

ORDINANCE NO. 21-44

**AN ORDINANCE REGULATING THE OPERATION OF CANNABIS BUSINESSES
AND THE CONSUMPTION OF CANNABIS WITHIN THE GEOGRAPHICAL
BOUNDARIES OF THE TOWNSHIP OF WOODBRIDGE**

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 marijuana 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 marketplace classes of licensed businesses, including:

- Class 1 Cannabis Cultivator license, for facilities involved in growing and cultivating cannabis;
- Class 2 Cannabis Manufacturer license, for facilities involved in the manufacturing, preparation, and packaging of cannabis items;
- Class 3 Cannabis Wholesaler license, for facilities involved in obtaining and selling cannabis items for later resale by other licensees;
- Class 4 Cannabis Distributer 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;
- Class 5 Cannabis Retailer license for locations at which cannabis items and related supplies are sold to consumers; and
- Class 6 Cannabis Delivery license, for businesses providing courier services for consumer purchases that are fulfilled by a licensed cannabis retailer in order to make deliveries of the purchases items to a consumer, and which service would include the ability of a consumer to make a purchase directly through the cannabis delivery service which would be presented by the delivery service for fulfillment by a retailer and then delivered to a consumer.

WHEREAS, section 31a of the Act authorizes municipalities by ordinance to adopt regulations governing the number of cannabis establishments (defined in section 3 of the Act as “a cannabis cultivator, a cannabis manufacturer, a cannabis wholesaler, or a cannabis retailer”), cannabis distributors or cannabis delivery services allowed to operate within their boundaries, as

well as the location, manner and times of operation of such establishments, distributors or delivery services, and establishing civil penalties for the violation of any such regulations; and

WHEREAS, section 40 of the Act authorizes municipalities by ordinance to impose cannabis transfer taxes and user taxes on the sale of cannabis or cannabis items by a cannabis establishment that is located in the municipality; and

WHEREAS, section 46 of the Act authorizes municipalities by ordinance to prohibit the consumption of certain cannabis items in public places; and

WHEREAS, section 79 of the Act authorizes municipalities to regulate underage consumption of certain cannabis items by underaged persons on private property;

NOW THEREFORE, BE IT ORDAINED by the MUNICIPAL COUNCIL of the TOWNSHIP OF WOODBRIDGE, in the COUNTY OF MIDDLESEX, and STATE OF NEW JERSEY, as follows:

1. Pursuant to section 31a of the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (P.L. 2021, c. 16), the growing, cultivating, manufacturing, operations to transport in bulk cannabis items by a cannabis cultivator, cannabis manufacturer, cannabis wholesaler, or as a cannabis distributor or cannabis delivery service, shall be conditional uses in the M-1 Light Industrial Zone and in the M-2 Heavy Industrial Zone. Licensed businesses who hold a Class 1, Class 2, Class 3, Class 4 and/or Class 6 cannabis license shall be permitted to operate in the M-1 Light Industrial Zone or the M-2 Heavy Industrial Zone only, as long as they are located at least 1,000 feet away from any property zoned for residential use.

2. Section 150-44 of the Land Use and Development Law of the Township of Woodbridge, entitled “Conditional Uses” is hereby amended to add the following paragraph (b)(21):

150-44(b)(21). Cannabis Businesses. The growing, cultivating, manufacturing, and operations to transport in bulk cannabis items by a cannabis cultivator, cannabis manufacturer, cannabis wholesaler, or as a cannabis distributor or cannabis delivery service, by persons or entities licensed to do so by the State of New Jersey, shall be conditional uses in the M-1 Light Industrial Zone and the M-2 Heavy Industrial Zone. Any such cannabis business must be located at least 1,000 feet away from any residential use, public and/or private school, library, childcare center, house of worship, municipal youth center, public park, public playground, and public building. The provisions of this paragraph shall not apply to any medical cannabis dispensary (alternative treatment center) that was licensed under the New Jersey Compassionate Use Medical Marijuana Act prior to the enactment of this Ordinance.

3. Pursuant to Section 31a of the Act, Section 150-24(A) of the Land Use and Development Law of the Township of Woodbridge, entitled “General Regulations; Regulations

Applicable to All Zones” is hereby amended to add the following new paragraph 41, as follows:

150-24(A)(41) Retail Sale of Cannabis. The retail selling and reselling of cannabis and cannabis items shall be prohibited in all zones of the Township. The provisions of this section shall not apply to any medical cannabis dispensary (alternative treatment center) that was licensed under the New Jersey Compassionate Use Medical Marijuana Act and actually operating within the Township of Woodbridge prior to the enactment of this Ordinance. Any such medical cannabis dispensary (alternative treatment center) that is granted a Class 5 Cannabis Retailer license shall be permitted to operate as a cannabis retailer in its existing location only.

4. Pursuant to Section 46 of the Act, Chapter 3 of the Revised General Ordinances of the Township of Woodbridge, entitled Police Regulations, is hereby amended to add the following new Section 3-35:

3-35 Cannabis Consumption

3-35.1 Consumption of Cannabis Items in a Public Place. It shall be unlawful for any person who is of legal age to consume, other than by smoking, vaping, or aerosolizing, a cannabis item available for lawful consumption pursuant to the “New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act,” P.L., in any public place as defined in section 3 of the Act, other than school property described in section 1 of P.L.1981, c.197 (C.2C:33-16) for which unlawful consumption is a disorderly persons offense, or when not prohibited by the owner or person responsible for the operation of that public place. A person may be subject to a civil penalty of up to \$200, which shall be recovered in a civil action by a summary proceeding in the name of the Township of Woodbridge pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). The municipal court and the Superior Court shall have jurisdiction of proceedings for the enforcement of the penalty provided by this section.

3-35.2 Possession and Consumption of Cannabis Items by Underaged Persons.

It shall be unlawful for any person under the legal age who, without legal authority, knowingly possesses or knowingly consumes a cannabis item, other than by smoking, vaping, or aerosolizing, on private property. A violation involving cannabis activity in the case of an adult under the legal age to purchase cannabis items, shall be punished as follows:

- a. If the cannabis item possessed is an amount which may be lawfully possessed by a person of the legal age to purchase cannabis items pursuant to section 1 of the “New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act,”: for a

first offense, a civil penalty of \$100; for a second offense, a civil penalty of \$200; and for a third or subsequent offense, a fine of \$350. The civil penalties provided for in this subparagraph shall be collected pursuant to the “Penalty Enforcement Law of 1999,” P.L.1999, c.274 (C.2A:58-10 et seq.), in a summary proceeding before the Municipal Court. A penalty recovered under the provisions of this subparagraph shall be recovered by and in the name of the Township of Woodbridge.

- b. If the cannabis item possessed is an amount that exceeds what may be lawfully possessed by a person of the legal age to purchase cannabis items pursuant to section 1 of the “New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act,” or if any cannabis item is consumed: for a first offense, a fine of \$250; and for a second or subsequent offense, a fine of \$350.

Upon conviction of any underaged person, the Municipal Court may, in addition to the fine authorized for this offense, suspend or postpone for six (6) months the driving privilege of the defendant.

This Ordinance does not prohibit possession of cannabis items by any underaged person while actually engaged in the performance of employment by a cannabis establishment, distributor, or delivery service as permitted pursuant to the “New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act”.

5. Pursuant to Section 40 of the Act, Chapter 2, Article XXI of the Revised General Ordinances of the Township of Woodbridge, entitled Administration; Finance and Taxation; is hereby amended to add the following new Section 2-73:

2-73 Cannabis Transfer Tax and User Tax.

2-73.1 Cannabis Transfer Tax.

- a. A Cannabis Transfer Tax is hereby imposed by the Township on the sale of cannabis or cannabis items by a cannabis establishment that is located in the Township of Woodbridge. This Transfer Tax shall be imposed on receipts from the sale of cannabis by a cannabis cultivator to another cannabis cultivator; receipts from the sale of cannabis items from one cannabis establishment to another cannabis establishment; receipts from the retail sales of cannabis items by a cannabis retailer to retail consumers who are 21 years of age or older; or any combination thereof.
- b. The Cannabis Transfer Tax Rate imposed by the Township shall be two percent of the receipts from each sale by a cannabis cultivator; two

percent of the receipts from each sale by a cannabis manufacturer; one percent of the receipts from each sale by a cannabis wholesaler; and two percent of the receipts from each sale by a cannabis retailer.

2-73.2 Cannabis User Tax. The Township of Woodbridge hereby imposes a Cannabis User Tax at rates equivalent to the Cannabis Transfer Tax Rates set forth in Section 2-73.1(b), on any concurrent license holder, as permitted by section 33 of the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act, operating more than one cannabis establishment. The user tax shall be imposed on the value of each transfer or use of cannabis or cannabis items not otherwise subject to the transfer tax imposed pursuant to Section 2-73.1, from the license holder's establishment that is located in the Township of Woodbridge to any of the license holder's other establishments, whether located in the Township of Woodbridge or another municipality.

2-73.3 Collection of Cannabis Transfer and User Taxes. All revenues collected from the Cannabis Transfer Tax or User Tax imposed by this Section 2-73 shall be remitted to the Chief Financial Officer of the Township of Woodbridge in a manner prescribed by the municipality.

6. Penalties. In addition to any penalties that may be imposed by the State of New Jersey, and unless otherwise specified herein, any person or entity who has been convicted of a violation of any provision of the Revised General Ordinances of the Township of Woodbridge shall be subject to a civil penalty in an amount not to exceed \$2,000 per violation. A separate offense shall be deemed to have been committed on each day during or on which the violation occurs or continues. In addition to any penalties that may be imposed by the State of New Jersey, and unless otherwise specified herein, any person or entity who has been convicted of any provision of the Land Use and Development Ordinance of the Township of Woodbridge shall be subject to a civil penalty not to exceed \$2,000 per violation. A separate offense shall be deemed to have been committed on each day during or on which the violation occurs or continues.
7. Any article, section, paragraph, subsection, clause, or other provision of the The Revised General Ordinances of the Township of Woodbridge or the Land Use and Development Ordinance of the Township of Woodbridge that is inconsistent with the provisions of this Ordinance is hereby repealed to the extent of such inconsistency.
8. 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.
9. Paragraphs 1 through 3 of this Ordinance shall take effect upon its passage and publication and filing with the Middlesex County Planning Board, and as otherwise provided for by

law. The remaining paragraphs of this Ordinance shall take effect upon its passage and publication, and as otherwise required by law.