. Should any provision of this Article XIV be preempted by state law, rules, and/or regulations, be invalidated, or deemed unconstitutional, that offending provision herein shall be stricken and the remainder of this Article XIV shall remain in full force and effect.

§163-75. Definitions.

Refer to the definitions in South Greensburg Code Chapter 163, Section 163-7, as well as the definitions set forth in 35 P.S. §10231.103, as amended. The definitions set forth in §163-7 shall be controlling where in conflict with 35 P.S. §10231.103.

§163-76. Intent.

It is the intent of the Borough of South Greensburg to provide reasonable and responsible controls for Medical Marijuana Organizations located within the Borough. The Borough understands that medical marijuana has the opportunity to provide countless individuals within the Commonwealth and this Borough with the treatment and medication that they need. However, the Borough of South Greensburg must treat Medical Marijuana Organizations like all other land uses within the Borough and regulate their operations as permitted by law, in order to maintain and enhance the public health, safety, and welfare.

§163-77. Requirements for all Medical Marijuana Organizations.

A. Special Exception Permit Required. Medical Marijuana Organizations shall be permitted to operate within the Borough upon issuance of a special exception permit, issued pursuant to and under the conditions of the terms and provisions of this Chapter 163.

B. Siting. Medical Marijuana Organizations shall not be located within two-hundred feet of any dwelling located on property in the R-1 One-Family Residence District, R-2 Two Family Residence District, or R-3 Residence District. Medical Marijuana Organizations shall not be located within two-hundred feet of the boundary of any property that houses a public park. Medical Marijuana Organizations shall not be located in nor shall they abut or be adjacent to any building that has any residential tenants at the time of the Medical Marijuana Organization’s application for a special exception permit. Special exception status shall not be rescinded solely because a residential tenant moved into a building abutting, adjacent to, or housing a medical marijuana organization following the filing of a completed application for a special exception.

B. Home Business. Medical Marijuana Organizations shall not be operated as a home business.

C. Compliance. Medical Marijuana Organizations shall operate in compliance with the Medical Marijuana Act, Act No. 16 of 2016, as amended, and all regulations promulgated pursuant thereto. Should a Medical Marijuana Organization be in violation of the Medical Marijuana Act, their special exception permit may be revoked upon motion of the Borough Counsel at a duly noticed public hearing.

D. Permit. Medical Marijuana Organizations may not operate unless and until they have obtained a permit or other authorization issued by the Department of Health of the Commonwealth to conduct activities under the Medical Marijuana Act, Act No. 16 of 2016, as amended. A Medical Marijuana Organization may not apply for a special exception under this Article unless they demonstrate that they are qualified to apply for a permit to be issued by the Department of Health of the Commonwealth under the Medical Marijuana Act, Act No. 16 or 2016.

E. Indoor Operations. All activities related to Medical Marijuana shall be conducted by Medical Marijuana Organizations inside of a building or fully enclosed structure. No activities related to the dispensing, growing, or processing of medical marijuana shall take place outside the envelope of a building or fully enclosed structure. The transportation of medical marijuana from one location to another shall not be subject to this prohibition.

F. Signs. Medical Marijuana Organizations shall comply the Borough of South Greensburg sign requirements, as set forth in Article IX of Chapter 163 of the South Greensburg Code.

G. Security. All Medical Marijuana Organizations shall secure their locations.

1. All possible methods of egress and ingress shall be locked to the public at all times, with the exception of one public entrance to the location, which may be unlocked during the hours of operation of the facility. The building shall otherwise comply with the Property Maintenance Code, the Fire Code, and all other applicable codes to structures located within the Borough to ensure that the structure is safe and provides adequate exits for safety and in the event of an emergency.
2. The building must contain a video surveillance system that monitors the area of the building open to the public, the location of all marijuana, processed medical marijuana, and by-product, regardless of form, and all exits and entrances to the building. All exits and entrances to the building shall be illuminated at all times to allow for video surveillance. The video surveillance system shall contain sufficient storage to retain a minimum of seven days of footage.
3. The building must be covered by a security system that alerts the business owner and law enforcement should there any unauthorized access to the building housing the Medical Marijuana Organization.
4. Medical Marijuana Organizations must comply with all electronic security and surveillance requirements as implemented by the Commonwealth and the Department of Health of the Commonwealth, as required by the Medical Marijuana Act, Act No. 16 of 2016, as amended.

§163-78. Requirements Specific to Medical Marijuana Dispensaries.

A. Medical Marijuana. All medical marijuana shall be stored in a locked location not accessible or visible to the public. Excepted from this requirement is medical marijuana on display for purchase. Medical marijuana on display for purchase must be secured in a locked case. Medical marijuana can be in a locked display case during the dispensary’s hours of operation, plus a reasonable period of time before and after the store is open. An employee for the Medical Marijuana Dispensary shall be in the room housing the medical display case at all times when the case is housing medical marijuana and the dispensary is open to the public. Medical marijuana shall only be removed from the display case when it is being dispensed to a patient holding a certification issued pursuant to the Medical Marijuana Act, Act No. 16 of 2016, as amended, or it is being transported to or from the secure medical marijuana storage location in the building or another Medical Marijuana Organization.

B. Location. In addition to the requirements of Section 163-77(B) herein, Medical Marijuana Dispensaries shall:

(1). Shall not be located within one thousand (1,000) feet of any public, private, or parochial school (kindergarten through twelfth grade) or day care center. This prohibition does not apply to any post secondary educational facilities.

(2). Medical Marijuana Dispensaries may be located on the same site as a Medical Marijuana Grower/Processer.

 C. Services and Supplies.

(1). Medical Marijuana Dispensaries may sell medical devices and instruments which are needed to administer medical marijuana under the Medical Marijuana Act.

(2). Medical Marijuana Dispensaries may sell services approved by the Department of Health of the Commonwealth related to the use of medical marijuana.

(3). Medical marijuana may be consumed on-site, if the Medical Marijuana Dispensary provides a private space within the building for on-site consumption. This private space must have water available to the patient free of charge. The on-site physician, pharmacist, physician assistant or certified registered nurse practitioner must consent to the on-site consumption prior to the same, which can be denied due to any medical or safety concern. If on-site consumption is permitted, the Medical Marijuana Dispensary shall also have a restroom available for public use.

§163-79. Requirements Specific to Medical Marijuana Growers/Processors

 A. Marijuana.

 (1). All marijuana, whether in seed form, a living plant, a plant that is being processed, a plant that has been processed, medical marijuana (as defined by 35 P.S. §10231.103), the remains of the plant following processing, or any other forms, shall be kept at all times in a locked location not open to the public. Medical marijuana being transported to or from any other Medical Marijuana Organization pursuant to the Medical Marijuana Act, Act No. 16 of 2016, shall be exempt from this requirement.

 (2). All refuse generated from the growing and production of medical marijuana shall be stored in a locked location not open to the public. It shall be disposed of in such a manner that the refuse is not accessible to the public at large.

B. Location. Medical Marijuana Growers/Processors may be located on the same site as a Medical Marijuana Dispensary.

 SECTION 6. That the Council President, Mayor and/or Secretary of the Borough of South Greensburg and any other proper Borough officer be and are hereby authorized and directed to sign any and all documents and take any and all action necessary to carry into effect this ordinance.

**ORDAINED AND ENACTED** into an Ordinance of the Borough of South Greensburg this day of , 2017, by the Council for the Borough of South Greensburg.

**ATTEST:** **BOROUGH OF SOUTH GREENSBURG**

**By: By:** **Secretary** **Clentin C. Martin, President of Council**

**Examined and approved this day of
 , 2017**

**By:
 Betty Dobies, Mayor**