

**TOWNSHIP OF HAMILTON
COUNTY OF MERCER, NEW JERSEY**

ORDINANCE

No. **21-067**

1ST READING	<u>December 7, 2021</u>	DATE TO MAYOR	_____
2ND READING & PUBLIC HEARING	<u>Dec 21, 2021</u>	DATE RESUBMITTED TO COUNCIL	_____
WITHDRAWN _____	LOST _____	DATE EFFECTIVE	_____

APPROVED AS TO FORM AND LEGALITY

FACTUAL CONTENTS CERTIFIED TO BY

TOWNSHIP ATTORNEY

TITLE

ORDINANCE AMENDING AND SUPPLEMENTING THE CODE OF THE TOWNSHIP OF HAMILTON, NEW JERSEY, PART II, GENERAL LEGISLATION, CHAPTER 153, CANNABIS AND MEDICAL CANNABIS

Be It Ordained by the Council of the Township of Hamilton, in the County of Mercer and State of New Jersey, that the *Code of the Township of Hamilton, New Jersey, Part II, General Legislation, Chapter 153, Cannabis and Medical Cannabis*, as amended and supplemented, be further amended and supplemented as follows:

Chapter 153

CANNABIS AND MEDICAL CANNABIS

§ 153-1. Purpose of Chapter.

Notwithstanding any Federal law to the contrary, this Chapter is enacted to regulate and govern the use of Cannabis and Medical Cannabis and the number and types of permits issued in the Township pursuant to New Jersey's Jake Honig Compassionate Use Medical Cannabis Act, N.J.S.A. 24:6I-1, et seq. ("Honig Act"), and the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act, N.J.S.A. 24:6I-32 et seq. ("CREAMMA") (collectively "the Acts") as well as regulations promulgated by the Cannabis Regulatory Commission (CRC). [The Township is awaiting regulations for same by the Cannabis Regulatory Commission (CRC) and may be revising this Article pursuant to same.]

§ 153-2. Definitions.

As used in this Chapter, words and phrases shall have the same meanings they have the Acts and as follows:

"Cannabis" means all parts of the plant *Cannabis sativa* L., whether growing or not, the seeds thereof, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds, except those containing resin extracted from the plant, which are cultivated and, when applicable, manufactured in accordance with CREAMMA for use in cannabis products as set forth in that act, but shall not include the weight of any other ingredient combined with cannabis to prepare topical or oral administrations, food, drink, or other product. "Cannabis" does not include: medical cannabis dispensed to registered qualifying patients pursuant to the Honig Act and N.J.S.A. 18A:40-12.22 et al.; marijuana as defined in N.J.S.A. 2C:35-2 and applied to any offense set forth in chapters 35, 35A, and 36 of Title 2C of the New Jersey Statutes, N.J.S.A. 2C:35B-1 et seq., or marihuana as defined in N.J.S.A. 24:21-2 and applied to any offense set forth in the "New Jersey Controlled Dangerous Substances Act," N.J.S.A. 24:21-1 et al.; or hemp or a hemp product cultivated, handled, processed, transported, or sold pursuant to the "New Jersey Hemp Farming Act," N.J.S.A. 4:28-6 et al.

"Cannabis consumption area" means a designated location operated by a licensed cannabis retailer or permit holder for dispensing medical cannabis, for which both a State and local

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endorsement has been obtained, that is either: (1) an indoor, structurally enclosed area of the cannabis retailer or permit holder that is separate from the area in which retail sales of cannabis

items or the dispensing of medical cannabis occurs; or (2) an exterior structure on the same premises as the cannabis retailer or permit holder, either separate from or connected to the cannabis retailer or permit holder, at which cannabis items or medical cannabis either obtained from the retailer or permit holder, or brought by a person to the consumption area, may be consumed. Cannabis consumption areas are prohibited in the Township.

“Cannabis cultivator” means any licensed person or entity that grows, cultivates, or produces cannabis in this State, and sells, and may transport, this cannabis to other cannabis cultivators, or usable cannabis to cannabis manufacturers, cannabis wholesalers, or cannabis retailers, but not to consumers. There shall be no outdoor cultivation. This person or entity shall hold a **Class 1 Cannabis Cultivator license from the State of New Jersey.**

“Cannabis delivery service” means any licensed person or entity that provides courier services for consumer purchases of cannabis items and related supplies fulfilled by a cannabis retailer in order to make deliveries of the cannabis items and related supplies to that consumer, and which services include the ability of a consumer to purchase the cannabis items directly through the cannabis delivery service, which after presenting the purchase order to the cannabis retailer for fulfillment, is delivered to that consumer. This person or entity shall hold a **Class 6 Cannabis Delivery license from the State of New Jersey.**

“Cannabis distributor” means any licensed 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 any 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 from the State of New Jersey.**

“Cannabis establishment” means a cannabis cultivator, a cannabis manufacturer, cannabis retailer, [or] a cannabis wholesaler, or a testing laboratory. For the purposes of the Township Code, “cannabis establishment” does not include [cannabis retailers which are not permitted in the Township; nor does it include] Class 6 cannabis delivery services which are permitted in the Township.

“Cannabis item” means any usable cannabis, cannabis product, cannabis extract, and any other cannabis resin. “Cannabis item” does not include: any form of medical cannabis dispensed to registered qualifying patients pursuant to the Honig Act and N.J.S.A.18A:40-12.22 et al. or hemp or a hemp product cultivated, handled, processed, transported, or sold pursuant to the “New Jersey Hemp Farming Act, N.J.S.A.4:28-6 et al.

“Cannabis manufacturer” means any licensed person or entity that processes cannabis items in this State by purchasing or otherwise obtaining usable cannabis, manufacturing, preparing, or packaging cannabis items, and selling, and optionally transporting, these items to other cannabis manufacturers, cannabis wholesalers, or cannabis retailers, but not to consumers. This person or entity shall hold a **Class 2 Cannabis Manufacturer license from the State of New Jersey.**

“Cannabis retailer” means any licensed person or entity that purchases or otherwise obtains usable cannabis from cannabis cultivators and cannabis items from cannabis manufacturers or cannabis wholesalers, and sells these to consumers from a retail store, and may use a cannabis delivery service or a certified cannabis handler for the off-premises delivery of cannabis items and related supplies to consumers. A cannabis retailer shall also accept consumer purchases to be fulfilled from its retail store that are presented by a cannabis delivery service which will be delivered by the cannabis delivery service to that consumer. This person or entity shall hold a **Class 5 Cannabis Retailer license.** [Class 5 Cannabis Retailers are prohibited in the Township.]

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“Cannabis wholesaler” means any licensed 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 from the State of New Jersey**.

“Commission” or **“CRC”** means the New Jersey Cannabis Regulatory Commission established pursuant to CREAMMA.

“Diversely Owned Business” means a CRC license applicant or CRC license-holder where the entity has been certified, pursuant to the criteria in N.J.A.C. 17:30-6.4, as: (1) A minority business pursuant to N.J.S.A. 52:27H-21.18 et seq.; (2) A women’s business pursuant to N.J.S.A. 52:27H-21.18 et seq.; (3) A disabled-veterans’ business, as defined in N.J.S.A. 52:32-31.2; or (4) any combination of one through three, herein.

“Manufacture” means the drying, processing, compounding, or conversion of usable cannabis into cannabis products or cannabis resins. “Manufacture” does not include packaging or labeling.

“Medical cannabis” means cannabis dispensed to registered qualifying patients pursuant to the Honig Act and N.J.S.A.18A:40-12.22 et al. “Medical cannabis” does not include any cannabis or cannabis item which is cultivated, produced, processed, and consumed in accordance with CREAMMA.

“Medical cannabis cultivator” means an organization holding a permit issued by the Cannabis Regulatory Commission that authorizes the organization to: possess and cultivate cannabis and deliver, transfer, transport, distribute, supply, and sell medical cannabis and related supplies to other medical cannabis cultivators and to medical cannabis manufacturers, clinical registrants, and medical cannabis dispensaries, as well as to plant, cultivate, grow, and harvest medical cannabis for research purposes. A medical cannabis cultivator permit shall not authorize the permit holder to manufacture, produce, or otherwise create medical cannabis products, or to deliver, transfer, transport, distribute, supply, sell, or dispense medical cannabis, medical cannabis products, paraphernalia, or related supplies to qualifying patients, designated caregivers, or institutional caregivers.

“Medical cannabis dispensary” means an organization issued a permit by the Cannabis Regulatory Commission that authorizes the organization to: purchase or obtain medical cannabis and related supplies from medical cannabis cultivators; purchase or obtain medical cannabis products and related supplies from medical cannabis manufacturers; purchase or obtain medical cannabis, medical cannabis products, and related supplies and paraphernalia from other medical cannabis dispensaries and from clinical registrants; deliver, transfer, transport, distribute, supply, and sell medical cannabis and medical cannabis products to other medical cannabis dispensaries; furnish medical cannabis, including medical cannabis products, to a medical cannabis handler for delivery to a registered qualifying patient, designated caregiver, or institutional caregiver consistent with the requirements of the Honig Act; and possess, display, transfer, transport, distribute, supply, sell, and dispense medical cannabis, medical cannabis products, paraphernalia, and related supplies to qualifying patients, designated caregivers, and institutional caregivers. A medical cannabis dispensary permit shall not authorize the permit holder to cultivate medical cannabis, to produce, manufacture, or otherwise create medical cannabis products. Medical cannabis dispensaries are prohibited in the Township.

“Medical cannabis establishment” means a medical cannabis cultivator, [or] a medical cannabis manufacturer, or a testing laboratory. [but not a medical cannabis dispensary].

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“Medical cannabis manufacturer” means an organization issued a permit by the Cannabis Regulatory commission that authorizes the organization to: purchase or obtain medical cannabis and related supplies from a medical cannabis cultivator or a clinical registrant;

purchase or obtain medical cannabis products from another medical cannabis manufacturer or a clinical registrant; produce, manufacture, or otherwise create medical cannabis products; and possess, deliver, transfer, transport, distribute, supply, and sell medical cannabis products and related supplies to other medical cannabis manufacturers and to medical dispensaries and clinical registrants. A medical cannabis manufacturer permit shall not authorize the permit holder to cultivate medical cannabis or to deliver, transfer, transport, distribute, supply, sell, or dispense medical cannabis, medical cannabis products, paraphernalia, or related supplies to registered qualifying patients, designated caregivers, or institutional caregivers.

“Microbusiness” means a person or entity licensed as a cannabis cultivator, cannabis manufacturer, cannabis wholesaler, cannabis distributor, cannabis retailer, or cannabis delivery service that may only, with respect to its business operations, and capacity and quantity of product: (1) employ no more than 10 employees; (2) operate a cannabis establishment occupying an area of no more than 2,500 square feet, and in the case of a cannabis cultivator, grow cannabis on an area no more than 2,500 square feet measured on a horizontal plane and grow above that plane not higher than 24 feet; (3) possess no more than 1,000 cannabis plants each month, except that a cannabis distributor’s possession of cannabis plants for transportation shall not be subject to this limit; (4) acquire each month, in the case of a cannabis manufacturer, no more than 1,000 pounds of usable cannabis; (5) acquire for resale each month, in the case of a cannabis wholesaler, no more than 1,000 pounds of usable cannabis, or the equivalent amount in any form of manufactured cannabis product or cannabis resin, or any combination thereof; and (6) acquire for retail sale each month, in the case of a cannabis retailer, no more than 1,000 pounds of usable cannabis, or the equivalent amount in any form of manufactured cannabis product or cannabis resin, or any combination thereof.

“Public place” or **“Quasi-public place”** means any place to which the public has access that is not privately owned; or any place to which the public has access where alcohol consumption is not allowed, including, but not limited to, a public street, road, thoroughfare, school, sidewalk, bridge, alley, plaza, park, playground, swimming pool, shopping area, public transportation facility, vehicle used for public transportation, parking lot, public library, or any other public building, structure, or area.

“Social Equity Business” means a CRC license applicant or CRC license-holder that meets the requirements of N.J.A.C. 17:30-6.6.

“Testing Laboratory” means an independent, third-party laboratory that is: (1) a “cannabis testing facility” and/or a “a medical cannabis testing laboratory” that is licensed by the CRC to perform testing services, including analysis and certification of compliance with applicable health, safety, and potency standards, on usable cannabis for personal or medical use and cannabis and medical cannabis products.

ARTICLE I - CONSUMPTION, POSSESSION AND UNREGULATED SALE

§ 153-3. Prohibition in Public Places

No person shall consume, use, smoke, vape, aerosolize, imbibe or possess in any open container any cannabis or medical cannabis products in or upon public or quasi-public place.

§ 153-4. Prohibition in Vehicles.

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No person shall consume, use, smoke, vape, aerosolize, imbibe any cannabis or medical cannabis products in or upon any private vehicle while the vehicle is in motion or parked upon any such public or quasi-public place.

§ 153-5. Prohibition.

No person shall smoke, vape, or aerosolize cannabis items in any place that any other law prohibits the smoking of tobacco, including N.J.S.A. 2C:33-13 and the “New Jersey Smoke-Free Air Act,” (N.J.S.A. 26:3D-55 et seq.).

§ 153-6. Prohibition of Unregulated Sale of Cannabis.

- A. No person shall sell cannabis or medical marijuana in the Township of Hamilton without a state license and a Township permit.
- B. No person shall gift cannabis or medical marijuana in the Township of Hamilton as part of a sale of another item or items.
- [C. Class 5 Cannabis Retailers and medical cannabis dispensaries shall not be permitted in the Township.]

§ 153-7. Nuisance

It shall be deemed a nuisance pursuant to Chapter 317, if a person who is consuming, using, smoking, vaping, aerosolizing or imbibing cannabis shall permit excessive odor or other pollution to extend beyond the person’s premises.

ARTICLE II - PERMITTING AND REGULATION

§ 153-8. Purpose.

This Article is enacted to regulate and to implement the provisions of the Acts and regulations promulgated by the CRC. [The Township is awaiting regulations for same by the Cannabis Regulatory Commission (CRC) and may be revising this Article pursuant to same.]

Permits granted pursuant to this Article shall be issued upon receipt of State License granted by the (CRC).

§ 153-9. State and Township Permits and Licenses are Required.

- A. To operate a cannabis establishment, a State license and Township permit is required.
- B. To operate a cannabis delivery service, a State license and Township permit is required.
- C. To operate a medical cannabis establishment, a State permit and Township license is required.
- [D. Retail Cannabis licensed facilities pursuant to CREAMMA and Medical Cannabis dispensaries pursuant to the Honig Act shall be prohibited in the Township.]

§ 153-10. Issuance of Permits and Licenses.

- A. All applications for permits and licenses, all permits and licenses issued and all proceedings under this article shall be in accordance with all applicable laws of the state.

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- B. All permits and licenses required by this article shall be issued by the Council, which shall also administer the provisions of this article.

- C. No person shall cultivate, manufacture, distribute, wholesale or deliver cannabis or medical cannabis without having obtained a license in accordance with CREAMMA or a permit in accordance with the Honig Act and a permit or license in accordance with the provisions of this article.

§ 153-11. Maximum Number of Permits.

- A. [The maximum number of permits in the Township for [each class of a cannabis establishment licensed under CREAMMA, excluding Class 6 cannabis delivery licensed services], shall be two (2). The cannabis establishments may combine multiple classes of Licenses into one facility.] The maximum number of permits in the Township for Class 1 Cannabis Cultivators are six (6), inclusive of microbusinesses and social equity businesses.

- B. [The maximum number of permits in the Township for a Class 6 cannabis delivery service shall be two (2).] The maximum number of permits in the Township for Class 2 Cannabis Manufacturers are six (6), inclusive of microbusinesses and social equity businesses.

- C. [The maximum number of permits in the Township for each class of a medical cannabis establishment shall be one (1).] The maximum number of permits in the Township for Class 3 Cannabis Wholesalers is one (1), inclusive of microbusinesses and social equity businesses;

- D. The maximum number of permits in the Township for Class 4 Cannabis Distributors are one (1), inclusive of microbusinesses and social equity businesses.

- E. The maximum number of permits in the Township for Class 5 Cannabis Retailers is one (1), inclusive of a microbusiness and a social equity business.

- F. The maximum number of permits in the Township for a Class 6 cannabis delivery service shall be one (1), inclusive of microbusinesses and social equity businesses.

- G. The maximum number of permits in the Township for each class of a medical cannabis establishment shall be one (1).

§ 153-12. Permits Fees.

- A. Cannabis Establishment Permit
 - (1) Application and Year One: \$25,000; for a microbusiness or social equity business: \$5,000
 - (2) Subsequent Annual Renewal Permit Fee: \$15,000; for a microbusiness or social equity business: \$1,000

- B. Cannabis Delivery Service Permit
 - (1) Application and Year One: \$5,000

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- (2) Subsequent Annual Renewal Permit Fee: \$1,000

C. Medical Cannabis Establishment Permit

- (1) Application and Year One: \$25,000
- (2) Subsequent Annual Renewal Permit Fee: \$15,000

§ 153-13. Revocation of Permit or License.

Any permit or license issued under this Article may be suspended or revoked for violation of any provisions of the Township Code of Ordinances, or any applicable statute or any of the rules or regulations promulgated by the CRC. Suspension or revocation of a permit or license shall be in addition to any other penalty which may be imposed for a violation of Township Ordinances. No refund will be issued by the Township for any suspended or revoked license.

ARTICLE III – CANNABIS PRODUCTS

§ 153-14. Permissible Cannabis Products: Manufacture or Retail

Only those forms of cannabis products identified and described in N.J.A.C. 17:30-11.5, 17:30-11.6 and N.J.A.C. 17:30-11.7 shall be permitted to be manufactured or sold.

§ 153-15. Hours of Sale

No cannabis products shall be sold or delivered to any consumer in or from any licensed cannabis retailer or cannabis delivery service on any day between the hours of 10:00 p.m. and 9:00 a.m., except that on Sunday, no cannabis products shall be sold or delivered to any consumer in or from any licensed cannabis retailer or cannabis delivery service between the hours of 7:00 p.m. and 9:00 a.m.

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Any Ordinance or Ordinances in conflict with the provisions of this Ordinance are repealed to the extent of such conflict.

PRESIDENT

MUNICIPAL CLERK

RECORD OF VOTE													
First Reading							Second Reading						
COUNCIL	AYE	NAY	NV	AB	ORD	SEC	COUNCIL	AYE	NAY	NV	AB	ORD	SEC
ANTHONY P. CARABELLI, JR.							ANTHONY P. CARABELLI, JR.						
RICHARD L. TIGHE, JR.							RICHARD L. TIGHE, JR.						
CHARLES F. WHALEN							CHARLES F. WHALEN						
NANCY PHILLIPS							NANCY PHILLIPS						
PASQUALE "PAT" PAPERIO, JR.							PASQUALE "PAT" PAPERIO, JR.						

X - Indicates Vote A.B. - Absent N.V. - Not Voting ORD. - Moved SEC. - Seconded

REJECTED _____

JEFFREY S. MARTIN, MAYOR

DATE

APPROVED _____

RECONSIDERED BY COUNCIL _____

OVERRIDE VOTE

AYE _____

NAY _____