

**AN ORDINANCE AMENDING CHAPTER 4, SECTIONS 5.1 and 5.2; CHAPTER 5, SECTION 34; CHAPTER 22, SECTION 3; AND CHAPTER 25, SECTIONS 4, 11.14, PART A: PERMITTED USES TABLE OF DISTRICT REGULATIONS OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF WEST ORANGE (MEDICAL MARIJUANA DISPENSARIES)**

**BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF WEST ORANGE, NEW JERSEY** that Chapters 4, 5, and 25 of the Revised General Ordinances of the Township of West Orange be and are hereby amended as follows:

**I. PURPOSE**

The purpose of this ordinance is to update the zoning provisions of the Township of West Orange to incorporate the legal operation of medical marijuana dispensaries to specifically identify the zones for which such operations shall be allowable. This ordinance will also outline the requirements for the operation of medical marijuana dispensaries.

**II. CHAPTER 4, SECTION 5.1 SHALL BE AND HEREBY IS AMENDED AND SUPPLEMENTED TO INCORPORATE THE FOLLOWING:**

**4-5.1 Prohibitions.**

No person shall advertise, display, dispense, sell, or offer to sell any type of syringe, needle, eye dropper, spoon, pipe, testing kit, rolling paper, or other paraphernalia or appliances designed for or ordinarily used in smoking, testing, weighing, measuring, injecting, cooking or sniffing marijuana, cocaine, opium, hashish or other controlled dangerous substances as defined by N.J.S.A. 24:21-1 et seq. This prohibition shall not apply to the legal advertisement, legal display, legal dispensing, legal sale, or legal use of marijuana or other cannabis products pursuant to the Jake Honig Compassionate Use Medical Cannabis Act, N.J.S.A. 24:6I-1, et. al. or any other State Law.

**III. CHAPTER 4, SECTION 5.2 SHALL BE AND HEREBY IS AMENDED AND SUPPLEMENTED TO INCORPORATE THE FOLLOWING:**

**4-5.2 Maintaining Premises Constitutes Common Nuisance.**

It shall constitute a common nuisance to maintain any building, conveyance or premises which is resorted to by persons for the manufacture, distribution, dispensing, administration or use of any type of syringe, needle, eye dropper, spoon, pipe, testing kit, rolling paper or other paraphernalia or appliances designed for or ordinarily used in smoking, testing, weighing, measuring, injecting, cooking or sniffing marijuana, cocaine, opium, hashish or other controlled dangerous substances as defined by N.J.S.A. 24:21-1 et seq. Except that this provision shall not apply to the legal manufacturing, legal distribution, legal dispensing, legal administration, legal sale or legal use of marijuana or other cannabis products pursuant to the Jake Honig Compassionate Use Medical Cannabis Act, N.J.S.A. 24:6I-1, et. al. or any other State Law.

**IV. CHAPTER 5, SECTION 34 SHALL BE AND HEREBY IS ESTABLISHED AND SUPPLEMENTED TO INCORPORATE THE FOLLOWING:**

**5-34 LICENSED MEDICAL MARIJUANA FACILITY.**

**5-34.1 Purpose.**

The purpose of this section is to establish the requirements for a duly Licensed Medical Marijuana Facility operating within the Township. The provisions of this section are subject to the enabling authority of the State of New Jersey and are subject to compliance with all statutes and/or regulations adopted by the State of New Jersey or its instrumentalities. If any provisions of this Section are inconsistent with the statutes and/or regulations of the State of New Jersey, the State statute and/or regulation shall govern.

**5-34.2 Definitions.**

For the purpose of this section, the following words and phrases shall have the meanings respectively ascribed to them by this section:

*Commission* shall mean the Cannabis Regulatory Commission operating under the New Jersey Department of Health and established pursuant to the Jake Honig Compassionate Use Medical Cannabis Act, N.J.S.A. 24:6I-1, et. al.

*Licensed Medical Marijuana Facility* shall mean a duly licensed medical cannabis cultivator, a duly licensed medical cannabis manufacturer, or a duly licensed cannabis dispensary lawfully operating pursuant to the Jake Honig Compassionate Use Medical Cannabis Act, N.J.S.A. 24:6I-1, et. al.

**5-34.3 Commission Permit.**

Any Licensed Medical Marijuana Facility shall provide a copy of its permit issued by the Commission to the Police Department and Health Department no later than thirty (30) days prior to the commencement of any operations. A Licensed Medical Marijuana Facility shall insure that a current permit is on file with the Police Department and Health Department at all times. A copy of the current permit issued by the Commission shall be posted within the Licensed Medical Marijuana Facility at all times at a location readily visible by any and all patrons of the facility.

**5-34.4 Operating Requirements and Prohibitions.**

- a. A Licensed Medical Marijuana Facility may only operate from the hours of 8:00 A.M. through 7:00 P.M.
- b. No persons under the age of eighteen (18) shall be allowed in a Licensed Medical Marijuana Facility.
- c. The sale or consumption of alcohol at a Licensed Medical Marijuana Facility shall be prohibited.

### **5-34.5 Inspections.**

The Health Department, the Zoning Official, the Police Department, and the Fire Department shall, from time to time, make an inspection of the Licensed Medical Marijuana Facility for the purpose of determining whether the provisions of this section are complied with. It shall be unlawful for any Licensed Medical Marijuana Facility to refuse to allow such inspection or to hinder such an inspection.

## **V. CHAPTER 22, SECTION 3 SHALL BE AND HEREBY IS ESTABLISHED AND SUPPLEMENTED TO INCORPORATE THE FOLLOWING:**

### **22-3 MEDICAL CANNABIS TRANSFER TAX**

- a. There is hereby established a Medical Cannabis Transfer Tax in the Township of West Orange which shall be fixed at a uniform percentage rate of two percent (2%) on all sales or transfers of cannabis products from a Licensed Medical Marijuana Facility, as defined in Chapter 5, Section 34.2, pursuant to the to N.J.S.A. 24A:6I-10(i) of the Jake Honig Compassionate Use Medical Cannabis Act.
- b. The Medical Cannabis Transfer Tax shall be in addition to any other tax or fee imposed pursuant to statute, state and federal, or local ordinance or resolution by any government entity upon a Licensed Medical Marijuana Facility.
- c. The tax imposed by this section shall be paid to the Township no later than February 1 of each year with a report certified as true and accurate by the Chief Financial Officer, Controller or other similarly situated person showing the gross revenues for the Licensed Medical Marijuana Facility for each month of the preceding year. The Township may require that the Licensed Medical Marijuana Facility obtain a financial report from an independent accountant certifying as to the annual revenues for the preceding year.
- d. A copy of this section shall be transmitted to the State Treasurer and to every Licensed Medical Marijuana Facility within the Township of West Orange.

## **VI. CHAPTER 25, SECTION 4 SHALL BE AND HEREBY IS AMENDED AND SUPPLEMENTED TO INCORPORATE THE FOLLOWING:**

### **25-4 DEFINITIONS**

#### **b. Specific Definitions.**

*Licensed Medical Marijuana Facility* shall mean a duly licensed medical cannabis cultivator, a duly licensed medical cannabis manufacturer, or a duly licensed cannabis dispensary lawfully operating pursuant to the Jake Honig Compassionate Use Medical Cannabis Act, N.J.S.A. 24:6I-1, et. al.

## **VII. CHAPTER 25, SECTION 11.13 SHALL BE AND HEREBY IS ESTBALISHED AND SUPPLEMENTED TO INCORPORATE THE FOLLOWING:**

**25-11.14 Licensed Medical Marijuana Facility.**

A Licensed Medical Marijuana Facility shall be permitted in the B-1, B-2, and I Districts subject to the following conditions:

- a. No Licensed Medical Marijuana Facility shall be located within 3,500 feet of another Licensed Medical Marijuana Facility.
- b. No Licensed Medical Marijuana Facility shall be located within 1,500 feet of a school.
- c. No Licensed Medical Marijuana Facility shall be allowed as a Home Occupation as defined in Chapter 25, Section 4.
- d. No Licensed Medical Marijuana Facility shall be housed in a vehicle or any movable or mobile structure.
- e. Any signage for a Licensed Medical Marijuana Facility shall be subject to the approval from either the Planning Board or the Zoning Board of Adjustment.
- f. A Licensed Medical Marijuana Facility shall be secured and have full-time security protocols in place subject to review and approval from the West Orange Police Department which shall include at least a twenty-four hour security video system with footage to be kept for at least thirty (30) days and a vault for storage of money and all cannabis products when the Licensed Medical Marijuana Facility is closed. Prior to the commencement of any operations, a Licensed Medical Marijuana Facility must first obtain from the Police Chief, or designee, written approval of the Licensed Medical Marijuana Facility’s security protocols. The Police Chief, or designee, shall have to authority to require additional safety and security measures.

**VIII. CHAPTER 25, PART A: PERMITTED USES TABLE OF DISTRICT REGULATIONS SHALL BE AND HEREBY IS AMENDED AND SUPPLEMENTED TO INCORPORATE THE FOLLOWING:**

**25-Part A: Permitted Uses Table of District Regulations**

ZONE	PERMITTED PRINCIPAL USES	PERMITTED ACCESSORY USES	PERMITTED CONDITIONAL USES
B-1	SAME AS R-T AND in addition Retail store Personal service store or studio Office or office building Business or vocational school Restaurant Bar Massage, bodywork or	Required accessory parking Private garage Home occupation Home professional office Signs Vending machines	Motor vehicle fueling station Theater Public utility building or structure Telephone exchange Senior citizens housing project Hotel Private club, other than a golf club

	somatic therapy establishment		Video or amusement arcade Fast food restaurant Commercial antenna Licensed medical marijuana facility
B-2	Retail store Personal service store or studio Office or office building Business or vocational school Restaurant Bar Massage, bodywork or somatic therapy establishment	SAME AS OB-1 AND in addition Vending machines	SAME AS B-1
I	Light industry, including dry cleaning plants, machine shops, publishing or printing plants, research laboratories and steam laundries Office building Warehouse Self-storage facility Storage yard Wholesale business Motor vehicle fueling station Motor vehicle service station Car wash, Public utility building	SAME AS OB-1	Billiard parlor Bowling alley Commercial recreation Commercial antenna Motor vehicle sales establishment Licensed medical marijuana facility

**IX. REPEAL OF CONFLICTING ORDINANCES**

Any Ordinances of the Township which are in conflict with this Ordinance are hereby repealed to the extent of such conflict.

**X. SEVERABILITY**

If any part of this Ordinance shall be deemed invalid, such parts shall be severed and the invalidity thereof shall not affect the remaining parts of this Ordinance.

**XI. EFFECTIVE DATE**

This Ordinance shall take effect upon final passage and publication in accordance with the law.

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**ROBERT D. PARISI, MAYOR**

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**MICHELLE CASALINO  
COUNCIL PRESIDENT**

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**KAREN J. CARNEVALE, R.M.C., MUNICIPAL CLERK**

**INTRODUCED: January 7, 2020**

**ADOPTED: January 21, 2020**

### **Legislative History**

The purpose of this ordinance is to update the zoning provisions of the Township of West Orange to incorporate the legal operation of medical marijuana dispensaries to specifically identify the zones for which such operations shall be allowable. This ordinance will also outline the requirements for the operation of medical marijuana dispensaries.