

**TOWNSHIP OF ANDOVER
COUNTY OF SUSSEX, STATE OF NEW JERSEY**

ORDINANCE #2022-11

AN ORDINANCE OF THE TOWNSHIP OF ANDOVER, COUNTY OF SUSSEX, STATE OF NEW JERSEY TO ADD CHAPTER 13, “CANNABIS ESTABLISHMENT LICENSING AND REGULATION,” TO THE TOWNSHIP CODE, ESTABLISHING AN ANNUAL LICENSE ISSUED BY THE TOWNSHIP FOR ANY CANNABIS ESTABLISHMENT OPERATING WITHIN THE TOWNSHIP PURSUANT TO THE NEW JERSEY CANNABIS REGULATORY, ENFORCEMENT ASSISTANCE, AND MARKETPLACE MODERNIZATION ACT

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, a majority of Andover Township voters approved Public Question No. 1; 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, cannabis 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 purchased 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; and

WHEREAS, sections 31a-c of the Act, N.J.S.A. 24:6I-45a-c, authorizes municipalities to adopt ordinances and regulations prohibiting outright and/or limiting the number of any class of licensed “cannabis establishment” (defined in section 33 of the Act, N.J.S.A. 24:6I-33, as “a cannabis cultivator, a cannabis manufacturer, a cannabis wholesaler, or a cannabis retailer”), cannabis distributor and cannabis delivery service allowed to operate within its municipal boundaries; and the location, manner and times of operation of such cannabis establishment, cannabis distributor and cannabis delivery service, except that the transportation and time of operations for cannabis delivery services, shall only be subject to the regulation by the Cannabis Regulatory Commission (the “Commission” or “CRC”); and

WHEREAS, section 31a of the Act, N.J.S.A. 24:6I-45a, also authorizes municipalities to establish certain civil penalties for violations of any ordinance or regulations governing cannabis establishments, distributors or delivery services; and

WHEREAS, section 31b of the Act, N.J.S.A. 24:6I-45b, authorizes municipalities to prohibit, by ordinance, the operation of any one or more classes of cannabis establishment, cannabis distributor, and the principal premises of a cannabis delivery service from anywhere in the municipality, but not the actual delivery and transportation of cannabis items and related supplies by a licensed cannabis delivery service operating from a principal location outside the boundaries of the municipality; and

WHEREAS, section 31c of the Act, N.J.S.A. 24:6I-45c, authorizes municipalities to impose a separate local licensing or endorsement requirement as part of its restrictions on the number of cannabis establishments, distributors or delivery services; and

WHEREAS, section 32 of the Act, N.J.S.A. 24:6I-21 authorizes municipalities by ordinance to regulate and prohibit the operation of cannabis consumption areas operated by licensed cannabis retailers or permit holders; and

WHEREAS, section 31b of the Act, N.J.S.A. 24:6I-45b, also stipulates, however, that any municipal prohibition must be adopted within 180 days of the effective date of the Act (August 21, 2021); and

WHEREAS, to preserve and protect the Township’s rights and legal options under the Act to control such zoning decisions in light of the August 21, 2021 deadline imposed by N.J.S.A. 24:6I-45b, the Township Committee adopted Ordinances 2021-03 and 2021-11, which together prohibit the operation of cannabis retail and delivery establishments in the Township and permit & regulate the operation of cannabis cultivation & processing, manufacturing, wholesaling, and distribution establishments in the Township; and

WHEREAS, on August 19, 2021, the Commission adopted its first set of regulations and rules governing the licensing and operation of cannabis establishments, distributors and delivery services, which regulations and rules are set forth at N.J.A.C. 17:30-1 through N.J.A.C. 17:30-17.9 (“CRC’s Rules”); and

WHEREAS, pursuant to N.J.A.C. 17:30-5.1(b) of the CRC’s Rules, any municipality that has timely adopted an ordinance prohibiting outright the operation of any cannabis establishment, distributor or the principal location of any cannabis delivery service business within a municipality in accordance with N.J.S.A. 24:6I-45b, may thereafter amend its ordinances to allow for, zone, license and regulate such cannabis establishments, distributors and the principal locations of cannabis delivery service businesses; and

WHEREAS, Section 40 of the Act, N.J.S.A. 40:48I-1, authorizes municipalities to adopt ordinances imposing a transfer tax on the sale of cannabis or cannabis items by a cannabis retailer located in the municipality on receipts from the sale of cannabis or cannabis items, and sets forth the limits for same; and

WHEREAS, the Township Committee recognizes the importance of fostering economic opportunities that provide jobs and ratables to the community, while ensuring that such uses can safely and seamlessly fit into the fabric of the community; and

WHEREAS, the Township Committee has determined that the cultivation & processing, manufacturing, wholesale, distribution, retail sale and delivery of cannabis and cannabis items under the Act present special local concerns that should be strictly regulated by the Township through its local zoning and licensing powers; and

WHEREAS, the Township Committee desires to amend its ordinances to authorize the local licensing and regulation of five (5) Class 1 Cultivators, five (5) Class 2 Manufacturers, five (5) Class 3 Wholesalers, and five (5) Class 4 Distributors, and also to authorize the local licensing and regulation of thereof.

NOW THEREFORE, BE IT ORDAINED, by the Township Committee of the Township of Andover that the Code of the Township of Andover shall be amended and supplemented to add Article 13 entitled “Cannabis Licensing and Regulation,” to read as follows in its entirety:

SECTION 1.

§ 13-1 Purpose and Application.

- a. Purpose. This Section has been adopted by the Township Committee of the Township of Andover for the following purposes:

1. To protect the public health, safety, and general welfare of the residents of the Township of Andover by establishing strict licensing limits and regulations on the lawful sale and use of legal cannabis to persons age 21 years or older only, and at all times in conformity with the laws of the State of New Jersey, including without limitation, the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act” (the “Act”), the rules and regulations of the New Jersey Cannabis Regulatory Commission (the “Commission” or “CRC”), and the Township Code, as may be amended from time-to-time hereafter.
 2. To regulate the local licensing and operation of licensed Cannabis Establishments, each as defined in N.J.S.A. 24:6I-33 of the Act, to protect against the unlawful operation, sale, and use of cannabis and marijuana.
 3. To establish certain conditions and limitations on the number of cannabis licenses authorized to be issued within the municipal boundaries of the Township through the local licensing process.
 4. To establish local regulations on the time, location and manner of licensed Cannabis Establishments and activities in accordance with State law.
 5. To prohibit the operation of any Cannabis Retailer and operating premises/principal location of any Cannabis Delivery Service within the Township.
 6. To establish limitations on the number and types of Cannabis Establishment licenses and cannabis marketplace activities.
- b. Applicability. The provisions herein shall apply to all licensees, persons, organizations and businesses operating and/or seeking to operate within the Township as any class of licensed Cannabis Establishment pursuant to the Act.

§ 13-2 Definitions.

This Section defines terms and phrases as necessary to implement the annual license for Cannabis Establishments to operate in the Township. Should any of the definitions in this Section conflict with definitions located elsewhere in the Andover Township Municipal Code, the definitions contained herein shall control for purposes of this Section. If a word, term, or phrase is defined neither in this Section nor elsewhere in the Andover Township Municipal Code, the most common dictionary definition is presumed to be correct.

ACT

The “New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act,” P.L. 2021, c. 16, N.J.S.A. 24:6I-31, et seq., as may be amended from time-to-time in accordance with State law.

ALTERNATIVE TREATMENT CENTER or PRE-EXISTING ALTERNATIVE TREATMENT CENTER

An organization issued a permit, conditional permit, and/or a vertically integrated permit pursuant to the “Jake Honing Compassionate Use Medical Cannabis Act,” P.L. 2009, C. 307 (C. 24:6I-1 et al.) to operate as a medical cannabis cultivator, medical cannabis manufacturer, medical cannabis dispensary or clinical registrant prior to February 22, 2021; and includes any alternative treatment center deemed pursuant to section 7 of the “Jake Honing Compassionate Use Medical Cannabis Act” (C. 24:26I-7) to concurrently hold a medical cannabis cultivator permit, a medical cannabis manufacturer permit, and a medical cannabis dispensary permit and/or any alternative treatment center deemed to concurrently hold any one or more class(es) of Cannabis Licensed Marketplace license(s) pursuant to PL. 2021, c. 16 §33, N.J.S.A. 24:6I-46, and P.L. 2021, c.16 §34, amending N.J.S.A. 24:6I-7.

APPLICANT

A Cannabis Regulatory Commission Licensed Cannabis Entity applying to the Township for a Local Annual License to operate within the Township.

CANNABIS

All parts of the plant *Cannabis sativa* L., whether growing or not, the seeds and/or flower 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 P.L. 2021, c. 16, known as the “New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act” products as set forth in this 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 “Jake Honig Compassionate Use Medical Cannabis Act,” P.L.2009, c.307 (C.24:6I-1 et al.) and P.L.2015, c.158 (C.18A:40-12.22 et al.); marijuana as defined in N.J.S.2C:35-47 2 and applied to any offense set forth in chapters 35, 35A, and 36 of Title 2C of the New Jersey Statutes, or P.L.2001, c.114 (C.2C:35B-1 et seq.), or marihuana as defined in section 2 of P.L.1970, c.226 (C.24:21-2) and applied to any offense set forth in the “New Jersey Controlled Dangerous Substances Act,” P.L.1970, c.226 (C.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,” P.L.2019, c.238 (C.4:28-6 et al.).

CANNABIS CONSUMER

A person 21 years of age or older who purchases, directly or through a cannabis delivery service, acquires, owns, holds, or uses cannabis items for personal use by a person 21 years of age or older, but not for resale to others.

CANNABIS CONSUMPTION AREA

A “Cannabis Consumption Area” as defined under § 3, N.J.S.A. 24:6I-33, of the Act.

CANNABIS CULTIVATOR

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. “Cannabis Cultivators” refers to those uses and activities that require issuance and possession of a valid current Class 1 Cannabis Cultivator license from the New Jersey Cannabis Regulatory Commission and from the Township of Andover in accordance with the Act, the regulations promulgated by the Cannabis Regulatory Commission and the local ordinances of the Township.

CANNABIS DELIVERY SERVICE

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. “Cannabis delivery service” refers to those uses and activities that require issuance and possession of a valid current Class 6 Cannabis Delivery license from the Cannabis Regulatory Commission in accordance with the Act and the regulations promulgated by the Cannabis Regulatory Commission.

CANNABIS DISTRIBUTOR

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. “Cannabis distributors” refers to those uses and activities that require issuance and possession of a valid current Class 4 Cannabis Distributor license from the New Jersey Cannabis Regulatory Commission and the Township of Andover in accordance with the Act, the regulations promulgated by the Cannabis Regulatory Commission and the local ordinances of the Township.

CANNABIS ESTABLISHMENT

A cannabis cultivator, a cannabis manufacturer, a cannabis wholesaler, or a cannabis distributor, as defined under the Act.

CANNABIS ITEM

Any usable cannabis, cannabis product, cannabis extract, and any other cannabis resin available for lawful consumption pursuant to the “New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act,” P.L.2021, c.16 (C.24:6I-31 et al.). “Cannabis Item” does not include: any form of medical cannabis dispensed to registered qualifying patients pursuant to the “Jake Honig Compassionate Use Medical Cannabis Act,” P.L.2009, c.307 (C.24:6I-1 et al.) and P.L.2015, c.158 (C.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,” P.L.2019, c.238 (C.4:28-6 et al.).

CANNABIS LICENSED MARKETPLACE

A license issued under relevant State law including a license that is designated as either a:

- a. Class 1 Cannabis Cultivator license
- b. Class 2 Cannabis Manufacturer license
- c. Class 3 Cannabis Wholesaler license
- d. Class 4 Cannabis Distributor license
- e. Class 5 Cannabis Retailer license
- f. Class 6 Cannabis Delivery license

The term shall also include a conditional license for any one or more of the above designated class(es) except when the context of the provisions of relevant State law otherwise intend to only apply for a license and not a conditional license.

The term shall also include any activity related to cannabis cultivation, cannabis manufacturing, cannabis wholesale, cannabis distribution, cannabis retail and/or cannabis delivery service by a pre-existing alternative treatment center deemed to concurrently hold any one or more class(es) of the above-listed cannabis license(s) pursuant to PL. 2021, c. 16 §33, N.J.S.A. 24:6I-46, and P.L. 2021, c.16 § 34 of the Act, amending N.J.S.A. 24:6I-7; but shall not include the pre-existing alternative treatment’s activities related to medical cannabis cultivation, medical cannabis manufacturing, medical cannabis processing and/or medical cannabis dispensing by a pre-existing medical cannabis alternative treatment

center pursuant to a license or conditional license issued by the State of New Jersey pursuant to the “Jake Honing Compassionate Use Medical Cannabis Act,” P.L. 2009, c. 307 (N.J.S.A. 24:6I-1 et seq.) and P.L. 2015, c. 158 (N.J.S.A. 18A:40-12.22 et seq.).

CANNABIS MANUFACTURER

Any licensed person or entity that processes cannabis items in this State by purchasing or otherwise obtaining usable cannabis, manufacturing, preparing, and packaging cannabis items, and selling, and optionally transporting, these items to other cannabis manufacturers, cannabis wholesalers, or cannabis retailers, but not to consumers. “Cannabis manufacturer” refers to those uses and activities that require issuance and possession of a valid current Class 2 Cannabis Manufacturer license from the New Jersey Cannabis Regulatory Commission and the Township of Andover in accordance with the Act, the regulations promulgated by the Cannabis Regulatory Commission, and the local ordinances of the Township.

CANNABIS PRODUCT

A product containing usable cannabis, cannabis extract, or any other cannabis resin and other ingredients intended for human consumption or use, including a product intended to be applied to the skin or hair, edible cannabis products, ointments, and tinctures. “Cannabis product” does not include: (1) usable cannabis by itself; or (2) cannabis extract by itself; or (3) any other cannabis resin by itself.

CANNABIS RETAILER

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. “Cannabis retailer” refers to those uses and activities that require issuance and possession of a valid current Class 5 Cannabis Retailer license from the New Jersey Cannabis Regulatory Commission in accordance with the Act and the regulations promulgated by the Cannabis Regulatory Commission.”

CANNABIS REGULATORY COMMISSION or COMMISSION or CRC

The administrative agency of the State of New Jersey established pursuant to section 31 of P.L. 2019, c. 153, N.J.S.A. 24:6I-24, to review and approve or deny applications and issue licenses to operate as a Cannabis Establishment or Cannabis Delivery service at the State level independent of the Township’s local license regulations established by ordinance.

CANNABIS WHOLESALER

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. “Cannabis wholesaler” refers to those uses and activities that require issuance and possession of a valid current Class 3 Cannabis Wholesaler license from the New Jersey Cannabis Regulatory Commission and from the Township of Andover in accordance with the Act, the regulations promulgated by the Cannabis Regulatory Commission and the local ordinances of the Township.

CONSUMPTION

Shall mean the act of ingesting, inhaling, or otherwise introducing medical cannabis items and/or cannabis items into the human body.

DELIVERY

Shall mean the transportation of cannabis, cannabis items and related supplies to a consumer. “Delivery” shall also mean the use by a licensed cannabis retailer of any third party technology platform to receive, process, and fulfill orders by consumers, which third party shall not be required to be a licensed cannabis establishment, distributor, or delivery service, provided that any physical acts in connection with fulfilling the order and delivery shall be accomplished by a certified cannabis handler performing work for or on behalf of the licensed cannabis retailer, which includes a certified cannabis handler employed or otherwise working on behalf of a cannabis delivery service making off-premises deliveries of consumer purchases fulfilled by that cannabis retailer.

INDOOR PUBLIC PLACE

Shall mean a structurally enclosed place of business, commerce or other service-related activity, whether publicly or privately owned or operated on a for-profit or nonprofit basis, which is generally accessible to the public, including, but not limited to: a commercial or other office building; office or building owned, leased or rented by the State or by a county or municipal government; public and nonpublic elementary or secondary school building; board of education building; theater or concert hall; public library; museum or art gallery; bar; restaurant or other establishment where the principal business is the sale of food for consumption on the premises, including the bar area of the establishment; garage or parking facility; any public conveyance operated on land or water, or in the air, and passenger waiting rooms and platform areas in any stations or terminals thereof; health care facility licensed pursuant to P.L.1971, c. 136 (C.26:2H-1 et seq.); patient waiting room of the office of a health care provider licensed pursuant to Title 45 of the Revised Statutes; child care center licensed pursuant to P.L.1983, c. 492 (C.30:5B-1 et seq.); race track facility; facility used for the holding of sporting events; ambulatory recreational facility; shopping mall or retail store; hotel, motel or other lodging establishment; apartment building lobby or other

public area in an otherwise private building; or a passenger elevator in a building other than a single-family dwelling.

LICENSEE

Shall mean a person or entity that holds a valid local annual cannabis license issued by the Township pursuant to this Code and simultaneously holds a valid license issued by the Cannabis Regulatory Commission under P.L. 2021, c. 16 (C.24:6I-31 et al.) including a license that is designated as either a Class 1 Cannabis Cultivator license, a Class 2 Cannabis Manufacturer license, a Class 3 Cannabis Wholesaler license, a Class 4 Cannabis Distributor License, and also includes: a person or entity that holds a conditional license for a designated class; a person or entity holding a pre-existing Medical Cannabis Cultivator License, pre-existing alternative treatment center permit first issued by the State of New Jersey, Department of Health, Division of Medicinal Marijuana in accordance with the provisions of the “Jake Honig Compassionate Use Medical Cannabis Act” (P.L. 2009, c. 307, N.J.S.A. 24:6I-1 et seq., and P.L. 2015, c. 158, N.J.S.A. 18A:40-12.22 et seq.) prior to February 22, 2021, and approved by the Township to hold a concurrent municipal license to operate as a Class 1 Cannabis Cultivator, Class 2 Cannabis Manufacturer, Class 3 Cannabis Wholesaler and/or Class 4 Cannabis Distributor in accordance with the provisions hereinafter and P.L. 2021, c. 16 § 33, N.J.S.A. 24:6I-46, and P.L. 2021, c.16 §34, (amending N.J.S.A. 24:6I-7) of the Act.

LICENSED CANNABIS ENTITY

A Licensed Cannabis Establishment or a Licensed Medical Marijuana Facility as defined in this section.

LICENSED CANNABIS ESTABLISHMENT

Shall mean a duly licensed Cannabis Cultivator, a Cannabis Manufacturer, a Cannabis Wholesaler, or a Cannabis Distributor under the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act, N.J.S.A. 24:61-31, et. seq.

LICENSED MEDICAL MARIJUANA FACILITY

Shall mean a duly licensed Medical Cannabis Cultivator, a duly licensed Medical Cannabis Manufacturer, a duly licensed Cannabis Dispensary, or an Alternative Treatment Center lawfully operating pursuant to the Jake Honig Compassionate Use Medical Cannabis Act, N.J.S.A. 24:61-1, et. al.

LOCAL ANNUAL LICENSE

Shall mean an annual license issued by the Township of Andover which a Licensed Cannabis Establishment shall be required to obtain in order to lawfully operate within the jurisdictional boundaries of the Township in accordance with the Township’s ordinances and L. 2021, c. 16 §31 C (2), N.J.S.A. 24:6I-45C(2), in addition to a valid and current license separately issued by the Cannabis Regulatory Commission at the same license class and tier for the same location

MANUFACTURE

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

MOVABLE OR MOBILE STRUCTURE

Means any vehicle, wagon, food truck, temporary modular structure, or other movable structure that may be used for sale or cannabis items.

PERSONAL USE or RECREATIONAL USE

Means the purchase, sale, possession, and/or consumption of cannabis items by person(s) who are not a Registered Qualifying Patient under the “Jake Honing Compassionate Use Medical Cannabis Act” P.L. 2009, c. 307 (N.J.S.A.24:6I-1 et seq.) and P.L. 2015, c. 158 (N.J.S.A. 18A:40-12.22 et seq.).

PREMISES or LICENSED PREMISES

Means the following areas of a location licensed under P.L.2021, c.16 (C. 24:6I-31 et al.): all public and private enclosed areas at the location that are used in the business operated at the location, including offices, kitchens, rest rooms, and storerooms; all areas outside a building that the Cannabis Regulatory Commission has specifically licensed for the production, manufacturing, wholesaling, distributing, retail sale, or delivery of cannabis items; and, for a location that the commission has specifically licensed for the production of cannabis outside a building, the entire lot or parcel that the licensee owns, leases, or has a right to occupy.

PUBLIC PLACE

Shall mean any place to which the public has access that is not privately owned, including but not limited to any property owned by the Township of Andover, the County of Sussex, and or any other government subdivision of the State of New Jersey situated within the geographic boundaries of the Township; or any place to which the public has access , including, but not limited to, a public street, road, thoroughfare, 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.

WHOLESALE TRADE

Shall mean establishments or places of business primarily engaged in selling merchandise to other businesses, including retailers, industrial, commercial, institutional, or professional business users, other wholesalers, or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

§ 13-3 Prohibitions on other Cannabis Establishments, Cannabis Distributors, Cannabis Delivery Services and Cannabis Consumption Areas.

- a. Pursuant to section 31 of the Act (N.J.S.A. 24:6I-45b), Class 5 Cannabis Retail is prohibited within the geographic boundaries of the Township of Andover and no State or local licenses shall be authorized to be issued for same.
- b. Pursuant to section 31 of the Act, N.J.S.A. 24:6I-45b, the operating premises/principal location of any cannabis delivery service, including any New Jersey licensed Class 6 Cannabis Delivery Service, is prohibited from being located within the geographic boundaries of the Township of Andover, and no local licenses shall be authorized to be issued for same. Nothing herein shall be construed to prohibit the transport or delivery of cannabis items and related supplies within the Township by a New Jersey licensed Class 6 Cannabis Delivery Service on private property to a consumer of 21 years of age or older for personal use from the licensed premises of a Class 6 Cannabis Delivery Service located outside the geographic boundaries of the Township in accordance with the Act and the regulations of the Commission.
- c. Pursuant to section 32 of the Act, N.J.S.A. 24:6I-21, all Cannabis Consumption Areas are prohibited from being located or otherwise operated within the geographic boundaries of the Township of Andover.

§ 13-4 Numerical Limit on Local Cannabis Licenses and Class Types of Cannabis Establishments Permitted.

- a. The following number and type of Township Establishment licenses, otherwise known as “local annual cannabis license” is/are authorized to be available for issuance by the Township on an annual basis pursuant to the Act and the regulations of the Commission and the Township Code, first commencing August 22, 2021:
 1. Five (5) Class 1 Cultivators, five (5) Class 2 Manufacturers, five (5) Class 3 Wholesalers, and five (5) Class 4 Distributors holding the requisite current valid & active permits issued by the Commission in accordance with the Act, which authorizes the entities to cultivate & process, manufacture, wholesale, and distribute cannabis, respectively, in accordance with the Township Code, and the

Act and the regulations of the Commission, as may hereafter be amended. At no time shall such local annual license be transferrable from the initial licensee to another entity without prior formal licensing approval from the Commission and the Township.

- b. Except as provided in a.1 above, no additional licenses or license class types shall be issued or otherwise made available by the Township except by formal adoption of an ordinance amending the provisions of the Township Code herein.
- c. Any person, organization and/or business, including a licensed Cannabis Establishment or operation of limited class type operating outside the scope of a license, found to engage in the cultivation, manufacturing, wholesale, and/or distribution of cannabis or cannabis items without first possessing a valid local annual cannabis license issued by the Township shall be subject to a civil fine and penalty as set forth herein below.
- d. Any person, organization and/or business found to operate a Cannabis Delivery Service from any premises within the geographic boundaries of the Township shall be subject to a civil fine and penalty as set forth herein below.

§ 13-5 Municipal Licensure Requirements.

- a. Prior to commencing and engaging in any cannabis business activities and uses within the Township permitted by the Commission pursuant to a State-issued Class 1, 2, 3, or 4 license validly issued in accordance with the Act, any person, business, and/or organization shall first apply for and secure from the Township a local annual cannabis license. Except that nothing herein shall be read or construed to conflict with the statutory provisions as to Cannabis Delivery Services licensed by the Cannabis Regulatory Commission.
- b. The Township Committee shall begin accepting applications for Class 1, 2, 3, or 4 local annual cannabis licenses 15 days following final passage of this ordinance.
- c. The initial local annual cannabis license shall be valid until December 31, 2022. Thereafter the period of each annual local Cannabis Establishment license shall commence on January 1 and expire on December 31 of the calendar year.
- d. By no later than December 1 of any existing license year, the licensee shall be required to file an application for the renewal of a local annual cannabis license to be authorized to continue operation as a Class 1, 2, 3, or 4 Cannabis Establishment within the Township.

- e. All local annual cannabis licenses shall be conditional, and shall remain subject to all State and local laws and regulations. Failure of any licensee to comply with such applicable laws shall be grounds for revocation and/or nonrenewal of the local annual cannabis license by the Township Committee.
- f. The initial application fee for each local annual cannabis license, of each class-type, shall be \$5,000.00 and the renewal application fee shall be \$2,500.00. In addition, an escrow shall be established with the Township by the licensee for Township administrative and professional fees and costs relating to the application and oversight during the term of the license.
- g. Unless the Township issues a license renewal, it shall be unlawful for any person to manufacture, sell, distribute, transfer, transport, or otherwise remove cannabis or cannabis products/items from the premises of any Cannabis Establishment after the expiration date recorded on the face of the license.
- h. All local annual cannabis licenses shall be non-transferrable. All local annual cannabis licenses shall be specific to the property location authorized and approved by the Township and shall not otherwise be considered a “pocket license.”
- i. The licensed premises of all licensees shall be subject to unannounced inspections by a designated representative of the Township. Access shall be permitted by the designated representative on demand by the Township’s authorized representative.

§ 13-6 Application for Local License and Annual Local License Fee

- a. **Application Fee.** The applicant shall submit an application to the Office of the Municipal Clerk, under oath on a form furnished by the Township of Andover, with an application fee of five thousand dollars (\$5,000.00), which fee shall be nonrefundable to the extent it has been expended toward the Township’s administrative, professional, and other costs for the application review process.
- b. **Annual License Renewal Fee.** The annual license renewal fee for successful applicants operating cannabis establishments in the Township of Andover shall be implemented as required in accordance with the following fee schedule, which shall be refunded in the event the applicant does not receive an annual license:

Class 1 Cannabis Cultivator license: five thousand dollars (\$2,500.00)

Class 2 Cannabis Manufacturer license: five thousand dollars (\$2,500.00)

Class 3 Cannabis Wholesaler license: five thousand dollars (\$2,500.00)

Class 4 Cannabis Distributor license: five thousand dollars (\$2,500.00)

- c. Upon the receipt of an application, the Office of the Municipal Clerk shall transmit the application to the Office of Police Chief for the Andover Police Department or the Chief's designee, the Mayor, the Township Administrator, and the Township Committee for review of the application. These departments shall review the application and forward their comments to the Clerk's Office fifteen (15) business days from transmission of the application.
- d. The Clerk shall establish a reasonable application period and deadline for all applications. An application shall be deemed incomplete and shall not be processed by the Clerk and transmitted for review until all documents and application fees are submitted. To be deemed complete, all applications shall be accompanied by the following:
 1. The name and home address of the Applicant. If the Applicant is not a natural person, the Applicant shall submit a statement setting forth the names and home addresses of all stockholders in the corporation or partnership who own 10% or more of its stock, of any class or of all individual partners in the partnership who own a 10% or greater interest therein, as the case may be. If one or more such stockholder or partner is itself a corporation or partnership, the stockholders holding .10% or more of that corporation's stock, or the individual partners owning 10% or greater interest in that partnership, as the case may be, shall also be listed with its home address. The disclosure shall be continued until names and home addresses of every non-corporate stockholder, and individual partner, exceeding the 10% ownership criteria has been listed.
 2. The name of any other business entities in which any of the individuals identified pursuant to subsection (b)(1) of this provision have or have had an ownership interest which: (i) cultivates, manufactures, wholesales or dispenses cannabis or cannabis products; (ii) invests or finances in any such entity; or (iii) is regulated by any governmental entity.

3. A copy of the license issued by the Cannabis Regulatory Commission authorizing the Applicant to operate as a Licensed Cannabis Establishment with a copy of all application materials and documents submitted to the Commission for a license.
 4. An affidavit from the Applicant attesting to and accompanied by documentary proof of compliance with all state and local laws regarding affirmative action, anti-discrimination and fair employment practices. The applicant shall also certify under oath that they will not and shall not discriminate based on race, color, religion (creed), gender, gender expression, age, national origin (ancestry), disability, marital status, sexual orientation, or military status, in any of its activities or operations.
 5. Plans prepared by a duly licensed architect, engineer, or planner which shall depict the layout and design for the proposed location of the Licensed Cannabis Entity within the Township.
 - (a) The required plans shall depict the proposed security measures for the location. The plans shall be deemed confidential consistent with state law.
 - (b) The Applicant shall also provide either a lease agreement or agreement of sale for the property where the Applicant intends to operate the Licensed Cannabis Entity. The lease agreement or agreement of sale may be contingent upon the Applicant's ability to successfully: (i) obtain a Local License; and (ii) if applicable, obtain approval from the Andover Township Planning Board and/or the Andover Township Land Use Board.
 6. Acknowledgment and agreement authorizing the Andover Police Department to perform background checks and/or investigations regarding any individuals disclosed pursuant to subsection (b)(1) of this provision and any employees of the Applicant.
- e. The Office of Police Chief for the Andover Police Department or the Chiefs designee, the Mayor, the Township Administrator, and the Township Committee shall evaluate any and all applicants and issue a notification of award after consideration and evaluation of the following criteria:

1. Qualifications and Experience

Applicant's owners' or principals' qualifications and experience operating in highly regulated industries, including cannabis, healthcare, pharmaceutical manufacturing, and retail pharmacies, with preference to experience operating such businesses within the State of New Jersey and where the value of owners' experience shall outweigh the experience of non-owner principal, submission of formal business plan for the proposed Licensed Cannabis Entity including pro forma is required.

2. Security Plan

Applicant's qualifications and experience related to public safety and security, including any of the applicant's owners' or principals' experience in law enforcement and drug enforcement, and a summary of the applicant's plans for storage of products and currency, physical security, video surveillance and digital storage, security personnel and their qualifications, and visitor and employee security management.

3. Research Experience

Applicant's or its owners' experience conducting or supporting or plans to conduct institutional review board-approved research involving human subjects that is related to medical cannabis or substance abuse, where the value of past or ongoing clinical research with IRB approval shall outweigh plans to conduct such research, whether the applicant has had any assurance accepted by the U.S. Department of Health & Human Services indicating the applicant's commitment to complying with 45 CFR Part 46, and whether the applicant has a research collaboration or partnership agreement in effect with an accredited U.S. school of medicine or osteopathic medicine with experience conducting cannabis-related research.

4. Labor Peace Agreement

Applicant's or its owners' demonstrated commitment or sufficient experience as responsible employers, defined as the applicant entity being a party to a labor peace agreement or the applicant entity or its parent company being a party to a collective bargaining agreement in the regulated cannabis industry for at least one year prior to application for a Cannabis Establishment license, in an effort to create well-paying jobs with employee benefits within the municipality. If possible, applicant entity or parent entity should submit attestation signed by a bona fide labor organization stating that the applicant has entered into a labor

peace agreement. This requirement shall not apply to applicants for a conditional permit.

5. Environmental Plan

Summary of the applicant's environmental impact and sustainability plan; whether the applicant entity or its parent company has any recognitions from or registrations with federal or New Jersey state environmental regulators for innovation in sustainability; and whether the applicant entity or its parent company holds any certification under international standards demonstrating the applicant has an effective environmental management system or has a designated sustainability officer to conduct internal audits to assess the effective implementation of an environmental management system.

6. Community Commitment

Applicant's ties to the host community, demonstrated by at least one shareholder's proof of residency in the Township of Andover for five or more years in the past ten years or at least one shareholder's continuous ownership of a business based in the Township of Andover for five or more years in the past ten years.

7. Workforce Development Plan

Applicant's workforce development and job creation plan, which may include information on the applicant's history of job creation and planned job creation at the proposed Licensed Cannabis Entity; education, training and resources to be made available for employees; any relevant certifications, and an optional diversity plan.

8. Customer Advocacy Plan

Applicant's customer advocacy plan, which may include information on the applicant's history of customer counseling and planned customer counseling at the proposed Licensed Cannabis Entity; education, training and resources to be made available for customers.

9. Community Impact Plan

Applicant's community impact plan summarizing how the applicant intends to have a positive impact on the community in which the proposed Licensed Cannabis Entity is to be located; which shall include an economic impact plan and a description of outreach activities and potential contributions to the community.

10. New Jersey Minority-Owned

Applicant's demonstrated commitment to diversity in its ownership composition and hiring practices and whether the applicant entity or its parent company holds any certifications as a NJ minority-owned, women-owned, or veteran-owned business.

- f. Notwithstanding the foregoing competitive application process, a notification of award and conditional municipal license shall allow the recipient applicant to pursue a State permit or license in the appropriate classification for up to 12 months, which may be extended in the Township Committee's discretion for an additional 6 months for good cause. No license to operate shall be issued until the applicant has received a State permit and satisfied other prerequisites of municipal licensure. If the recipient of a notice of award and conditional license has not received a State permit or license within 12 months from issuance, unless extended for good cause, the Municipal Clerk shall issue a new request for applications and evaluate all applicants for licensure under the above criteria.

§ 13-7 Additional Requirements.

- a. Cannabis Establishments shall meet all of the requirements for licensure pursuant to the Act, the regulations of the Commission and all other applicable State and local laws.
- b. Cannabis Establishments shall at all times hold a valid current license or permit issued by the State of New Jersey, along with a local annual cannabis license issued by the Township to undertake cannabis activities at the permitted property. Both the Township and State-issued licenses are valid only for the location identified on the licenses and until the expiration date printed on the license. Both the Township- and State-issued licenses shall be prominently displayed inside the permitted Cannabis Establishment in a location where it can be easily viewed by State and local law enforcement and administrative authorities.
- c. Cannabis Establishments shall be conducted solely within the confines of the licensed location of the licensed premises on the permitted property. No Cannabis Establishment shall be permitted to operate from a movable, mobile or transitory location, except for the permitted transportation of cannabis products to and from the facility pursuant to State law by a licensed Class 6 Delivery Service.

- d. Cannabis Establishments shall comply with the Act, the regulations of the Commission, and the Township Code, including without limitation the Zoning Code, the Building Code, and the Housing and Property Maintenance Code, at all times.
- e. With the exception of loading activities incidental to the operation of the Cannabis Establishment, all operations shall occur indoors, within the enclosed licensed building, except as otherwise authorized for licensed Class 6 Delivery Services only.
- f. All Cannabis Establishments shall at all times adhere to the safety and security standards and plan established and approved by the Commission, including the requirements for the maintenance of a security system that meets State law requirements. In addition, all Cannabis Establishments shall also comply with the below provisions. The Andover Township Chief of Police shall make the determination as to whether Cannabis Establishments are in compliance with the following provisions:
 - 1. Cannabis Establishments shall have security systems in place, along with a continuous recording system that records for a minimum 30-day archive. This system shall be shared with the Andover Township Police Department via web browser providing direct access to real-time and archived video.
 - 2. Cannabis Establishments shall provide the Andover Township Police Department with the name and telephone number of one staff person to notify during operating hours, and the name and cellphone number of at least two staff persons to notify after operating hours regarding suspicious activity.
 - 3. Outside areas of the premises shall be well-illuminated for safety and security, but not in a way that is counter to Township Code requirements for outdoor lighting and screening, or in a way that is obtrusive to pedestrians, drivers or other users of the public right-of-way.
 - 4. All cannabis in whatever form stored at the permitted premises shall be kept in a secure manner and shall not be visible from outside the permitted premises, nor shall it be processed, exchanged, displayed or dispensed outside the confines of the licensed structure of the premises. No cannabis products shall be visible from a public sidewalk, public street or right-of-way, or any other public place.
 - 5. Cannabis Establishments shall properly dispose of all materials and other substances in a safe and sanitary manner in accordance with local and State laws, including the rules and regulations of the Commission.

6. Cannabis Establishments shall be equipped with ventilation systems sufficient in type and capacity to eliminate cannabis odors emanating from the interior to the exterior of the premises discernible by the ordinary senses. The ventilation system shall be inspected and approved by the Township Construction Official.
7. The hours of operation for all Cannabis Establishments shall be limited to 9:30 a.m. to 9:00 p.m. Eastern Standard Time.
8. Cannabis Establishments shall post conspicuous signage inside and outside the building that consumption of cannabis is prohibited anywhere on the premises, including the parking area and inside vehicles in the parking area.
9. Prohibition on Mobile Structures. Each Cannabis Establishment shall at all times conduct business within the confines of a licensed premises. No Cannabis Establishment shall be housed or operated in a vehicle or any movable or mobile structure. Nothing herein shall be deemed to apply to or otherwise conflict with the statutory and regulatory provisions applicable to Cannabis Delivery Service holding a valid and current license issued by the New Jersey Cannabis Regulatory Commission

§ 13-8 Local Cannabis Transfer and User Taxes.

- a. Establishment of Transfer and User Tax. Pursuant to section 40 of the Act, N.J.S.A. 40:48I-1a(1), the following user and transfer taxes are hereby established on all Cannabis Establishments operating within the Township, at the maximum amount as permitted by the laws of the State of New Jersey or the amounts set forth below, whichever is greater:
 1. A transfer tax of 2% shall be imposed on the gross receipts from each sale of all cannabis and cannabis items by any cannabis cultivator or manufacturer; a transfer tax of 1% shall be imposed on the gross receipts from each sale of all cannabis and cannabis items by any cannabis wholesaler.
 2. The transfer 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.
 3. The transfer tax shall be in addition to any other tax or fee imposed pursuant to statute or local ordinance or resolution by any governmental entity with regard to cannabis.

4. In addition, there shall be a 2% user tax imposed on any concurrent license holder operating more than one Cannabis Establishment.
5. 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 on the license holder's business that is located in the Township to any other of the license holder's businesses, whether located in this municipality or any other municipality.
6. The user tax shall be in addition to any other tax or fee imposed pursuant to statute or local ordinance or resolution by any governmental entity with regard to cannabis.
7. Any transaction for which the user or transfer tax hereinabove is imposed, is exempt from the tax imposed under the Sales and Use Tax Act, except for those which generate receipts from the retail sales by cannabis retailers in the case that the retail sale of cannabis should become legal in the Township.

b. Remittance of Cannabis Taxes; Delinquencies.

1. All transfer and user taxes collected by any Cannabis Establishment pursuant to this Chapter shall be remitted to the Township's Chief Financial Officer on a monthly basis.
2. Delinquent taxes. If the transfer tax or user tax is not paid when due, the unpaid balance, and any interest accruing thereon, shall be a lien on the parcel of real property comprising the Cannabis Establishment's premises.
3. 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.
4. The Township shall file in the office of its Tax Collector a statement showing the amount and due date of the unpaid balance of cannabis taxes 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.
5. Failure of the Cannabis Establishment to make full payment of the user and transfer taxes hereinabove imposed shall be grounds for the immediate revocation and/or termination of any local annual cannabis license and/or any local annual cannabis

license shall not be renewed unless until all outstanding user and transfer taxes are paid in full. All user and transfer taxes shall also be paid should the licensee make application to the Andover Township Planning Board and/or the Andover Township Land Use Board.

§ 13-9 Odor Mitigation and Control.

- a. The emission into the outdoor atmosphere of any volatile organic compounds, solid particles, liquid particles, vapors and/or gases in excess of the rates, limits/levels set by the New Jersey Department of Environmental Protection are hereby prohibited.
- b. Cannabis Establishments are prohibited from causing, permitting, or allowing to be emitted into the outdoor atmosphere any odors detectable by the ordinary human senses, substances and/or other air contaminants, in such quantities and for such duration as are, or tend to be, injurious to human health or welfare, animal or plant life or property, or would unreasonably interfere with the enjoyment of life or property on any public or private property within the Township.
- c. The business/facility location of all Cannabis Establishments shall have a fully integrated self-contained air treatment, HVAC, ventilation and exhaust system which shall be regularly maintained and fully operational and running at all times.
- d. All Cannabis Establishments shall be required to retain a qualified environmental consultant approved by the Township, who shall be available to promptly respond to the site in the event of an incident or adverse event within a reasonable period of time not to exceed 12 hours.
- e. All Cannabis Establishments shall be required to monitor all activities for the presence and prevention of odors and the maintenance and trouble-shooting of all odor control equipment on a daily basis. All Cannabis Establishments shall maintain written records of all odor monitoring, equipment maintenance/repairs, odor investigations, air quality studies and any adverse events, and odor complaints.
- f. All records as to odor control monitoring, investigations, odor control equipment maintenance/repairs, air quality studies and adverse events shall be produced to the Township upon request.
- g. Outside generators and other mechanical equipment used for any kind of power supply, cooling or ventilation shall be enclosed and have appropriate baffles, mufflers, and/or other noise reduction systems to mitigate noise pollution, in accordance with the Township Code and applicable State law.

§ 13-10 Corporate Designee Contact.

All Cannabis Establishments operating within the Township shall be required to designate a corporate representative of the business who shall be available 24 hours daily to serve as the primary person of contact for the business, and shall have full authority to make decisions on behalf of the business in the event of an emergency. The Cannabis Establishment shall provide the up-to-date direct telephone and email contact information for the corporate representative to the Township Police Department and the Township Administrator and shall assure that such contact information remains current at all times. At a minimum, the corporate representative shall be responsible to respond to the Township in the event of a report of criminal activity, adverse odor event, or any suspected violation of applicable State and/or local laws.

§ 13-11 Manner of Delivery of Cannabis and Cannabis Items.

The actual sale, transfer, and/or delivery of cannabis and cannabis items by any Class 6 Cannabis Delivery Service to a consumer occurring within the Township shall be prohibited from taking place in any public place or on any public property. Class 6 Cannabis Delivery Services shall only be permitted to deliver cannabis and cannabis items to private property, and only with the express permission and authorization of the owner of the property. Nothing herein shall be read or construed to conflict with any regulations and/or license conditions established by the Commissions with respect to the transport and delivery of cannabis and cannabis items by Class 6 Cannabis Delivery services.

§ 13-12 Civil Fines and Penalties.

- a. Any person(s), firm(s), business(es), corporation(s) and/or other organization(s), including any licensed Cannabis Establishment, found in violation of any provision(s) of the Township Code shall be subject to a civil fine and penalty not exceeding \$2,000, in accordance with the Township Code.
- b. Any violation of the Township Code by a licensed Cannabis Establishment may be grounds for revocation and/or nonrenewal of any issued local annual cannabis license. Upon reasonable notice to the licensee by the Township Administration, a hearing shall be conducted before the Township Committee to decide whether sufficient grounds exist to revoke any and all classes of local annual cannabis licenses issued to the licensee. The licensee may be permitted to be represented by legal counsel during the hearing, to present evidence, testimony and witnesses.
- c. Each and every day any person(s), firm(s), business(es), corporation(s) and/or other organization(s), including any licensed Cannabis Establishment, remains in violation of the provisions of the Township Code after the deadline for compliance set forth in any

notice of violation issued by the enforcing officer(s) of the Township, shall be considered a continuing violation punishable as a separate and distinct offense and subject to a separate civil fine and penalty for each and every day the violation continues.

- d. The Municipal Court or Superior Court shall have jurisdiction to hear and decide any action(s) brought to enforce the provisions of the Township Code, the hearing for which shall be conducted in a summary manner pursuant to N.J.S.A. 2B12-16a, and any final order imposing fines and penalties for a violation of this code shall be enforceable in the Municipal Court or Superior Court and collectible as a lien against the property of the violator in accordance with the Penalty Enforcement Law of 1999, N.J.S.A. 2A:58-10 et seq.

SECTION 2.

§ 13-14 Cannabis establishments and delivery services prohibited.

Pursuant to section 31b of the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (P.L. 2021, c. 16) (N.J.S.A. 24:6I-45b) (“Act”) all Cannabis Establishments, Cannabis Distributors and operating premises/principal location of Cannabis Delivery Services based in the Township are hereby prohibited from operating anywhere in the Township, except for five (5) Class 1 Cultivators, five (5) Class 2 Manufacturers, five (5) Class 3 Wholesalers, and five (5) Class 4 Distributors, licensed in accordance with the Township Code, and in such circumstances, only as permitted as a conditional use pursuant to same. Nothing herein shall be read or construed to restrict the transport and delivery of cannabis items and cannabis supplies directly to a consumer on private property for personal use by a New Jersey licensed Class 6 Cannabis Delivery Service having its licensed premises based at a location outside the geographic boundaries of the Township, and which the transport and delivery of such cannabis items and related supplies is initiated from such licensed location.

SECTION 3.

§ 13-15 Additional regulations for Cannabis Establishments.

- a. The purpose of this Section is to protect the public health, safety, and welfare of the residents, businesses and property in the Township of Andover by prescribing the manner in which Cannabis Establishments can be operated within its borders, regulating those uses that are not expressly prohibited in a manner that is consistent with New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (P.L. 2021, c. 16), and the regulations of the Cannabis Regulatory Commission, set forth at N.J.A.C. 17:30-1 et seq., first adopted on August 19, 2021, and to minimize negative impacts on the community.

- b. A Cannabis Establishment may be permitted as a conditional use subject to the following conditions:
1. The Cannabis Establishment shall be required to secure a valid current license by the State of New Jersey, Cannabis Regulatory Commission, and the Township of Andover in accordance with the Township Code.
 2. With the exception of loading activities incidental to the operation of the Cannabis Establishment, all operations shall occur indoors, within an enclosed building.
 3. A Cannabis Establishment shall not contain a drive-thru.
 4. A Cannabis Establishment shall not be located within a building that contains a residence, or within a mixed-use development that includes residential uses.
 5. A Cannabis Establishment shall not be permitted to sell food, beverages, alcohol or tobacco on the premises of the business.
 6. If zoning approval is granted, the Cannabis Establishment shall not be permitted to transfer to another location within the Township without first applying for and obtaining any and all required approvals from the State of New Jersey, Cannabis Regulatory Commission, and the Township of Andover and its Planning Board and/or Land Use Board, as appropriate.
 7. Signage.
 - (a) A Cannabis Establishment shall comply with all respective signage regulations pursuant to the Township Code, and the regulations and rules as to signage and advertisements adopted by the Cannabis Regulatory Commission.
 - (b) A Cannabis Establishment shall not display cannabis and cannabis paraphernalia in a manner that is clearly visible to a person from the exterior of the principal structure.
 - (c) Signage shall not include a cannabis plant leaf or other outward glorification of cannabis consumption, including but not limited to shape of, or a shape bearing the likeness or containing characteristics of, a realistic or fictional human, animal, or fruit, or part thereof, including artistic, caricature, or cartoon renderings.

- (d) Signage shall be conspicuously posted inside and outside the building that consumption of cannabis is prohibited anywhere on the premises, including the parking area and inside vehicles in the parking area.
- 8. A Cannabis Establishment shall be equipped with ventilation systems sufficient in type and capacity to eliminate cannabis odors emanating from the interior to the exterior of the premises discernible by the ordinary senses in accordance with the Township Code.
- 9. A Cannabis Establishment shall comply with the off-street parking requirements in accordance with the Township Code.
- 10. A Cannabis Establishment shall comply with the Buffer Zone Requirements in accordance with the Township Code. In addition, a masonry wall measuring no less than 8 feet in height shall be provided to further screen the Cannabis Establishment from adjacent residential properties. The side of the masonry wall facing the Cannabis Establishment may be planted with vines or finished with a façade treatment that is complementary to the principal structure. The side of the masonry wall facing adjacent residential properties shall be finished with a façade treatment resembling stacked stone, brick, or other design acceptable to the Board.

SECTION 5. This Ordinance shall take effect upon final passage and publication according to law.

SECTION 6. All ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

SECTION 7. If any section, subsection, paragraph, sentence or any part of this Ordinance is adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this Ordinance not directly involved in the controversy in which such judgment shall have been rendered.

SECTION 8. This Ordinance shall take effect immediately upon final passage, approval, and publication as required by law.

SECTION 9. This Ordinance may be renumbered for codification purposes.

**TOWNSHIP OF ANDOVER
COUNTY OF SUSSEX, STATE OF NEW JERSEY**

ORDINANCE #2022-11

AN ORDINANCE OF THE TOWNSHIP OF ANDOVER, COUNTY OF SUSSEX, STATE OF NEW JERSEY TO ADD CHAPTER 13, “CANNABIS ESTABLISHMENT LICENSING AND REGULATION,” TO THE TOWNSHIP CODE, ESTABLISHING AN ANNUAL LICENSE ISSUED BY THE TOWNSHIP FOR ANY CANNABIS ESTABLISHMENT OPERATING WITHIN THE TOWNSHIP PURSUANT TO THE NEW JERSEY CANNABIS REGULATORY, ENFORCEMENT ASSISTANCE, AND MARKETPLACE MODERNIZATION ACT

Summary of Ordinance #2022-11

This Ordinance adds Chapter 13 to the Township Municipal Code, creating an annual license for any cannabis establishment that wishes to operate in the Township (‘Local License’). The Local License would be required in addition to the State license that must be obtained for a cannabis establishment to operate legally, pursuant to the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act.

The Ordinance affirms that no cannabis retailer or cannabis delivery service shall be based in the Township, and prohibits any cannabis consumption area from being located within the Township.

The Ordinance establishes that a maximum of five (5) Local Licenses shall issue for each of the following types of cannabis establishments to legally operate within the Township: Class 1 Cultivators, Class 2 Manufacturers, Class 3 Wholesalers, and Class 4 Distributors.

The Ordinance imposes a \$5,000 application fee and a \$5,000 annual renewal fee for the Local License and establishes an intensive review process for a Local License application, involving the Township Administrator, the Township Police Department, the Mayor, and the Township Committee, which application includes criteria concerning a prospective licensee’s qualifications & experience, security plan, research experience, employment experience, environmental plan, commitment to & impact upon the community, and ownership attributes.

The Ordinance establishes restrictions for the operation of any cannabis establishment within the Township, regulating the security, aesthetics, signage, parking, ventilation and odor mitigation & control, hours of operation, and waste disposal procedures of any cannabis establishment.

The Ordinance establishes that Local Licenses are conditional and can be revoked, and establishes civil fines and penalties for violations thereof. The Ordinance establishes transfer and user taxes for cannabis establishments operating within the Township, in accordance with the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act, which permits such local taxation of cannabis establishments.

NOTICE OF PENDING ORDINANCE

PUBLIC NOTICE is hereby given that the foregoing Ordinance was introduced and passed at first reading at a Regular Meeting of the Township Committee of the Township of Andover held on April 7, 2022. A public hearing regarding same will be held at a hybrid meeting scheduled for May 5, 2022, beginning at 7:00PM, to be held both in person and virtually via Zoom, which details for accessing the meeting are as follows:

Webinar ID: 832 6104 1515

Passcode: 100240

Join Zoom Meeting with browser:

<https://us02web.zoom.us/j/83261041515?pwd=dkkJOGJRMWc5MjUxcE9UWWxadlNRdz09>

or

Join Zoom Meeting by Phone:

+ 1 301 715 8592

All persons interested both for and against said ordinance shall be given an opportunity to be heard concerning same.

Patricia L. Bussow, RMC
Administrator/Municipal Clerk