

ORDINANCE O:12-2021

AN ORDINANCE OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF MONROE TO AMEND CHAPTER 175 OF THE CODE OF THE TOWNSHIP OF MONROE, ENTITLED “LAND MANAGEMENT” TO PERMIT THE CULTIVATION, PROCESSING, OR DISPENSING OF RECREATIONAL AND MEDICAL CANNABIS AND REGULATE THE LOCATION OF THE CULTIVATION, PROCESSING, OR DISPENSING OF RECREATION AND MEDICINAL CANNABIS WITHIN THE TOWNSHIP

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 one 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;
- 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, Section 31.a. of the Act authorizes municipalities by ordinance to adopt regulations governing the number of “cannabis establishments” (defined in Section 3 of the Act

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as “a cannabis cultivator, a cannabis manufacturer, a cannabis wholesaler, or a cannabis retailer”), and the number of “cannabis distributors” and “cannabis delivery services,” that are allowed to operate within their boundaries, as well as the location, manner, and times of operation of such establishments, distributors or delivery services, and to establish civil penalties for the violation of any such regulations; and

WHEREAS, “medical cannabis”, as defined in the Act, has been previously legalized for dispensation to, and use by, registered qualifying patients pursuant to 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.); and

WHEREAS, the Act includes numerous amendments to the Jake Honig Compassionate Use Medical Cannabis Act (the “Honig Act”), including authorization for permitted medical cannabis “alternative treatment centers” (“ATCs”) to be licensed as personal use cannabis facilities; and

WHEREAS, the Act and the Honig Act, as amended, also introduce, expand, or clarify various requirements and authorizations for “cannabis testing facilities,” which can test cannabis or medical cannabis for the Cannabis Regulatory Commission (“CRC”); “clinical registrants,” which may dispense medical cannabis; and “cannabis consumption areas,” which are designated premises in which cannabis or medical cannabis may be consumed; and

WHEREAS, the Council of the Township of Monroe has determined that, due to the comprehensive requirements for cannabis- and medical cannabis-related business operations that have been established by the Act and the amended Honig Act, and the CRC regulations that are anticipated to be promulgated pursuant to the Act and the amended Honig Act, it is now appropriate, and in the best interest of the health, safety and welfare of the Township’s residents and members of the public who visit, travel, or conduct business in the Township of Monroe, to amend the Township of Monroe’s zoning regulations to permit all manner of lawful cannabis-related and medical cannabis-related land use and development within the geographic boundaries of the Township of Monroe, and to enact licensing requirements for lawful cannabis-related and medical cannabis-related uses, activities and operations; and

WHEREAS, the Municipal Land Use Law (N.J.S.A. 40:55D-1, et seq.) delegates to municipalities the power to zone and regulate development and that statute is amended from time to time by the State legislature; and

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WHEREAS, the Township Council of the Township of Monroe has recommended certain amendments to Chapter 175 of the Code of the Township of Monroe and has determined that it is in the best interest of the Township to amend this specific section.

NOW, THEREFORE, BE IT ORDAINED by the Township Council of the Township of Monroe that the Code of the Township of Monroe is hereby amended to include the amendments herein.

§ 175-163.4 Cannabis.

The Township of Monroe shall permit Cannabis Cultivators, Manufacturers, Wholesalers, Distributors, Retailers and Delivers within the Township of Monroe pursuant to this Chapter.

§ 175-163.4-1 Definitions.

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. This person or entity shall hold a Class 1 Cannabis Cultivator license.

Cannabis Delivery

Any licensed person or entity 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.

Cannabis Distributer

Any licensed person or entity involved in transporting cannabis plants in bulk from one licensed cultivator to another licensed cultivator, or cannabis items in bulk from any type of licensed cannabis business to another.

Cannabis Establishment

A cannabis [grower] cultivator, [also referred to as a cannabis cultivation facility], a cannabis [processor] manufacturer, [also referred to as a cannabis product manufacturing facility], a cannabis wholesaler, or a cannabis retailer.

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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. This person or entity shall hold a Class 2 Cannabis Manufacturer license.

Cannabis Retailer

Any licensed person or entity that purchases or otherwise obtains usable cannabis from cannabis [growers] cultivators and cannabis items from cannabis [processors] 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.

Cannabis Wholesaler

Any licensed person or entity involved in obtaining and selling cannabis items for later resale by other licensees.

License

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

- A. Class 1 Cannabis [Grower] Cultivator license
- B. Class 2 Cannabis [Processor] 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

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The term includes a conditional license for a designated class, except when the context of the provisions of relevant State law otherwise intend to only apply for a license and not a conditional license.

Manufacture

The drying, processing, compounding, or conversion of usable cannabis into cannabis products or cannabis resins. "Manufacture" does not include packaging or labeling.

Microbusiness

A person or entity license by the Cannabis Regulatory Commission as a cannabis [grower] cultivator, cannabis [processor] manufacturer, cannabis wholesaler, cannabis distributor, cannabis retailer, or cannabis delivery server that may only, with respect to its business operations, and capacity and quantity of product:

- A. Employ no more than 10 employees;
- B. Operate a cannabis establishment occupying an area of no more than 2,500 square feet, and in the case of a cannabis [grower] 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;
- C. 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;
- D. Acquire and process each month, in the case of a cannabis [processor] manufacturer, no more than 1,000 pounds of usable cannabis [in dried form];
- E. Acquire for resale each month in the case of a cannabis wholesaler, no more than 1,000 pounds of usable cannabis [in dried form], or the equivalent amount in any [other] form of manufactured cannabis product or cannabis resin, or any combination thereof; and
- F. Acquire for retail sale each month, in the case of a cannabis retailer, no more than 1,000 pounds of usable cannabis [in dried form], or the equivalent amount in any [other] form of manufactured cannabis product or cannabis resin, or any combination thereof.

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Park

For purposes of this Chapter parks located within the Township of Monroe shall include: Church Street Park; Mary Mazza Duffy Memorial Park; Owens Park; and Wagner Field.

School Property

A place or building primarily used for instruction, learning and education of children. School property used for school purposes which is owned by or leased to any elementary or secondary school or school board.

Unless specifically addressed by action of the Township of Monroe Council or Planning Board, the foregoing definitions shall automatically be amended to reflect and include any changes enacted by the State Legislature or by the New Jersey Cannabis Regulatory Commission.

§ 175-163.4-2 Cannabis Cultivators, Manufacturers, Wholesalers and Distributors.

- A. Cannabis Cultivators, Manufacturers, Wholesalers and Distributors (“CCMWD”) under Class 1 through Class 4 shall comply with the Zoning Overlay in addition to any other requirements and ordinances governing the Township of Monroe. The CCMWD Overlay shall encompass the area of the Township of Monroe depicted on the CCMWD and CR&D Overlay Zones Map attached hereto as Exhibit “A” and incorporated as part of this Ordinance.

- B. The above-referenced CCMWD properties are also subject to the following:
 - (1) Setback: The minimum front yard setback is 50 feet.

 - (2) Buildings: All facilities shall be enclosed in heated/air-conditioned buildings, not in greenhouses, hoop houses or outdoors. Any pre-existing buildings with same use shall require a meeting with the Monroe Township Administration and permit approval by the Governing Body prior to Zoning Permit issuance so long as the proposed establishment meets all other conditions and requirements set forth under Chapter 175 “Land Management”.

 - (3) Landscaped Buffer: All buffers shall comply with the requirements set forth under Chapter 175 “Land Management”.

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- (4) Odor Control: The facility shall provide an air treatment system with sufficient odor absorbing ventilation and exhaust systems such that any odor generated inside the facility is not detectable by a person of reasonable sensitivity at the property line of the subject property. Odor from the facility shall be monitored on an annual basis at the discretion of the Township by a licensed, qualified contractor chosen by the Township.
- (5) Signage: Signs shall comply with § 175-135 "Signs".
- (6) Site Plan Approval: Site Plan approval is required. The Applicant shall submit the following: a safety and security plan, emergency services access plan, hazardous materials inventory, environmental impact statement and waste control plan.
- (7) State License: The facility must have a valid license to operate from the State of New Jersey.

§ 175-163.4-3 Cannabis Retailers and Delivers.

- A. Cannabis Retailers and Delivers ("CR&D") under Class 5 and 6 shall comply with the Zoning Overlay in addition to any other requirements and ordinances governing the Township of Monroe. The CR&D Overlay shall encompass the area of the Township of Monroe depicted on the CCMWD and CR&D Overlay Zones Map attached hereto as Exhibit "A" and incorporated as part of this Ordinance.
- B. The above-referenced CR&D properties are also subject to the following:
 - (1) Buildings: All dispensaries shall be enclosed in heated/air-conditioned permanent buildings, not trailers, outdoors, movable kiosks, etc. Any pre-existing buildings with same use shall require a meeting with the Monroe Township Administration and permit approval by the Governing Body prior to Zoning Permit issuance so long as the proposed establishment meets all other conditions and requirements set forth under Chapter 175 "Land Management".
 - (1) Signage: Signs shall comply with § 175-135 "Signs".
 - (2) Site Plan Approval: When seeking site plan approval, the Applicant shall submit a safety and security plan and emergency services access plan as approved by the State.

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- (3) Hours of Operation: Hours of operation shall be between 10:00 a.m. and 10:00 p.m.
- (4) Interior Security: Dispensary interiors shall provide a secure location for storage of products with minimum products in the customer service area.
- (5) Exterior Loitering and Security: People shall not be permitted to congregate outside of a dispensary, loiter or wait in line to access the dispensary. The facility should have a plan in place if interior capacity is exceeded, i.e., numbers are given and customers wait in their vehicles until called.
- (6) Product Consumption. No products shall be permitted to be consumed on-site.

§ 175-163.4-4 Cannabis Restrictions.

- A. No cannabis establishment shall be permitted to operate without State permits and/or licenses.
- B. Permitted uses shall, at all times, comply with the terms and conditions of the licensee's cannabis establishment license for permits or licenses issued by the State of New Jersey.
- C. No cannabis establishment shall be housed in a vehicle or any movable or mobile structure.
- D. The above-referenced properties are also subject to CCMWD and CR&D Overlay Zones Map as described above.

§ 175-163.4-5 Cannabis Tax.

The Township of Monroe hereby establishes a tax or fee to be imposed on the sale or transfer of cannabis. Every cannabis establishment shall pay an excise tax on the sale or transfer of cannabis to the Township of Monroe at the highest rate established by State Statute. N.J.S.A. § 40:48I-1 currently permits: two percent of the gross receipts from each sale by a cannabis cultivator; two percent of the gross receipts from each sale by a cannabis manufacturer; one percent of the gross receipts from each sale by a cannabis wholesaler; and two percent of the gross receipts from each sale by a cannabis retailer.

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§ 175-163.4-6 General Regulations and Compliance.

The regulations set forth under this Section are in addition and not in lieu of any other ordinances governing the Township of Monroe. Any item not specifically addressed under this Ordinance shall be governed by Chapter 175 "Land Management", New Jersey Municipal Land Use Law, *N.J.S.A. 40:55D-1, et. seq.* and any other applicable local ordinance, State or federal laws.

SECTION II. The Township of Monroe Clerk is directed to give notice of this Ordinance pursuant to N.J.S.A. 40:55D-15 to the Clerks of all municipalities adjoining the Township of Monroe, the Township of Monroe Planning Board, the New Jersey Pinelands Commission, and to the Gloucester County Planning Board at least ten (10) days prior to the dated scheduled for hearing on the adoption of this Ordinance.

SECTION III. The Township of Monroe Zoning Map and Zoning Ordinance shall be amended to conform with this Ordinance and the Planning Board Resolution amending the 2012 Master Plan Reexamination Report and/or Land Use Plan Element for the Township of Monroe to address the permissibility of the cultivation, processing, wholesaling, dispensing and delivery of recreational and medicinal cannabis. All prior Ordinances or parts of Ordinances inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION IV. If any word, phrase, clause, section or provision in this Ordinance shall be found by any Court of competent jurisdiction to be unenforceable, illegal, or unconstitutional, such word phrase, clause, section or provision shall be severable from the balance of the Ordinance and the remainder of the Ordinance shall remain in full force and effect.

SECTION V. This Ordinance shall take effect twenty (20) days after final passage and publication as required by law.

TOWNSHIP OF MONROE

CNCL. PRES., PATRICK O'REILLY

ATTEST:

TWP. CLERK, AILEEN CHISELKO, RMC

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or DEPUTY CLERK, JENNIFER HARBISON

CERTIFICATION OF CLERK

The foregoing Ordinance will be introduced at a meeting of the Township Council of the Township of Monroe held on the _____ day of _____ 2021, and will be considered for 1st passage and adoption at the Municipal Building, 125 Virginia Avenue, Williamstown, New Jersey 08094, at which time any person interested therein will be given an opportunity to be heard.

**TWP. CLERK, AILEEN CHISELKO, RMC
or DEPUTY CLERK, JENNIFER HARBISON**

ROLL CALL VOTE

1st Reading

ROLL CALL VOTE

	AYES	NAYS	ABSTAIN	ABSENT
Cncl. Falcone				
Cncl. Fox				
Cncl. Garbowski				
Cncl. McKinney				
Cncl. Valcourt				
Cncl. Wolfe				
Cncl. Pres. O'Reilly				
Tally:				

2nd Reading

ROLL CALL VOTE

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	AYES	NAYS	ABSTAIN	ABSENT
Cncl. Falcone				
Cncl. Fox				
Cncl. Garbowski				
Cncl. McKinney				
Cncl. Valcourt				
Cncl. Wolfe				
Cncl. Pres. O'Reilly				
Tally:				

The foregoing ordinance was hereby approved by the Mayor of the Township of Monroe on this _____ day of _____, 2021.

MAYOR RICHARD DiLUCIA