

Review by P&Z: \_\_\_\_\_ 02/19/14  
Public Hearing by M&C: \_\_\_\_\_ 04/07/14  
Adopted by M&C: \_\_\_\_\_ 04/07/14  
Sponsor: Councilwoman Rodriguez  
Ord. No.: \_\_\_\_\_ 004-14

**AN ORDINANCE TO AMEND APPENDIX A (“ZONING”) OF THE TOWN CODE OF THE TOWN OF SMYRNA BY AMENDING SECTION 5 (“DISTRICT REGULATIONS”), SUBSECTION 14 (“INDUSTRIAL/OFFICE/RESEARCH PARK DISTRICT”), TO INCLUDE REGISTERED COMPASSION CENTERS AND REGISTERED SAFETY COMPLIANCE FACILITIES AS A CONDITIONAL USE**

WHEREAS, the Town Council of the Town of Smyrna is authorized by 22 *Del. C.* Chapter 3 and Section 4.2.37 of the Town Charter to enact zoning regulations in the town;

WHEREAS, the Town Council of the Town of Smyrna has enacted zoning regulations in the town;

WHEREAS, pursuant to 16 *Del. C.* § 4917A, a municipality in Delaware may not prohibit registered compassion centers and registered safety compliance facilities from being located within the municipality;

WHEREAS, in the opinion of the Town Council of the Town of Smyrna, the Industrial/Office/Research Park (“IORP”) District is an appropriate location for registered compassion centers and registered safety compliance facilities as long as the conditions required for granting conditional use approval are satisfied;

WHEREAS, in the opinion of the Town Council of the Town of Smyrna, no other zoning districts in the Town are appropriate for registered compassion centers and registered safety compliance facilities; and

WHEREAS, in the opinion of the Town Council of the Town of Smyrna, it is necessary to amend Appendix A, Section 5, subsection 14 to allow registered compassion centers and registered safety compliance facilities as a conditional use within the IORP District.

BE IT HEREBY ENACTED by the Town Council of the Town of Smyrna, a majority thereof concurring in Council duly met, that the Town Code of the Town of Smyrna be and hereby is amended as follows:

**Section 1.** Amend Appendix A (“Zoning”), section 5 (“District Regulations”), subsection 14 (“Industrial/office/research park district”), by inserting the following immediately after subsection 14(a)(9)(8) as follows:

(9) Registered compassion centers and registered safety compliance facilities, as defined in 16 *Del. C.* Chapter 49A “The Delaware Medical Marijuana Act”, provided that:

- a. All regulations found in 16 *Del. C.* Chapter 49A and Title 16 of the Delaware Administrative Code, as either may from time to time hereafter be amended or in accordance with any other

existing or future corresponding provisions of law, are fully complied with, and all permits and approvals required by the same are obtained and remain in full force and effect. All terms used in this subsection shall have the same definitions as found in 16 *Del. C.* Chapter 49A and/or Title 16 of the Delaware Administrative Code.

- b. Registered compassion centers and/or registered safety compliance facilities are not located within 1,000 feet, as measured from the property lines, of a preexisting public or private school.
- c. No registered compassion center or registered safety compliance facility may operate between 8:00 p.m. and 9:00 a.m.
- d. No registered compassion center or registered safety compliance facility may operate on Saturday or Sunday.
- e. The disposal of plant material shall be done in a safe and secure manner which does not permit those without the proper permits to access or obtain any disposed plant material. Trash dumpsters shall be enclosed by a screened enclosure so as not to be accessible to the public.
- f. No marijuana shall be smoked, ingested, or otherwise consumed on the premises of a registered compassion center or registered safety compliance facility.
- g. Lighting shall be located on the premises to adequately illuminate registered compassion centers and registered safety compliance facilities, including the parking lot and landscaped areas. Lighting shall be hooded or oriented so as to deflect light away from adjacent properties.
- h. No person under the age of eighteen (18) shall be permitted on the premises, including parking lots and landscaped areas, of the registered compassion center or registered safety compliance facility.
- i. Notice shall be posted at all entrances to registered compassion centers and registered safety compliance facilities indicating that the use of marijuana on the premises, including parking lots and landscaped areas, is prohibited and indicating that individuals under the age of eighteen (18) are not permitted on the premises, including parking lots and landscaped areas.
- j. No area or portion of a registered compassion center or registered safety compliance facility where marijuana is cultivated or stored shall be visible from the street or other public areas.

#### SYNOPSIS

This ordinance amends the Zoning Code regulations for the Industrial/office/research park district to allow as a conditional use, registered compassion centers and registered safety compliance facilities. This ordinance requires registered compassion centers and registered safety compliance facilities to comply with the appropriate state regulations, to not operate during certain restricted hours, and to comply with other requirements in order to make these uses more compatible with the surrounding areas.

ATTEST:

\_\_\_\_\_  
Council Secretary

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
This shall certify that the title and synopsis of this Ordinance was published in “The Smyrna/Clayton Sun Times” on \_\_\_\_\_, 2014 and posted at the Town Hall on \_\_\_\_\_, 2014.

So Certifies:

\_\_\_\_\_  
Town Clerk

\_\_\_\_\_  
This shall certify that the title, effective date and synopsis of this Ordinance was published in “The Smyrna/Clayton Sun Times” on \_\_\_\_\_, 2014 and posted at the Town Hall on \_\_\_\_\_, 2014.

So Certifies:

\_\_\_\_\_  
Town Manager