

**TOWNSHIP OF PARSIPPANY-TROY HILLS
MORRIS COUNTY, NEW JERSEY**

ORDINANCE NO. 2021:14

**AN ORDINANCE OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF
PARSIPPANY-TROY HILLS, MORRIS COUNTY, NEW JERSEY
ESTABLISHING CHAPTER 77 RELATED TO CANNABIS REGULATION AND
AMENDING CHAPTER 430, ZONING, TO CONDITIONALLY PERMIT
CERTAIN CANNABIS ESTABLISHMENTS IN DESIGNATED ZONE
DISTRICTS**

WHEREAS, in 2020, New Jersey voters approved Public Question No. 1, which amended the New Jersey Constitution to allow for the legalization of a controlled form of marijuana called “cannabis” for adults at least 21 years of age; and

WHEREAS, on February 22, 2021, Governor Murphy signed into law P.L. 2021, c. 16, known as the “New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act” (the “Act”), which legalizes the recreational use of cannabis by adults 21 years of age or older, and establishes a comprehensive regulatory and licensing scheme for commercial recreational (adult use) cannabis operations, use and possession; and

WHEREAS, the Act establishes six classes of licenses for cannabis establishments, including, relevant here, a Class 3 Cannabis Wholesaler license for facilities involved in obtaining and selling cannabis items for later resale by other licensees and a Class 4 Cannabis Distributor license for businesses involved in transporting cannabis plants in bulk from on licensed cultivator to another licensed cultivator, or cannabis items in bulk from any type of licensed cannabis business to another; and

WHEREAS, Section 31a of the Act authorizes municipalities by ordinance to adopt regulations governing the number of cannabis establishments as well as the location, manner and hours of operation of such establishments, distributors or delivery services, and establishing civil penalties for the violation of any such regulations; and

WHEREAS, the Mayor and Township Council have determined that it is appropriate to permit a limited number of Class 3 Cannabis Wholesaler licenses and Class 4 Cannabis Distributor licenses to operate in designated zone districts in the Township, subject to sensible regulations to regulate such licensees in a responsible manner to protect the health, safety and welfare of the residents of the Township and to enforce rules and regulations consistent with State law.

NOW THEREFORE, BE IT ORDAINED, by the Council of the Township of Parsippany-Troy Hills, Morris County, New Jersey, as follows:

Section 1. The Township Ordinance is amended to establish Chapter 77, Cannabis Regulation, as follows:

§ 77-1 Purpose.

This Chapter is authorized pursuant to the “New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act”, P.L. 2021, c.016, and the implementing regulations promulgated by the Cannabis Regulatory Commission (collectively, the “Act”), which are hereby incorporated herein by reference, and shall be controlling unless more restrictive standards are prescribed herein. If any provision of this Chapter is inconsistent with the statutes and/or regulations of the State of New Jersey, the Act shall govern.

§77-2 Definitions.

For the purposes of this Chapter, all terms shall be defined consistent with the Act. The following terms shall have the meanings indicated:

“Cannabis Wholesaler” means any State-regulated person or entity that purchases or otherwise obtains, stores, sells or otherwise transfers, and may transport, cannabis items for the purpose of resale or other transfer to either another cannabis wholesaler or to a cannabis retailer, but not to consumers. This person or entity shall hold a Class 3 Cannabis Wholesaler license issued by the CRC or other entity with regulatory jurisdiction over adult-use cannabis.

“Cannabis Distributor” means any State-regulated person or entity that transports cannabis in bulk intrastate from one licensed cannabis cultivator to another licensed cannabis cultivator, or transports cannabis items in bulk intrastate from one class of licensed cannabis establishment to another class of licensed cannabis establishment, and may engage in the temporary storage of cannabis or cannabis items as necessary to carry out transportation activities. This person or entity shall hold a Class 4 Cannabis Distributor license issued by the CRC or other entity with regulatory jurisdiction over adult-use cannabis.

“Cannabis Establishment” means any State-regulated Cannabis Wholesaler or Cannabis Distributor.

“Permitting Authority” means the Cannabis Regulatory Commission (“CRC”), established pursuant to Section 31 of P.L. 2019, c. 307 (C. 24:61-24) or other entity with regulatory jurisdiction over adult-use cannabis.

§77-3 Local Licensing Authority.

- A. A local license shall be required to operate a Cannabis Establishment in the Township. The Township Clerk is hereby designated to act as the local licensing authority for the Township for all Cannabis Establishments.
- B. Under no circumstances shall the Township Clerk receive or act upon any application for local licensing of a Cannabis Establishment if the Permitting Authority has not issued the appropriate State license. It is the intent of this Chapter that no Cannabis Establishment may lawfully operate in the Township absent the issuance of the appropriate State license and full regulatory oversight of the Cannabis Establishment by the Permitting Authority as well as that of the Township.
- C. Under no circumstances shall the Township Clerk receive or act upon any application for local licensing of a Cannabis Establishment unless or until the applicant has obtained the appropriate zoning approval from the Township land use board with jurisdiction over the application and a Certificate of Zoning Compliance has been issued by the Zoning Officer.
- D. The Township Clerk, or his/her designee, shall be authorized to establish rules and regulations consistent with the intent of this Chapter.

§77-4 Local Licensing Application

Persons wishing to obtain a local license for a Cannabis Establishment shall file a license application with the Township Clerk, on a standardized form established by the Business Clerk and available in the Clerk's office and on the Township's website.

An application shall be deemed incomplete, and shall not be processed by the Township Clerk, until all documents and application fees are submitted. To be deemed complete, all applications shall be accompanied by the following:

- (1) The applicant shall submit proof of licensure by the Permitting Authority.
- (2) The applicant shall submit proof that the applicant has or will have lawful possession of the premises proposed for the Cannabis Establishment, which proof may consist of the following: a deed, a lease, a real estate contract contingent upon successful licensing, or a letter of intent from the owner of the premises indicating an intent to lease the premises to the applicant contingent upon approval of required licenses.
- (3) The location proposed for licensing by the applicant shall comply with all applicable Township zoning laws and the location restrictions set forth herein.

- (4) The applicant shall submit a nonrefundable application fee in the amount of \$1,000 or a nonrefundable annual renewal fee in the amount of \$500, as appropriate. The amount of the nonrefundable application or renewal fee may be modified from time to time by subsequent duly adopted resolution of the Township Council.
- (5) The applicant and the contents of the application shall otherwise comply with any and all qualification standards set forth in the State and local laws, regulations, or requirements.

§77-5 Term of License and License Renewals; Annual License Fee

- A. Any license shall be valid for a period of one year from January 1 in each year.
- B. The Township Clerk may, at his/her discretion, adjust the annual renewal date of the local license to correlate with an applicant's State licensing and renewal schedule.
- C. Upon renewal of a license, the licensee shall be governed by any amendments, additional restrictions, or changes in requirements adopted since the previous license was issued or renewed.
- D. Transfer of ownership of a license, change of location of any license, or modification to expand a licensed premise shall be treated as a new application, subject to Township land use review and approval.
- E. If the licensee has received notice of violation of any law or regulation relating to their State license, including disciplinary action against any past or current cannabis license, the applicant for renewal shall include a copy of the notice of violation or disciplinary action with their application.

§77-6 Permitted Licenses; Limitation on the Number of Licenses.

- A. A maximum of two (2) Class 3 Cannabis Wholesalers licenses shall be permitted to operate in the Township.
- B. A maximum of two (2) Class 4 Cannabis Distributors licenses shall be permitted to operate in the Township.
- C. Pursuant to Section 31b of the Act, all other classes of licensed cannabis businesses not expressly permitted herein, including Class 1 Cannabis Cultivator licenses, Class 2 Manufacturer licenses, Class 5 Cannabis Retailer licenses, and Class 6 Cannabis Delivery licenses, are hereby prohibited from operating anywhere in the Township, except for the delivery of cannabis items and related supplies by a delivery services.

§77-7 Location Restrictions.

- A. No building or structure associated with a Cannabis Establishment shall be located within 1,000 feet of any school property (including any property owned or leased by a public school board), or within 500 feet of the real property comprising a public housing facility, public park, or public building, except for the Township Wastewater Treatment Plant located at Block 769, Lot 1 and the Sharkey Landfill Site located at Block 771, Lot 1 and Block 770, Lot 7.
- B. No Cannabis Establishment shall be located within 500 feet of a residential zone district boundary or commercial residential mixed-use zone district boundary.

§77-8 Hours of Operation.

All Cannabis Establishments shall limit their hours of operation from 6:00 a.m. to 10 p.m., Monday through Saturday.

§77-9 Enclosed Building.

All operations of a Cannabis Establishments shall occur within a single, or series of, completely enclosed buildings. No outdoor storage shall be permitted.

§77-10 Security and Reporting.

- A. There shall be at least two employees on continuous duty in any part of a Cannabis Establishment to which the public is invited.
- B. A Cannabis Establishment shall employ a security officer, or the premises shall have in operation a security device approved by the Chief of Police of the Township which may consist of a silent and/or audible burglar alarm connected to a central security monitoring system designed to activate police response, a closed circuit television connected to a central security monitoring system designed to activate police response, or such other device which can be activated instantaneously to notify law enforcement officers that a crime or disorderly person's activity is in progress.
- C. The Township Police Department shall be provided the name and phone number of a contact person to notify during suspicious activity during or after operating hours. Security staff is required on the premises during all hours of operation.
- D. A burglarproof drop safe that regulates an employee's access to cash shall be used on the premises.
- E. The exterior portion of a Cannabis Establishment, including parking areas, shall be well lit during business hours. Said lighting shall be designed so as to not

unduly interfere with any neighbor's reasonable use and/or enjoyment of the property.

- F. Fencing, a minimum of six (6) feet in height, shall be installed around the loading and unloading area of the Cannabis Establishment.
- G. Security protocols shall be submitted to the Township Police Department for compliance review with all safety and security standards established by the State of Cannabis Establishments. The Township Police Department may, at their discretion and upon review of the proposed location, recommend or require additional safety and security measures.

§77-11 Storage of Products.

Marijuana plants, products, accessories, and associated paraphernalia shall not be visible from a public sidewalk, public street or right-of-way, or any other public place. On-site storage of usable marijuana shall comply with applicable federal, state and local laws and regulations.

§77-12 Limitations on Consumption or Smoking on Premises.

It shall be unlawful for any person 21 years of age or older to consume cannabis through means other than by smoking, vaping, or aerosolizing (e.g., edibles) in a public place, including any indoor public place as the term is defined in N.J.S.A. 26:3D-57.

§77-13 Prevention of emissions and disposal of materials.

- A. A Cannabis Establishment must provide sufficient measures and means of preventing smoke, odors, debris, dust, fluids and other substances from exiting the Cannabis Establishment. In the event that any debris, dust, fluids or other substances shall exit the business premises, the property owner and operator shall be jointly and severally responsible for the full cleanup immediately.
- B. A Cannabis Establishment shall properly dispose of all materials and other substances in a safe and sanitary manner in accordance with State regulations.
- C. A Cannabis Establishment must meet industry best practices for odor control.
- D. All State law and regulations concerning ventilation systems shall be followed.

§77-14 Transfer Tax

- A. In accordance with the Act, the cannabis transfer tax for the Township shall be one percent (1%) of the receipts from each sale by a Class 3 Cannabis Wholesaler.

- B. In accordance with the Act, the user tax for the Township shall be imposed at equivalent cannabis transfer tax rates on any concurrent license holder operating more than one (1) Cannabis Establishment in the Township.
- C. The transfer tax or user tax shall be collected or paid, and remitted to the Township by the Cannabis Establishment from the Cannabis Establishment purchasing or receiving the cannabis or cannabis item. The transfer tax or user tax shall be stated, charged, and shown separately on any sales slip, invoice, receipt, or other statement or memorandum of the price paid or payable, or equivalent value of the transfer, for the cannabis or cannabis item.
- D. Every Cannabis Establishment required to collect a transfer tax or user tax imposed by this Chapter shall be personally liable for the transfer tax or user tax imposed, collected, or required to be collected under this section. Any Cannabis Establishment shall have the same right with respect to collecting the transfer tax or user tax from another cannabis establishment as if the transfer tax or user tax was a part of the sale and payable at the same time, or with respect to non-payment of the transfer tax or user tax by the Cannabis Establishment, as if the transfer tax or user tax was a part of the purchase price of the cannabis or cannabis item, or equivalent value of the transfer of the cannabis or cannabis item, and payable at the same time; provided, however, that the chief fiscal officer of the Township shall be joined as a party in any action or proceeding brought to collect the transfer tax or user tax.
- E. No Cannabis Establishment required to collect a transfer tax or user tax imposed by this Chapter shall advertise or hold out to any person or to the public in general, in any manner, directly or indirectly, that the transfer tax or user tax will not be separately charged and stated to another Cannabis Establishment, or that the transfer tax or user tax will be refunded to the Cannabis Establishment.
- F. All revenues collected from a transfer tax or user tax imposed by this Chapter shall be remitted to the chief financial officer of the Township in a manner prescribed by the Township. The chief financial officer shall collect and administer any transfer tax or user tax imposed by ordinance pursuant to this Chapter. The Township shall enforce the payment of delinquent taxes or transfer fees imposed by ordinance pursuant to this Chapter in the same manner as provided for municipal real property taxes.
- G. In the event that the transfer tax or user tax imposed by this Chapter is not paid as and when due by a Cannabis Establishment, the unpaid balance, and any interest accruing thereon, shall be a lien on the parcel of real property comprising the Cannabis Establishment's premises in the same manner as all other unpaid municipal taxes, fees, or other charges. The lien shall be superior and paramount to the interest in the parcel of any owner, lessee, tenant, mortgagee, or other person, except the lien of municipal taxes, and shall be on a parity with and deemed equal to the municipal lien on the parcel for unpaid property taxes due and owing in the same year.

- H. The Township shall file in the office of its tax collector a statement showing the amount and due date of the unpaid balance and identifying the lot and block number of the parcel of real property that comprises the delinquent cannabis establishment's premises. The lien shall be enforced as a municipal lien in the same manner as all other municipal liens are enforced.
- I. The Township chief financial officer or his/her designee, shall be authorized to establish rules and regulations consistent with the intent of this Chapter regarding the collection and enforcement of the transfer tax.

§77-15 Compliance with Law.

A Cannabis Establishment shall comply with all applicable State and local laws and regulations.

§77-16 Revocation or Suspension of License

- A. The Township Clerk shall suspend or revoke any license if the corresponding State license for the subject location is expired, surrendered, suspended, or revoked.
- B. Where it is found that a licensee has engaged in a deliberate and willful violation of any applicable law or regulation, or that the public health, safety, and/or general welfare has been jeopardized and requires emergency action, the Township Clerk is authorized and empowered to immediately suspend any license or permit issued pursuant to this Chapter and order that the licensee cease all operations until such time as the violations are abated.
- C. Any person aggrieved by the action of the Township Clerk in the denial of an application for license or the decision with reference to the revocation or suspension of a license in accordance with this Chapter, shall have the right of appeal to the Business Administrator, or his/her designee. Such appeal shall be taken by filing with the Business Administrator, within 10 days of the action complained of, a written statement setting forth fully the grounds for the appeal. The Business Administrator, or his/her designee, may decide the matter on the papers or schedule a time and place for a hearing on such appeal. Notice of any such hearing shall be served upon the applicant/licensee (whichever is appropriate) or mailed, postage prepaid, to the applicant/licensee at the address given on the application for license in accordance with this Chapter, at least five days prior to the date set for said hearing. The decision and order of the Business Administrator, or his/her designee, on such appeal shall be final and conclusive.

§77-17 Violations and penalties.

Any person violating this Chapter shall be subject to the penalties set forth in Chapter 1, Article II, §1-17, Violations and penalties.

SECTION 2. Chapter 430, entitled “Zoning”, Sections 144, 165 and 173 related to conditional uses permitted in the SED-3, 3A, 5 and 5A, LIW-2 and LIW-5 Districts, respectively, be had hereby is amended as follows:

§ 430-144 Conditional Uses.

[Add new].

- D. In the SED-3, 3A, 5 and 5A districts, a cannabis establishment associated with a Class 3 Cannabis Wholesaler license or Class 4 Cannabis Distributor license issued by the Cannabis Regulatory Commission, or agency with regulatory jurisdiction adult-use cannabis (“Cannabis Establishment” as defined by §77-2 of this Code), subject to compliance with the regulations set forth in Chapter 77, and the following requirements:
- (1) A Cannabis Establishment must have frontage on either an arterial or collector road as designated by the 2010 Functional Classification Map for Morris County prepared by the New Jersey Department of Transportation, dated April 20, 2017 and revised for the Urban Area dated February 28, 2017, as may be amended from time to time, or on the following local roads: Pomeroy Road, Wood Hollow Road, Webro Road, Joshua Mateo Highway;
 - (2) Minimum lot size shall be the minimum lot size required in the zone district or 3 acres, whichever is greater;
 - (3) Fences six (6) feet in height shall be permitted in the front yard. Fences shall otherwise comply with §430-11;
 - (4) No advertising signs shall be located within twenty (20) feet of a public or private way and must be set back a minimum of twenty (20) feet from all property lines. All signs shall otherwise comply with §430-289;
 - (5) No Cannabis Establishment shall be maintained or operated in a manner that causes, creates or allows the public viewing of cannabis, cannabis infused products or cannabis paraphernalia or similar products from any sidewalk, public or private right of way;
 - (6) Unless otherwise specified herein, lots, buildings and structures shall meet all bulk standards applicable to industrial or manufacturing establishment or warehouse uses in the zone district; and
 - (7) A Cannabis Establishment must be licensed by the Township, in accordance with Chapter 77 of this Code, and permitting authority with regulatory jurisdiction adult-use cannabis.

§ 430-165 Conditional Uses.

The following conditional uses shall be permitted: ~~none~~

[Add new].

- A. A cannabis establishment associated with a Class 3 Cannabis Wholesaler license or Class 4 Cannabis Distributor license issued by the permitting authority with regulatory jurisdiction adult-use cannabis (“Cannabis Establishment” as defined by §77-2 of this Code), subject to compliance with the regulations set forth in Chapter 77, and the following requirements:
- (1) A Cannabis Establishment must have frontage on either an arterial or collector road as designated by the 2010 Functional Classification Map for Morris County prepared by the New Jersey Department of Transportation, dated April 20, 2017 and revised for the Urban Area dated February 28, 2017, as may be amended from time to time, or on the following local roads: Pomeroy Road, Wood Hollow Road, Webro Road, Joshua Mateo Highway;
 - (2) Minimum lot size shall be the minimum lot size required in the zone district or 3 acres, whichever is greater;
 - (3) Fences six (6) feet in height shall be permitted in the front yard. Fences shall otherwise comply with §430-11;
 - (4) No advertising signs shall be located within twenty (20) feet of a public or private way and must be set back a minimum of twenty (20) feet from all property lines. All signs shall otherwise comply with §430-289;
 - (5) No Cannabis Establishment shall be maintained or operated in a manner that causes, creates or allows the public viewing of cannabis, cannabis infused products or cannabis paraphernalia or similar products from any sidewalk, public or private right of way;
 - (6) Unless otherwise specified herein, lots, buildings and structures shall meet all bulk standards applicable to industrial or manufacturing establishment or warehouse uses in the zone district; and
 - (7) A Cannabis Establishment must be licensed by the Township, in accordance with Chapter 77 of this Code, and permitting authority with regulatory jurisdiction adult-use cannabis.

§ 430-173 Conditional Uses.

The following conditional uses shall be permitted:

[Add new].

- A. A cannabis establishment associated with a Class 3 Cannabis Wholesaler license or Class 4 Cannabis Distributor license issued by the permitting authority with regulatory jurisdiction adult-use cannabis (“Cannabis Establishment” as defined by §77-2 of this Code), subject to compliance with the regulations set forth in Chapter 77, and the following requirements:
- (1) A Cannabis Establishment must have frontage on either an arterial or collector road as designated by the 2010 Functional Classification Map for Morris County prepared by the New Jersey Department of Transportation, dated April 20, 2017 and revised for the Urban Area dated February 28, 2017, as may be amended from time to time, or on the following local roads: Pomeroy Road, Wood Hollow Road, Webro Road, Joshua Mateo Highway;
 - (2) Minimum lot size shall be the minimum lot size required in the zone district or 3 acres, whichever is greater;
 - (3) Fences six (6) feet in height shall be permitted in the front yard. Fences shall otherwise comply with §430-11;
 - (4) No advertising signs shall be located within twenty (20) feet of a public or private way and must be set back a minimum of twenty (20) feet from all property lines. All signs shall otherwise comply with §430-289;
 - (5) No Cannabis Establishment shall be maintained or operated in a manner that causes, creates or allows the public viewing of cannabis, cannabis infused products or cannabis paraphernalia or similar products from any sidewalk, public or private right of way;
 - (6) Unless otherwise specified herein, lots, buildings and structures shall meet all bulk standards applicable to industrial or manufacturing establishment or warehouse uses in the zone district; and
 - (7) A Cannabis Establishment must be licensed by the Township, in accordance with Chapter 77 of this Code, and permitting authority with regulatory jurisdiction adult-use cannabis.

SECTION 3. Any article, section, paragraph, subsection, clause, or other provision of the Code of the Township of Parsippany-Troy Hills inconsistent with the provisions of this ordinance is hereby repealed to the extent of such inconsistency.

SECTION 4. If any section, paragraph, subsection, clause, or provision of this ordinance shall be adjudged by a court of competent jurisdiction to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause, or provision so adjudged, and the remainder of this ordinance shall be deemed valid and effective.

SECTION 5. This ordinance shall take effect upon its passage and publication, and filing with the Morris County Planning Board, and as otherwise provided for by law.