



Zoning Commission

May 11, 2020

7:00 PM

- I. *Call to Order*
 - *Log-In to the Ring App: Join from PC, Mac, Linux, iOS or Android:*
<https://meetings.ringcentral.com/j/1486911126>
- II. Approval of Minutes
 - March 9, 2019
- III. Review of Updated By-Laws Draft
- IV. Consideration of Zoning Regulations: **CBD Oil Establishments, 3rd Hearing**
- V. *Adjourn*



Zoning Commission
Notice of Public Hearing

Date of Meeting: May 11, 2020

Time of Meeting: 7:00 PM

Location of Meeting: Web-based Zoom Ring App; contact Alex Kraemer via email at akraemer@hamilton-township.org or visit the Meetings page of the Hamilton Township website: <https://www.hamilton-township.org/meetings/> for log-in information.

Request: The Hamilton Township Zoning Commission has scheduled its 3rd Public Hearing to consider regulations for CBD Oil establishments in Hamilton Township. Hamilton Township Trustees enacted a 1-year moratorium on all CBD Oil specific retail stores and urged the Zoning Commission to consider parameters for this industry.

The plans for the project are available for review at the Administration Building Monday thru Friday between 8:00am and 5:00pm. Those with questions or concerns regarding the project are encouraged to review the plans and attend the meeting.

Alexander Kraemer

Hamilton Township
Economic Development and Zoning Director

PHAMILTON TOWNSHIP ZONING COMMISSION STAFF REPORT

3rd Hearing: Consideration of Regulations

CBD Oil Establishments

May 11, 2020 at 7:00PM

Request: On December 4, 2020, Hamilton Township Trustees passed a 1 year zoning moratorium on the issuance of zoning related permits and approvals for the principle and conditional use of land for hemp related/CBD oil purposes. The Trustees requested Zoning Commission review this matter at the next scheduled meeting to determine what, if any, regulations should be placed on CBD oil-specific retail stores.

The Zoning Commission held its 1st hearing on CBD Oil Establishments on Monday, January 13, 2020 and 2nd hearing on March 9, 2020. Many issues were discussed at these meetings, including a presentation from Dr. Duane Titus of Maineville Pharmacy and legal counsel from Frost Brown Todd. This will be the 3rd hearing on the issue.

History: CBD was made legal federally by passage of the Farm Bill of 2018, passed on December 20, 2018. On July 30, 2019 the Ohio Legislature decriminalized hemp and licensed hemp cultivation in the state of Ohio.

CBD Oil is cannabidiol, a compound found in the hemp plant. Hemp and marijuana are related, but actually two different plants. Hemp contains a very low level of tetrahydrocannabinol, (THC) the active ingredient that produces the “high” in marijuana. The maximum level of THC in hemp is 0.03%. However, CBD stores promote that you can get many of the same benefits from CBD without the psychoactive effects of THC.

Under the new law, the Ohio Department of Agriculture issues hemp cultivation and hemp processing licenses allowing hemp to be grown and processed in Ohio.

Previously the State Board of Pharmacy promulgated a rule that the increasingly popular CBD made from hemp, can only be sold in medical marijuana dispensaries as a controlled substance. However, the new Ohio law now states that hemp products include “cosmetics, personal care products, dietary supplements or food intended for animal or human consumption, cloth, cordage, fiber, fuel, paint, paper, particleboard, and

any other product containing one or more cannabinoids derived from hemp, including cannabidiol”.

Local Municipalities:

- Deerfield Township has also placed a 1 year moratorium on CBD Oil retail stores and is currently considering regulations as well. Warren County RPC recently passed recommendations on Zoning Code Text Amendments for Deerfield Township related to CBD Establishments.
- Anderson Township: No regulations, 1 CBD Oil retail store is open there (*Your CBD Store*)
- City of Montgomery has a CBD Oil retail store operating on Montgomery Road.
- West Chester has a CBD oil retail store operating on Tylers Place Blvd.

Staff Considerations:

- Should no regulations be placed on CBD Oil-specific stores?

Potential Regulations:

- Locational restrictions?
 - No CBD Oil store shall be permitted within 1,000 feet (+ or -) of another CBD store. This is to prevent a strip mall of only CBD establishments.
 - Maintain a 1,000 foot (or other distance) buffer from all schools, libraries, community centers and government buildings, residential zones, etc.
- Permitting only CBD Oil-specific stores selling USDA certified organic CBD Oil? According to the US Department of Agriculture (USDA), the term “organic” refers to any item that is grown or produced without the use of genetically modified organisms, pesticides, synthetic fertilizers, sewage sludge, or ionizing radiation. “USDA certified organic” means that a government-approved certifier has inspected the growing and processing conditions to ensure they meet official standards. Therefore, “organic CBD oil” is extracted from organically-grown hemp and then processed without any chemical additives.
- Prohibit the sale of any CBD Oil that can be vaped?
- Place a cap on the number of CBD Oil Retail Stores allowed in Hamilton Township? Deerfield Township is considering placing a cap of 1 store per 10,000 residents. Hamilton Township has roughly 30,000 residents, so a cap could be 3 total stores.
- Other Regulations to consider...?

Potential Draft Regulation Language:

-1st, **Define CBD Establishments**; this can be complicated due to establishing a threshold to determine what is defined as a “CBD Oil Establishment” and what is not (for example, Kroger, Walgreens, CVS, Maineville Family Chiropractic Center, etc.). Deerfield Township is considering between 30% and 50% of total sales from CBD Oil products as qualifying as a CBD Oil Establishment.

-**Locational restrictions**? It may make sense to provide minimum distance requirements between stores defined as CBD Oil Establishments to deter potential strip malls being overwhelmed by these specific types of businesses.

-**Limitation on number of establishments per residents**? Does it make sense to limit the free market to an arbitrary number?

-**Conditional Use process**? This would make a determination, on a case by case basis, on permitting or denying each store defined by the code as a CBD Oil Establishment. This process would not set a formal precedent, though in practice it would be very difficult to permit one and deny another unless for egregious reasons that must be explicitly outlined in the code. Legal counsel stated this is optically bad and opens up the Township for lawsuits.

BYLAWS

For The

HAMILTON TOWNSHIP ZONING COMMISSION

Hamilton Township, Warren County, Ohio

Enacted March 9, 2020

DRAFT

Contents:

Section I.	NAME AND PURPOSE
Section II.	MEETINGS
Section III.	MEMBERSHIP
Section IV.	OFFICERS
Section V.	STAFF ASSISTANCE
Section VI.	PUBLIC HEARINGS
Section VII.	PROCEDURE FOR HEARINGS
Section VIII.	FINDINGS AND DECISIONS
Section IX.	AMENDMENTS

DRAFT

I. NAME AND PURPOSE

The Hamilton Township Zoning Commission (hereafter “Commission”) has been established pursuant to Ohio Revised Code Section 519.01. Its purpose is to advise the Board of Hamilton Township Trustees (hereafter “Trustees”) on text and map amendments, and to review Planned Unit Developments (hereafter “PUDs”), benefitting planning, zoning and economic development for the citizens of Hamilton Township.

II. MEETINGS

- A. The Commission shall have one regular meeting each month as necessary, which shall be held on the second Monday of the month at 7:00PM unless otherwise determined by the Commission, and shall be held in the Meeting Hall of the Hamilton Township Administration Building (7780 South State Route 48, Maineville, Ohio) or as determined by the Commission.

All meetings of the Commission shall be open to the public and notice thereof shall be given in accordance with the Ohio “Open Meeting Law.” A schedule of regular meetings shall be posted in the Planning and Zoning Office and on the township website at: www.hamilton-township.org.

At the Chairperson’s discretion, once four items have been scheduled for a meeting, the Chair may decide to call a second meeting to be held on the 4th Monday of the month at 7:00 PM for the additional items.

- B. The Commission may schedule a second meeting each month, which shall be held on the fourth Monday of the month at 7:00PM. The meeting shall be held in the Meeting Hall of the Hamilton Township Administration Building (7780 South State Route 48, Maineville, Ohio) or as determined by the Commission.
- C. A special meeting may be called at any time by the Zoning Director (hereinafter Director), by the Chairperson or by two or more members of the Commission and shall be held at the place where regular meetings are held, unless otherwise authorized by a majority of the Commission. Special meeting notices, including a summary of the purpose of said meeting, shall be posted in accordance with the Ohio “Open Meeting Law.”
- D. At least forty-eight (48) hours before each meeting, a notice stating the time and place of the meeting and the matters to be considered at the meeting shall be given by the Director to each member of the Commission by delivery thereof to the member’s residence or by depositing the same in the United States Mail. Any news media requesting notification of special meetings shall be given 24-hour advance notice and immediate notice of any emergency meetings.

- E. No matter shall be considered at any meeting which is not on the calendar for such meeting, except by consent of a majority of the Commission present.
- F. A quorum of the Commission shall be a majority of the membership on the Commission, excluding any Alternates. Such quorum may exercise the powers of the Commission and the action of the majority (i.e. at least three members excluding abstentions) of the full Commission is the action of the Commission.
- G. Public Hearings shall be recorded on tape and in minute form, all material being retained in accordance with Ohio State Law.

III. MEMBERSHIP

- A. The Commission shall be composed of five members, appointed by the Trustees for five year staggered terms, with one member's term expiring each year. The Trustees may also appoint an alternate member to fill any vacancies due to the absence of an appointed member. Members shall be residents of the township for a minimum period of three years. They shall represent no special interests.
- B. A vacancy on the Commission shall be filled by appointment by the Trustees. A vacancy shall ensue for any member who misses three consecutive meetings without prior excuse or approval.
- C. In order that the Commission members may legally visit property for which a zone change is requested, the Director shall solicit permission of the owner or lessee of the property involved, by requesting written permission.
- D. Members shall physically view the property for which a zone change is requested before the zone-change hearing takes place.

IV. OFFICERS

- A. At the first regular meeting of each year, the Commission shall select from its membership a Chairperson, Vice-Chairperson and Secretary. All officers shall serve a term of one year, or until their successors are selected and assume the role. All officers shall be eligible for re-election for consecutive terms for all three positions.
- B. The Chairperson (or Vice-Chairperson when the Chairperson is absent) shall preside at all meetings of members of the Commission and shall exercise,

subject to the control of the Commission, a general supervision of the affairs of the Commission and shall perform generally all the duties incident to the position and such other duties as may be assigned by the Commission.

The Chairperson presiding over a regular or special meeting of the Commission shall have the same privilege of originating and seconding motions, voting on all matters and participating in discussions and procedures, as allowed to all other members of the Commission, without relinquishing the chair.

- C. The Vice-Chairperson shall act in the capacity of the Chairperson in his/her absence. In the event the position of Chairperson becomes vacant, the Vice-Chairperson shall succeed to this office for the unexpired term and the Commission shall select a successor to the position of Vice-Chairperson for the unexpired term.
- D. The Secretary shall be responsible for maintaining an attendance record for each Commission member and report those records annually to the Commission for inclusion in the annual report to the Trustees. The Secretary shall also be responsible for recording audio minutes of all meetings. The minutes shall be recorded on tape and then transcribed to written form. The Trustees, at their discretion, may appoint a person to transcribe written minutes (typically, Hamilton Township staff).

V. STAFF ASSISTANCE

The Director or his/her authorized assistant, shall have the following duties and responsibilities relating to hearings before the Commission:

- A. The Director shall receive all applications and examine the documents and other materials submitted therewith to assure that it is complete and that the required maps, plans or reports are in good order and in sufficient quality.
- B. The Director shall be responsible for docketing, placing matters on the calendar and preparation and publication of public notice of the hearing in one or more newspapers of general circulation as selected by the Commission.
- C. The Director shall handle any correspondence reasonably necessary and/or appropriate to carry out these functions and copies of correspondence received and sent shall be provided to the Chairperson.
- D. Thereafter, the Director shall prepare a written report (a Staff Report) to the Commission as to matters under its jurisdiction. Advice of counsel shall be received and entered in the minutes before disposition of any question of law or matter requiring legal interpretation or advice.

The Hamilton Township Law Director shall provide legal advice to the Commission as to matters under its jurisdiction. Advice of counsel shall be received and entered in the minutes before disposition of any question of law or matter requiring legal interpretation or advice.

VI. PUBLIC HEARINGS

It shall be the policy of the Commission to hold no public hearings except as required by law or except on such matters as it shall determine to be of great public concern because of the effect of its decision upon the entire community or a substantial part thereof.

- A. Notice of public hearings shall be given as provided by law or, if there be no such provision, as required by these regulations. Notice of public hearings shall be published in a local newspaper at least **thirty (30) days** before the hearing date for **changes to the text of the zoning code or to the zoning map**.

Notice of public hearings shall be mailed at least ten (10) days before the hearing date to all contiguous or adjoining property owners for changes to the zoning map. The notice shall clearly state the place, time, date and subject of the hearing.

- B. If any meeting or hearing of the Commission shall be adjourned to a later date, public announcement shall be made by the Chairperson of the meeting at said meeting or hearing as to the date, time and place to which said meeting is adjourned.
- C. Public hearings shall be recorded on tape and in minute form, all material being retained in accordance with the Ohio Revised Code.

VII. PROCEDURE FOR HEARINGS

At public hearings, individuals in attendance shall register their names and addresses. There will be a swearing-in of all individuals wishing to be heard at the hearing. In the interest of efficient procedure, time limits may be set by the Chairperson for individuals wishing to be heard at public hearings. The procedure for hearings shall be as follows:

1. The Chairperson shall outline the procedure for the hearing.
2. The Secretary (or Director) shall read the legal notice as published.
3. The Director's Staff Report shall be presented.

4. The recommendation of the Warren County Regional Planning Commission shall be read.
5. The applicant or applicant's representative shall make a statement(s).
6. Comments/Questions from the audience members may be presented, first by those in favor of the application followed by those in opposition of the application. All recognized speakers MUST be sworn in by the Chair and state their name and address for the record. Audience comments are limited to 5 minutes and shall be focused on presenting new information or questions.
7. Comments/Questions from members of the Commission may be presented.
8. The Applicant shall be permitted the opportunity to make a final statement(s).
9. Request for a motion and second is made by the Commission or the Commission may vote to table the hearing in progress and schedule a later date for the receipt of additional evidence. If the hearing is continued to a subsequent date, such date shall be announced at the current hearing and no further publication will be required.
10. If the Commission does not adjourn and a member moves for a vote and the motion is seconded, further discussion by the Commission may be heard prior to voting.
11. A vote is taken and the results recorded by the Secretary or Director.
12. The results of the vote are announced by the Chairperson.
13. Announcement that the results of the vote will be forwarded to the Trustees, with a copy of the minutes and staff report.
14. Hearing shall be adjourned by majority vote.

At the conclusion of the hearing on each case, the Commission shall examine the evidence before it in relation to findings required to make their decision.

VIII. FINDINGS AND DECISIONS

The Chairperson may elect, subject to being overruled by a majority vote of the Commission in attendance on a motion duly made, seconded and passed:

- a. To proceed immediately to determination and decision;
- b. To defer determination and decision until later in the same meeting; or
- c. To defer determination and decision until a subsequent meeting.

Decisions, including any conditions relating thereto, shall be made by a motion, which shall be seconded. All motions shall be sufficiently detailed for the record. The Chairperson will then preside over discussion amongst Commission members relating to the case. Members of the Commission shall be permitted to freely state their opinions and ask any questions. Thereafter, the Chairperson shall instruct the Secretary or Director to call the roll for a vote.

The concurring vote of a majority of the members of the Commission present at the meeting shall be necessary to have a motion passed. A vote of abstention shall not be counted as a concurring vote. A tie vote shall result in a failure of the motion.

IX. AMENDMENTS

These bylaws may be amended by a two-thirds vote provided that notice of the proposed change is made at the previous meeting.

These bylaws are under consideration for adoption at the March 9, 2020 meeting of the Hamilton Township Zoning Commission. The bylaws were last adopted on January 13, 2003.

DRAFT