

TOWNSHIP OF PENNSAUKEN

ORDINANCE 2021-22

AN ORDINANCE AMENDING CHAPTERS 122, 141 AND 277 OF THE CODE OF THE TOWNSHIP OF PENNSAUKEN TO IMPLEMENT PROVISIONS OF 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, the passage of the public question was the largest margin of any statewide cannabis legalization ballot measures to date in U.S. history with more than 67% of voters supporting the initiative; and

WHEREAS, Camden County and Pennsauken voters specifically supported the measure by an even greater percentage with 7 of every 10 voters supporting the initiative; 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, Class 2 Cannabis Manufacturer license; Class 3 Cannabis Wholesaler license; Class 4 Cannabis Distributer license; Class 5 Cannabis Retailer license; and Class 6 Cannabis Delivery license; and

WHEREAS, Section 31a of the Act authorizes municipalities by ordinance to adopt regulations governing the number of cannabis establishments (defined in section 3 of the Act as “a cannabis cultivator, a cannabis manufacturer, a cannabis wholesaler, or a cannabis retailer”), cannabis distributors or cannabis delivery services allowed to operate within their boundaries, as well as the location, manner and times operation of such establishments, distributors or delivery services, and establishing civil penalties for the violation of any such regulations; and

WHEREAS, Section 31b of the Act stipulates that any municipal regulation of any of the above classes must be adopted within 180 days of the effective date of the Act (*i.e.*, by August 22, 2021); and

WHEREAS, conversely, if a municipality fails to adopt regulations, the above six classes of activities will be permitted in industrial and commercial areas of the Township without the benefit of municipal regulations governing their locations and/or any other restrictions the municipality may seek to impose; and

WHEREAS, section 40 of the Act authorizes municipalities by ordinance to adopt regulations which establish limited taxation of the above classes of activity within the municipality; and

WHEREAS, specifically, a municipality may adopt an ordinance imposing a transfer tax on the sale of cannabis or cannabis items by a cannabis establishment that is located in the municipality and at the discretion of the municipality, the tax may be imposed on: receipts from the sale of cannabis by a cannabis cultivator to another cannabis cultivator; receipts from the sale of cannabis items from one cannabis establishment to another cannabis establishment; receipts from the retail sales of cannabis items by a cannabis retailer to retail consumers who are 21 years of age or older; or any combination thereof; and

WHEREAS, the Township Committee determines that it is appropriate to implement these measures as permitted by law.

NOW, THEREFORE, BE IT ORDAINED AND ADOPTED, by the Township Committee of the Township of Pennsauken, County of Camden, State of New Jersey that Chapter 122 of the Township Code entitled “Business and Industry Registration”, Chapter 141 of the Township Code entitled “Development Regulations” and Chapter 277 of the Township Code entitled “Taxation”; are hereby amended and supplemented to read as follows;

SECTION 1

Chapter 122, entitled “Business and Industry Registration” is amended and supplemented to add a new Section 122-8 entitled “Cannabis,” as follows.

New Section 122-8 of Chapter 122 shall be added to the Township Code as follows:

Section 122-8. Cannabis

A. Cannabis Manufacturers, Wholesalers and Retailers, as said terms are defined in section 3 of P.L. 2021, c. 16 (“New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act”) and Section 141-4 of this Code shall only be permitted uses in the Township as set forth in Chapter 141 – “Development Regulations.” Cannabis Cultivators (Class 1), Cannabis Distributors (Class 4) and Cannabis Delivery services (Class 6) (except for the delivery of cannabis items and related supplies by a delivery service) shall be prohibited in all zones in the municipality. A maximum of two (2) Class 5 Cannabis Retailer license establishments will be permitted within the Township.

B. In addition to the penalties set forth in Section 7 of this chapter, cannabis licensees shall further be subject to a ten-day license suspension. Each day that a violation occurs shall be a separate violation.

SECTION 2

The following definitions shall be added to Section 141-4 (Chapter 141 “Development Regulations”, Article I “General Provisions”):

CANNABIS - 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 P.L.2021, c.16 (C.24:6I-31 et al.) for use in cannabis products, 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:35-2 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 marijuana 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 BUSINESS - Any person or entity that holds any of the six Classes of licenses established under P.L. 2021, c. 16, the “New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act.”

CANNABIS CULTIVATOR - Any licensed person or entity that grows, cultivates, or produces cannabis, 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 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. This person or entity shall hold a Class 6 Cannabis Delivery license.

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. This person or entity shall hold a Class 4 Cannabis Distributor license.

CANNABIS ESTABLISHMENT - A cannabis cultivator, a cannabis manufacturer, a cannabis wholesaler, or a cannabis retailer.

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 PARAPHERNALIA- any equipment, products, or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, composting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, vaporizing, or containing cannabis, or for ingesting, inhaling, or otherwise introducing a cannabis item into the human body. “Cannabis paraphernalia” does not include drug paraphernalia as defined in N.J.S.2C:36-1 and which is used or intended for use to commit a violation of chapter 35 or 36 of Title 2C of the New Jersey Statutes.

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. This person or entity shall hold a Class 5 Cannabis Retailer license.

CANNABIS TESTING FACILITY - An independent, third-party entity meeting accreditation requirements established by the Cannabis Regulatory Commission that is licensed to analyze and certify cannabis items and medical cannabis for compliance with applicable health, safety, and potency standards.

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. This person or entity shall hold a Class 3 Cannabis Wholesaler license.

Section 141-16 (Chapter 141 “Development Regulations”, Article I “General Provisions”) shall be amended as follows (deletions are struck through, additions are underlined):

§ 141-16 Notice of violation; penalties; remedies. A new Paragraph D shall be added as follows:

A. Notice of violation. When written notice of violation of any of the provisions of this chapter has been served by the Secretary of the responsible Township agency, by person, certified mail or other means provided by law, upon a developer, owner, builder, contractor or their agent, such violation shall be corrected or discontinued immediately.

B. Penalties. Any person, persons, unincorporated associations, corporations, partnerships, associations or otherwise who permit, partake in or assist in any violation of this chapter shall, upon conviction, be subject to one or more of the following: a fine not exceeding \$1,250 or imprisonment in the county jail for a term not exceeding 90 days, or a period of community service not exceeding 90 days, in the discretion of the Municipal Court Judge. Whenever such violation shall continue for more than one day, each day of the continuation of said offense shall be considered as a separate violation of this chapter.

C. Remedies. In case of any violation, the Construction Official, who is responsible for enforcement, may take any appropriate action within reason to prevent hazard to public safety or health or to prevent jeopardy to the public welfare.

D. Cannabis Licensees. For cannabis licensees, in addition to the penalties set forth in this Section, cannabis licensees shall further be subject to a ten-day license suspension. Each day that a violation occurs shall be a separate violation.

Section 141-81.A.(3) C-1 Commercial Districts (Chapter 141 “Development Regulations”, Article VII “Zoning Regulations”) shall be amended as follows (deletions are struck through, additions are underlined):

§141-81.A(3) Any one or more of the following uses when authorized as a conditional use by the ~~Board of Adjustment~~ Planning Board if simultaneous with site plan review, otherwise by the Board of Adjustment:

New Paragraph A(3)(f) shall be added to Section 141-81. C-1 Commercial Districts (Chapter 141 “Development Regulations”, Article VII “Zoning Regulations”) as follows:

§141-81.A.(3)(f) Cannabis Retailer, subject to the following conditions:

(a) Such facility shall meet all requirements for licensure, and hold an appropriate Class 5 Cannabis Retailer license issued by the Cannabis Regulatory Commission, Department of Treasury, State of New Jersey. The required Municipal Cannabis License(s) must also be obtained from the Township of Pennsauken;

(b) Lot, area, and bulk requirements:

[1] the minimum lot area shall be 5,000 square feet.

[2] the minimum front yard shall be 10 feet, provided, however, that where off-street parking is located in the front yard, the depth shall be not less than 40 feet.

[3] side yards shall be provided as follows:

1. Where a building adjoins another on the side lot line and a common party wall is used, no side yard shall be required.
2. Where a building is not erected on a side lot line, the side yard not abutting a street shall be not less than 10 feet in width.
3. On a corner lot there shall be a side yard abutting the street having a width not less than 10 feet; provided, however, that where off-street parking is located in such side yard, the depth shall be not less than 40 feet.

[4] the minimum rear yard shall be 35 feet.

[5] Not more than 50% of the area of any lot shall be occupied by buildings.

[6] Not more than 85% of the area of any lot shall be occupied by buildings, paving, sidewalks or other impervious materials.

(c) Shall not be any closer than 1,000 feet from any public or nonpublic school or preschool or child-care center, behavioral health care facility or residential medical detoxification center, as measured in a straight line from the nearest two points of the property lines.

(d) Shall not be any closer than 350 feet from the R4 and R5 Districts; 400 feet from a R1, R2 or R3 Districts, residential use or mixed use as measured in a straight line from the nearest two points of the property lines.

(e) Shall not be located within 500 feet of the property line of any existing church or house of worship or any existing public park or playground, as measured in a straight line from the nearest two points of the property lines.

(f) No facility may permit on-site consumption of cannabis or cannabis products.

(g) No outside storage of any cannabis, cannabis products or cannabis paraphernalia shall be permitted.

(h) A security plan shall be submitted to the Pennsauken Township Police Department which shall demonstrate how the facility will maintain effective security and control of operations. The security plan shall identify the type and manner of 24-hour security,

tracking and record-keeping of products and materials, surveillance systems to be utilized, and whether any armed security will be on the premises.

- (i) Off-street parking shall be provided at a ratio of 1 space for every 100 square feet of gross floor area.
- (j) Shall not be located within 1,000 feet of the right-of-way of U.S. Route 130.

Section 141-83, LI. Limited Industrial Districts. Subsection A(7) (Chapter 141 “Development Regulations”, Article VII “Zoning Regulations”) of the Township Code shall add the following:

(7) A Cannabis Manufacturer and Wholesaler, subject to the following conditions and when authorized as a conditional use by the Planning Board if simultaneous with site plan review, otherwise by the Board of Adjustment:

(a) Such facility shall meet all of the requirements for licensure, and hold the appropriate Class 2 Cannabis Manufacturer license or Class 3 Cannabis Wholesaler license issued by the Cannabis Regulatory Commission, Department of Treasury, State of New Jersey. The required Municipal Cannabis License(s) must also be obtained from the Township of Pennsauken;

(b) Lot size, yard size, and lot area shall be regulated as specified:

[1] The minimum lot area shall be not less than 1 acre.

[2] The minimum lot width shall be not less than 200 feet.

[3] The minimum lot front yard depth shall be not less than 40 feet.

[4] The minimum lot side yard width shall be not less than 15 feet, and the side yard abutting a street having a width not less than 35 feet.

[5] The minimum lot rear yard depth shall be not less than 25 feet.

[6] Not more than 50% of the area of any lot shall be occupied by buildings.

[7] Not more than 85% of the area of any lot shall be occupied by buildings, paving, sidewalks or other impervious materials.

(c) Shall not be any closer than 1,000 feet from any public or nonpublic school or preschool or child-care center, behavioral health care facility or residential medical detoxification center, as measured in a straight line from the nearest two points of the property lines.

(d) Shall not be any closer than 350 feet from the R4 and R5 Districts; 400 feet from a R1, R2 or R3 Districts, residential use or mixed use as measured in a straight line from the nearest two points of the property lines.

(e) Shall not be located within 500 feet of the property line of any existing church or house of worship or any existing public park or playground, as measured in a straight line from the nearest two points of the property lines.

(f) No facility may permit on-site consumption of cannabis or cannabis products.

(g) No outside storage of any cannabis, cannabis products or cannabis paraphernalia shall be permitted.

(h) A security plan shall be submitted to the Pennsauken Township Police Department which shall demonstrate how the facility will maintain effective security and control of operations. The security plan shall identify the type and manner of 24-hour security, tracking and record-keeping of products and materials, surveillance systems to be utilized, and whether any armed security will be on the premises.

(i) Off-street parking shall be provided at a ratio of 1 space for every 200 square feet of gross floor area.

(j) Shall not be located within 1,000 feet of the right-of-way of U.S. Route 130.

Section 141-83, LI. Limited Industrial Districts. Subsection A(8) (Chapter 141 “Development Regulations”, Article VII “Zoning Regulations”) shall be added to the Township Code as follows:

(8) A Cannabis Retailer, subject to the following conditions and when authorized as a conditional use by the Planning Board if simultaneous with site plan review, otherwise by the Board of Adjustment:

(a) Such facility shall meet all requirements for licensure, and hold the appropriate Class 5 Cannabis Retailer license issued by the Cannabis Regulatory Commission, Department of Treasury, State of New Jersey. The required Municipal Cannabis License(s) must also be obtained from the Township of Pennsauken;

(b) Lot size, yard size, and lot area shall be regulated as specified:

[1] The minimum lot area shall be not less than 1 acre.

[2] The minimum lot width shall be not less than 200 feet.

[3] The minimum lot front yard depth shall be not less than 40 feet.

[4] The minimum lot side yard width shall be not less than 15 feet, and the side yard abutting a street having a width not less than 35 feet.

[5] The minimum lot rear yard depth shall be not less than 25 feet.

[6] Not more than 50% of the area of any lot shall be occupied by buildings.

[7] Not more than 85% of the area of any lot shall be occupied by buildings, paving, sidewalks or other impervious materials.

(c) Shall not be any closer than 1,000 feet from any public or nonpublic school or preschool or child-care center, behavioral health care facility or residential medical detoxification center, as measured in a straight line from the nearest two points of the property lines.

(d) Shall not be any closer than 350 feet from the R4 and R5 Districts; 400 feet from a R1, R2 or R3 Districts, residential use or mixed use as measured in a straight line from the nearest two points of the property lines.

(e) Shall not be located within 500 feet of the property line of any existing church or house of worship or any existing public park or playground, as measured in a straight line from the nearest two points of the property lines.

(f) No facility may permit on-site consumption of cannabis or cannabis products.

(g) No outside storage of any cannabis, cannabis products or cannabis paraphernalia shall be permitted.

(h) A security plan shall be submitted to the Pennsauken Township Police Department which shall demonstrate how the facility will maintain effective security and control of operations. The security plan shall identify the type and manner of 24-hour security, tracking and record-keeping of products and materials, surveillance systems to be utilized, and whether any armed security will be on the premises.

(i) Off-street parking shall be provided at a ratio of 1 space for every 100 square feet of gross floor area.

(j) Shall not be located within 1,000 feet of the right-of-way of U.S. Route 130.

Section 141-84, HI. Heavy Industrial Districts. Subsection A(3) (Chapter 141 “Development Regulations”, Article VII “Zoning Regulations”) of the Township Code shall add the following:

(f) A Cannabis Manufacturer and Wholesaler, subject to the following conditions:

(a) Such facility shall meet all of the requirements for licensure, and hold the appropriate Class 2 Cannabis Manufacturer license or Class 3 Cannabis Wholesaler license issued by the Cannabis Regulatory Commission, Department of Treasury, State of New Jersey. The required Municipal Cannabis License(s) must also be obtained from the Township of Pennsauken;

(b) Lot size, yard size, and lot area shall be regulated as specified:

[1] The minimum lot area shall be not less than 1 acre.

[2] The minimum lot width shall be not less than 200 feet.

[3] The minimum lot front yard depth shall be not less than 40 feet.

[4] The minimum lot side yard width shall be not less than 15 feet, and the side yard abutting a street having a width not less than 35 feet.

[5] The minimum lot rear yard depth shall be not less than 25 feet.

[6] Not more than 60% of the area of any lot shall be occupied by buildings.

[7] Not more than 90% of the area of any lot shall be occupied by buildings, paving, sidewalks or other impervious materials.

(c) Shall not be any closer than 1,000 feet from any public or nonpublic school or preschool or child-care center, behavioral health care facility or residential medical detoxification center, as measured in a straight line from the nearest two points of the property lines.

(d) Shall not be any closer than 350 feet from the R4 and R5 Districts; 400 feet from a R1, R2 or R3 Districts residential use or mixed use as measured in a straight line from the nearest two points of the property lines.

(e) Shall not be located within 500 feet of the property line of any existing church or house of worship, or any existing public park or playground, as measured in a straight line from the nearest two points of the property lines.

(f) No facility may permit on-site consumption of cannabis or cannabis products.

(g) No outside storage of any cannabis, cannabis products or cannabis paraphernalia shall be permitted.

(h) A security plan shall be submitted to the Pennsauken Township Police Department which shall demonstrate how the facility will maintain effective security and control of operations. The security plan shall identify the type and manner of 24-hour security, tracking and record-keeping of products and materials, surveillance systems to be utilized, and whether any armed security will be on the premises.

(i) Off-street parking shall be provided at a ratio of 1 space for every 200 square feet of gross floor area.

Section 141-84, HI. Heavy Industrial Districts. Subsection A(3) (Chapter 141 “Development Regulations”, Article VII “Zoning Regulations”) shall be added to the Township Code as follows:

(g) A Cannabis Retailer, subject to the following conditions:

(a) Such facility shall meet all requirements for licensure, and hold the appropriate Class 5 Cannabis Retailer license issued by the Cannabis Regulatory Commission,

Department of Treasury, State of New Jersey. The required Municipal Cannabis License(s) must also be obtained from the Township of Pennsauken;

- (b) Lot size, yard size, and lot area shall be regulated as specified:
 - [1] The minimum lot area shall be not less than 1 acre.
 - [2] The minimum lot width shall be not less than 200 feet.
 - [3] The minimum lot front yard depth shall be not less than 40 feet.
 - [4] The minimum lot side yard width shall be not less than 15 feet, and the side yard abutting a street having a width not less than 35 feet.
 - [5] The minimum lot rear yard depth shall be not less than 25 feet.
 - [6] Not more than 60% of the area of any lot shall be occupied by buildings.
 - [7] Not more than 90% of the area of any lot shall be occupied by buildings, paving, sidewalks or other impervious materials.

- (c) Shall not be any closer than 1,000 feet from any public or nonpublic school or preschool or child-care center, behavioral health care facility or residential medical detoxification center, as measured in a straight line from the nearest two points of the property lines.

- (d) Shall not be any closer than 350 feet from the R4 and R5 Districts; 400 feet from a R1, R2 or R3 Districts, residential use or mixed use as measured in a straight line from the nearest two points of the property lines.

- (e) Shall not be located within 500 feet of the property line of any existing church or house of worship or any existing public park or playground, as measured in a straight line from the nearest two points of the property lines.

- (f) No facility may permit on-site consumption of cannabis or cannabis products.

- (g) No outside storage of any cannabis, cannabis products or cannabis paraphernalia shall be permitted.

- (h) A security plan shall be submitted to the Pennsauken Township Police Department which shall demonstrate how the facility will maintain effective security and control of operations. The security plan shall identify the type and manner of 24-hour security, tracking and record-keeping of products and materials, surveillance systems to be utilized, and whether any armed security will be on the premises.

- (i) Off-street parking shall be provided at a ratio of 1 space for every 100 square feet of gross floor area.

Section 141-90.1 Cannabis Uses (Chapter 141 “Development Regulations”, Article VII “Zoning Regulations”) shall be added to the Township Code as follows:

- A. Cannabis Manufacturers, Wholesalers and Retailers, as said terms are defined in section 3 of P.L. 2021, c. 16 (“New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act”) and Section 141-4 of this Code shall only be permitted uses in the Township as set forth in Chapter 141 – “Development Regulations.” Cannabis Cultivators (Class 1), Cannabis Distributors (Class 4) and Cannabis Delivery services (Class 6) except for the delivery of cannabis items and related supplies by a delivery service shall be prohibited in all zones in the municipality.
- B. A maximum of two (2) Class 5 Cannabis Retailer license establishments will be permitted within the Township.
- C. Cannabis Manufacturers and Wholesalers shall only be permitted in the LI and HI Districts.
- D. Cannabis Retailers shall only be permitted in the C1, LI and HI Districts.
- E. The required Municipal Cannabis License(s) must also be obtained from the Township of Pennsauken;
- F. A public or nonpublic school or preschool or child-care center, behavioral health care facility or residential medical detoxification center, shall not be within 1,000 feet of an existing cannabis establishment, retailer, wholesaler or manufacturer.
- G. A church, house of worship or public park or playground shall not be within 500 feet of an existing cannabis establishment, retailer, wholesaler or manufacturer.

SECTION 3

New section 277-20 shall be added to the Township Code as follows:

Article IV. Cannabis Tax

§ 277-20. Purpose.

It is the purpose of this article to implement the provisions of P.L. 2021, c. 16, which authorizes the governing body of a municipality to adopt an ordinance imposing a tax at a uniform percentage rate not to exceed two percent (2%) of the receipts from each sale by a cannabis manufacturer; one percent (1%) of the receipts from each sale by a cannabis wholesaler; and two percent (2%) of the receipts from each sale by a cannabis retailer, which shall be in addition to any other tax or fee imposed pursuant to statute or local ordinance or resolution by any governmental entity upon the cannabis establishment.

§ 277-21. Definitions.

Unless otherwise defined herein, as used herein, the Township adopts by reference the terms and definitions established by Section 40 of Public Law 2021-16 (N.J.S.A. 24:6I-33).

§ 277-22. Tax established.

- A. There is hereby established a local cannabis transfer tax in the Township of Pennsauken which shall be fixed at a uniform percentage rate of two percent (2%) of the receipts from each sale by a cannabis manufacturer; one percent (1%) of the receipts from each sale by a cannabis wholesaler; and two percent (2%) of the receipts from each sale by a cannabis retailer for every occupancy of a cannabis establishment in the Township of Pennsauken.
- B. In addition to the tax established in paragraph A of this section, a user tax, at the equivalent transfer tax rates, is hereby established on any concurrent license holder, as permitted by section 33 of P.L.2021, c.16 (C.24:6I-46), operating more than one cannabis establishment. The user tax shall be imposed on the value of each transfer or use of cannabis or cannabis items not otherwise subject to the transfer tax imposed pursuant to paragraph A of this subsection, from the license holder's establishment that is located in Pennsauken to any of the other license holder's establishments, whether located in this Township or another municipality.
- C. Any transaction for which the transfer tax or user tax is imposed, or could be imposed, pursuant to this section, other than those which generate receipts from the retail sales by cannabis retailers, shall be exempt from the tax imposed under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.).

§ 277-23. Tax in addition to other taxes or fees.

The cannabis 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 upon property or cannabis establishment.

§ 277-24. Collection.

- A. The transfer tax or user tax imposed by this article shall be collected or paid, and remitted to Pennsauken Township by the cannabis establishment from the cannabis establishment purchasing or receiving the cannabis or cannabis item, or from the consumer at the point of sale, on behalf of the Township by the cannabis retailer selling the cannabis item to that consumer. The transfer tax or user tax shall be stated, charged, and shown separately on any sales slip, invoice, receipt, or other statement or memorandum of the price paid or payable, or equivalent value of the transfer, for the cannabis or cannabis item.
- B. Every cannabis establishment required to collect a transfer tax or user tax imposed by ordinance pursuant to this section shall be personally liable for the transfer tax or user tax

imposed, collected, or required to be collected under this section. Any cannabis establishment shall have the same right with respect to collecting the transfer tax or user tax from another cannabis establishment or the consumer as if the transfer tax or user tax was a part of the sale and payable at the same time, or with respect to non-payment of the transfer tax or user tax by the cannabis establishment or consumer, as if the transfer tax or user tax was a part of the purchase price of the cannabis or cannabis item, or equivalent value of the transfer of the cannabis or cannabis item, and payable at the same time; provided, however, that the Chief Financial Officer of Pennsauken shall be joined as a party in any action or proceeding brought to collect the transfer tax or user tax.

- C. No cannabis establishment required to collect a transfer tax or user tax imposed by this section shall advertise or hold out to any person or to the public in general, in any manner, directly or indirectly, that the transfer tax or user tax will not be separately charged and stated to another cannabis establishment or the consumer, or that the transfer tax or user tax will be refunded to the cannabis establishment or the consumer.
- D. All revenues collected from a transfer tax or user tax imposed by ordinance pursuant to this section shall be remitted to the Pennsauken Chief Financial Officer on a quarterly basis payable for the prior three month's activities and due at the same time as quarterly dates for the collection of property taxes. The revenues due on February 1 of each year shall include all transfer taxes or user taxes collected for the prior year months of October, November and December. The revenues due on May 1 of each year shall include all transfer taxes and user taxes collected for the immediate prior months of January, February and March. The revenues due on August 1 of each year shall include all transfer taxes and user taxes collected for the immediate prior months of April, May and June. The revenues due on November 1 of each year shall include all transfer taxes and user taxes collected for the immediate prior months of July, August and September.

§ 277-25. Payment; vendor violations and penalties.

- A. The Chief Financial Officer shall collect and administer any transfer tax or user tax imposed to this section.
- B. The municipality shall enforce the payment of delinquent taxes or transfer fees imposed pursuant to this section in the same manner as provided for municipal real property taxes.
- C. In the event that the transfer tax or user tax imposed by this section is not paid as and when due by a cannabis establishment, the unpaid balance, and any interest accruing thereon, shall be a lien on the parcel of real property comprising the cannabis establishment's premises in the same manner as all other unpaid municipal taxes, fees, or other charges. The lien shall be superior and paramount to the interest in the parcel of any owner, lessee, tenant, mortgagee, or other person, except the lien of municipal taxes, and shall be on a

parity with and deemed equal to the municipal lien on the parcel for unpaid property taxes due and owing in the same year.

- D. A municipality shall file in the office of its tax collector a statement showing the amount and due date of the unpaid balance and identifying the lot and block number of the parcel of real property that comprises the delinquent cannabis establishment’s premises. The lien shall be enforced as a municipal lien in the same manner as all other municipal liens are enforced.”

Repealer, Severability and Effective Date.

A. Repealer. Any and all Ordinances inconsistent with the terms of this Ordinance are hereby repealed to the extent of any such inconsistencies.

B. Severability. In the event that any clause, section, paragraph or sentence of this Ordinance is deemed to be invalid or unenforceable for any reason, then the Township Committee hereby declares its intent that the balance of the Ordinance not affected by said invalidity shall remain in full force and effect to the extent that it allows the Township to meet the goals of the Ordinance.

C.  This Ordinance shall take effect upon passage and publication according to law.

ORD 2021.21.doc

STATEMENT

Notice is hereby given that the foregoing proposed Ordinance was introduced by the Township Committee of the Township of Pennsauken, Camden County, New Jersey at its regular meeting open to the public, on July 15, 2021 and a public hearing upon the said Ordinance will be conducted by the Township Committee at a meeting on Thursday, August 5, 2021 at 6:00 p.m. open to the public. During the week prior and up to including the date of such meeting, copies of the full ordinance will be mailed at no cost via an email clerk@twp.pennsauken.nj.us or phone call 856-665-1000 x124 request, to the Pennsauken Township’s Clerk office for the members of the general public who shall request the same.

TOWNSHIP OF PENNSAUKEN

PAMELA SCOTT-FORMAN
ACTING TOWNSHIP CLERK