



Planning Commission  
App. No. 090-2016-TA

## Zoning Text Amendment Brunswick Hills Township

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<b>Meeting:</b>	October 5, 2016
<b>Applicant:</b>	Brunswick Hills Township Zoning Commission
<b>Hearing:</b>	October 6, 2016 (Zoning Commission)
<b>Amendments:</b>	Add a new section in Article III General Provisions, Sec. 303-13 Medical Marijuana.
<b>Reviewer:</b>	Susan Hirsch

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**Proposed Amendments:** The amendment proposed by the Brunswick Hills Township Zoning Commission, is to add a new section in Article III General Provisions, Sec. 303 Regulations Applicable to all Zoning Districts, to prohibit Medical Marijuana cultivators, processors, retail and wholesale dispensaries or laboratories. New text is underlined.

### ARTICLE III GENERAL PROVISIONS

#### Sec. 303 Regulations Applicable to all Zoning Districts

##### Sec. 303-13 Medical Marijuana

A. Medical marijuana cultivators, processors, retail and wholesale dispensaries or laboratories are prohibited in all zoning districts of Brunswick Hills Township.

#### Staff Comments:

1. On June 8, 2016, Gov. John Kasich signed into law House Bill 523, the so called Medical Marijuana Control Bill, which became effective September 8, 2016.
2. Section 512.21 of the Ohio revised Code was amended to add a new section (D) as follows:

NOTHING IN THIS SECTION PROHIBITS A TOWNSHIP ZONING COMMISSION, BOARD OF TOWNSHIP TRUSTEES, OR BOARD OF ZONING APPEALS FROM REGULATING THE LOCATION OF MEDICAL MARIJUANA CULTIVATORS, PROCESSORS, OR RETAIL DISPENSORIES OR FROM PROHIBITING SUCH CULTIVATORS, PROCESSORS, OR DISPENSORIES FROM BEING LOCATED IN THE UNINCORPORATED TERRITORY OF THE TOWNSHIP.
3. In anticipation of questions that would arise pertaining to the authority of townships under this law, Prosecuting Attorney Dean Holman sent a letter to the townships dated August 25, 2016 discussing, "... additional authority granted by the legislature dealing with the cultivation, processing and dispensing of medical marijuana" as well as how the law will affect township employment practices, (see attached letter.)
  - a. The letter stated that if townships do nothing, their current zoning codes, "... will allow the cultivation of medical marijuana as agriculture, and the location of processing and dispensing facilities within the township."

- b. To prevent such a result, Prosecutor Holman’s letter states that, “... a zoning change will be required following the normal zoning [amendment] process.”
    - c. The letter also points out that, “In addition to ORC §512.21, newly enacted ORC §3796.29 confirms the authority of the Board of Township Trustees to adopt a resolution that would prohibit or limit the number of cultivators, processors, or retail dispensaries licensed under that chapter within the unincorporated territory of the township.”
  3. A second letter clarifying the two methods that townships can take to control medical marijuana activities was sent by Prosecutor Holman on September 15, 2016. (See attached letter) The two methods discussed include:
    - a. “Resolution to Prohibit or Limit: A township is authorized under ORC § 3796.29 to adopt a resolution to prohibit, or limit the number of cultivators, processors, or retail dispensaries licensed under ORC Chapter 3796 within the unincorporated territory of the township.” A sample resolution is enclosed with the letter.
    - b. “Modify Zoning Resolution to Prohibit or Limit: Townships have separate authority under ORC § 519.21 to prohibit or regulate the location of medical marijuana cultivators, processors, or retail dispensaries in the unincorporated territory of the township.” In order to exercise this authority the township will need to modify its zoning resolution through the regular zoning amendment procedure.”
    - c. The Prosecutor’s Office recommends that if a Township chooses to regulate or prohibit medical marijuana activities, the Township should incorporate those limits using both methods.
  4. The subject text amendment proposed by Brunswick Hills Township will prohibit the location of medical marijuana activities through an amendment to their zoning resolution.
  5. The wording of their text amendment differs from the legislation. Staff, after discussion with the Prosecutor’s Office, suggests the following wording, to be consistent with Section 512.21(D):  
Medical marijuana cultivators, processors, and dispensaries are prohibited from being located in all zoning districts of Brunswick Hills Township.

**Recommendation:** Staff recommends **APPROVAL WITH MODIFICATIONS** of the addition to Article III General Provisions; Sec. 303 Regulations Applicable to all Zoning Districts, of Sec. 303-13 Medical Marijuana, subject to the revised wording stated in Staff Comment 5 above.