

ORDINANCE OF THE TOWNSHIP OF SPARTA, IN THE COUNTY OF SUSSEX, NEW JERSEY, PERMITTING CLASS 5 CANNABIS BUSINESSES WITHIN THE TOWNSHIP, ADDING DEFINITIONS TO SECTION 18-2 OF THE TOWNSHIP CODE, DELETING SUBSECTION 3 OF CODE SECTION 18-4.5.H, PROHIBITED USES, AND ADOPTING NEW SECTIONS 18-4.7(c)(23), 18-4.24(f)(3) AND 18-4.20(d)(2) IN PERMITTING THE OPERATION OF CLASS 5 CANNABIS LICENSES AS CONDITIONAL USES WITHIN THE TCC AND C-1 ZONES IN THE TOWNSHIP

PURPOSE: The purpose of this Ordinance is to authorize licensed Class 5 Cannabis Businesses to conduct operations in prescribed areas in Sparta Township with such usage being allowed only under conditions that the Governing Body of Sparta Township has deemed will ensure compliance with all applicable laws and have the least impact on the day to day activities of the residents.

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 Distributor 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; 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, 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 of 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 authorizes municipalities by ordinance to prohibit

the operation of any one or more classes of cannabis establishments, distributors, or delivery services anywhere in the municipality; and

WHEREAS, Sparta Township adopted Ordinance 21-10 on June 22, 2021, prohibiting cannabis businesses within the Township; and

WHEREAS, the Sparta Township Council has determined that it is at this time necessary and appropriate, and in the best interest of the health, safety and welfare of the Township of Sparta's residents and members of the public who visit, travel, or conduct business in the Township of Sparta, to amend the Township's zoning regulations to permit only Class 5 cannabis businesses within the geographic boundaries of the Township of Sparta as a conditional use pursuant to Section 18-4.7, and subject to the requirements of New Jersey State statutes or Administrative Code regulations, as may be adopted and amended, including those of the Cannabis Regulatory Commission, and only if such cannabis establishment has first obtained a municipal cannabis license, pursuant to Chapter 8 of the Township Code.

NOW THEREFORE, BE IT ORDAINED, by the Sparta Township Council, in the County of Sussex, State of New Jersey, that the Township Code Book be amended as follows:

SECTION ONE. The General Ordinance of the Township of Sparta is amended by adopting new definitions to Code Section 18-2, "Definitions", as follows:

CANNABIS

All parts of the cannabis plant, 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. 2016, c. 16, for use in cannabis products as set forth in the Act.

CANNABIS RETAILER

Any licensed business or entity that is involved in the sale of cannabis items and related supplies that are sold to consumers, provided that such business shall not cultivate, manufacture, process or wholesale cannabis or cannabis products from such business. This person or entity shall hold a Class 5 cannabis retailer license.

GIFTING

Any individual, cannabis business or license holder providing free samples of marijuana or cannabis items, either independent of or in connection with the sale of other goods and/or services, from any commercial structure or movable vehicle or trailer.

PUBLIC PLACE or QUASI-PUBLIC PLACE

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

SECTION TWO. The General Ordinance of the Township of Sparta is amended by deleting subsection 3 of Code Section 18-4.5h "Prohibited Uses in All Districts", and which prohibited "3. All classes of cannabis establishments or cannabis distributors or cannabis delivery services as said terms are defined in Section 3 of P.L. 2021, c. 16, but not the delivery of cannabis items and related supplies by a delivery service."

SECTION THREE. The General Ordinance of the Township of Sparta is amended by adopting a new subsection 23, Cannabis Businesses, of Code Section 18-4.7(c), "Conditional Uses", as follows:

23. **Cannabis Businesses.** A cannabis retailer shall be permitted as a conditional use in accordance with subsection 1, below. All cannabis businesses are subject to the requirements of New Jersey State statutes and/or Administrative Code regulations, as may be adopted and

amended, including those of the Cannabis Regulatory Commission and including, but not limited to, N.J.S.A. 24:61-31 et seq. All cannabis businesses shall first obtain a license from the Sparta Township Council, in accordance with Sparta Township Code Chapter 8 prior to making application for conditional use approval. For purposes of this section, no other class of license business besides Class 5 Retailer is considered a Cannabis Business.

(1) **Cannabis retailer.** Cannabis retailers that operate a business located within Sparta Township shall meet the following conditions and standards when permitted as a conditional use:

(A) **Retail.** Number of retail business and cannabis delivery service licenses. There shall be a maximum of two (2) total cannabis retailers within Sparta Township. At least one (1) retail license shall be provided to a New Jersey certified women-owned, veteran-owned, disadvantaged business and/or minority-owned business, provided all other eligibility requirements are met.

(B) **Location.**

(i) A cannabis retail business shall be permitted as a conditional use only within the TCC and C-1 Zones in Sparta Township, and only at those locations with direct access to State Route 15 or State Route 181.

(ii) No cannabis retailers shall be located on the same lot as any residential use or any residentially-zoned property Cannabis Retailers and shall be at least 250 feet from a school, both public and private, state-licensed child-care or day-care facility, park, playground, place of worship or recreation/youth center, which distance shall be measured by direct measurement from entrance door of Cannabis Retailer to entrance door of the school, state-licensed child-care or day-care facility, park, playground, place of worship or recreation/youth center to the nearest property line of the land owned or leased by the cannabis retail business.

(iii) A cannabis retailer shall not be located in or upon the same unit as a grocery store, delicatessen, indoor food market, or other store that engages in either the retail sale of food or in the licensed retail sale of alcoholic beverages.

(iv) All cannabis retailers shall be located at least 250 feet from the nearest dwelling unit or residential lot located on a neighboring lot, which distance shall be measured from the entrance of the dwelling unit or residential lot and the cannabis retail business.

(v) There shall also be a minimum distance of not less than 2,500 feet between licensed cannabis retail businesses; such measurement shall be obtained by measuring the nearest property line of the one business which is licensed, to the nearest property line of the second business which seeks to be licensed.

(C) **Buildings.** All cannabis retailers shall be fully indoors and enclosed in heated/air-conditioned permanent buildings, not trailers, outdoors, moveable kiosks, carts, sheds, tents, etc.

(D) **Signage.** Signs shall be limited to one location identification/name of business sign, in compliance with the Township Code. Signage shall not promote consumption of any cannabis products. A “No Loitering” sign shall be posted on the outside of the building.

(E) **Site plan approval.** All cannabis businesses are subject to Site Plan approval. Application must be heard in front of the full Planning Board and shall not utilize the Minor Site Plan Waiver subcommittee of the Planning Board. When seeking site plan approval, the applicant shall submit a safety and security plan and emergency services access plan. The Township Police Department shall review and approve of all security plans.

(F) Accessibility. Any cannabis retailer service shall only have one primary public access point, which shall be directly adjacent to the right-of-way or parking area of the building. Access should not be through common entrances with other uses.

(G) Hours of operation. Hours of operation shall be limited to not earlier than 9:00 a.m. to not later than 9:00 p.m.

(H) Interior security. The applicant shall provide a secure location for storage of products with minimum products in any customer service area.

(I) Exterior loitering and security. People shall not be permitted to congregate, loiter, or wait in line to access the cannabis retailer. The facility shall have a plan in place if interior capacity is exceeded, i.e., numbers are given and customers wait in their vehicles until called.

(J) Curbside and drive-through sales prohibited. There shall be no curbside retail sales or drive-through sales of cannabis permitted in Sparta Township.

(K) Product consumption. No cannabis or cannabis related products shall be permitted to be consumed on site. "No Smoking" signs shall be posted inside and outside the building. Smoking, consumption or ingestion of cannabis shall not be permitted at any public or quasi-public place.

(L) Compliance: All cannabis retail businesses shall be in compliance with all applicable New Jersey State requirements, licenses and permits. The Township's existing sound regulations will be strictly enforced.

(M) Gifting prohibited. Under no circumstance shall any commercial business, individual, cannabis business or cannabis license holder, under any class of license, engage in gifting cannabis or marijuana as defined herein. Any commercial business, individual, cannabis business or cannabis license holder found in violation of this provision shall be subject to punishment including fines and/or imprisonment as set forth within the Township Code, including but not limited to Section 1-5.1, Maximum Penalties, and depending upon other carefully defined circumstances, possible criminal prosecution.

(3) Specific Requirements for Licensed Cannabis Uses

1. Prior to the operation of any cannabis business, a permit or license must be obtained from the State of New Jersey and from the Township. No cannabis business shall be permitted to operate unless it possesses all permits and licenses required by state and local law.
2. Cannabis businesses shall, at all times, comply with the terms and conditions of the permits or licenses issued by the State of New Jersey and the Township.
3. No cannabis establishment or alternative treatment center shall be housed in a vehicle or any movable or mobile structure.
4. In no case shall cannabis plants, products, or paraphernalia be visible from a public or private road, sidewalk, residence, or part of any common public viewing area.
5. Odor control devices and techniques shall be incorporated in all cannabis businesses to ensure that odors from cannabis are not detectable on-site. Cannabis businesses shall provide a sufficient odor absorbing ventilation and exhaust system so that odor generated inside the cannabis business that is distinctive to its operation is not detected outside of the facility, anywhere on adjacent property or public rights-of-way, on or about the exterior or interior common area walkways, hallways, breezeways, foyers, lobby areas, or any other areas available for use by common tenants or the visiting public, or within any other unit located inside the same building as the cannabis business. The ventilation system must be installed to meet ASHRAE62 Indoor Air Quality Standards and approved by the Health Department and Building Department and may be subject to periodic inspection by

both departments.

6. 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.
7. No cannabis business shall be located within 1000 feet of any school, park, playground, place of worship, or recreation/youth center in accordance with the federal Controlled Substances Act, 21 U.S.C. Sections 801 et seq. Distance shall be measured using a direct straight-line measurement from the nearest point of the property line of the site that contains the cannabis business to the nearest point of the property line of the site that contains the school, park, playground, place of worship, or recreation/youth center.
8. A cannabis retailer shall not be located in or upon the same building as a grocery store, delicatessen, indoor food market, or other store that engages in either the retail sale of food or in the licensed retail sale of alcoholic beverages.
9. All cannabis businesses shall meet the security requirements set forth in subsection 8-1.T of the Township Code, as well as any additional security-related requirements imposed by state or local authorities.
10. Persons under the age of twenty-one (21) years shall not be allowed on the premises of a cannabis business and shall not be allowed to serve as a driver for a cannabis delivery service. A notice that no personal under the age of twenty-one (21) years of age is permitted to enter the premises shall be prominently displayed at all entrances to a cannabis business.
11. The provisions of this paragraph shall not apply to a cannabis delivery service based outside of the Township which makes deliveries of cannabis or related supplies to consumers located within the Township.
12. Except as expressly permitted by this paragraph and Section 8-1 of the Township Code, any cannabis business activities, such as cultivation, manufacturing, processing, testing, dispensing, distribution and/or sale of cannabis or cannabis products, are expressly prohibited as land uses or otherwise in the Township.

SECTION FOUR. The General Ordinance of the Township of Sparta is amended by adopting a new subsection f.3 of the TCC Zone, Subsection 18-4.24(f), as follows:

(3) Cannabis retail businesses pursuant to Subsection 18-4.7c23

SECTION FIVE. The General Ordinance of the Township of Sparta is amended by adopting a new subsection d.2 of the C-1 Zone, Subsection 18-4.20(d), as follows:

(2) Cannabis retail business pursuant to Subsection 18-4.7c23.

SECTION SIX. Any article, section, paragraph, subsection, clause, or other provision of the Revised General Ordinance of the Township of Sparta inconsistent with the provisions of this Ordinance is hereby repealed to the extent of such inconsistency.

SECTION SEVEN. If any section, paragraph, subsection, clause, or provision of this Ordinance shall be adjudged by a court of competent jurisdiction to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause, or provision so adjudged, and the remainder of this ordinance shall be deemed valid and effective.

SECTION EIGHT. This Ordinance shall take effect upon its passage and publication and filing with the Sussex County Planning Board and as otherwise required by law.

NOTICE

PLEASE TAKE NOTICE that the above ordinance was introduced and passed upon first reading at a regular meeting of the Sparta Township Council held at the Municipal Building, 65 Main Street, Sparta, New Jersey on **March 11, 2025** and will be considered for final passage and adoption at the regularly scheduled meeting of the Township Council of the Township of Sparta to be held at the Municipal Building, 65 Main Street, Sparta, New Jersey, on **April 8, 2025** at 7:00 p.m., at which time and place all persons interested therein or affected thereby will be given an opportunity to be heard concerning the same.

BY ORDER OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF SPARTA.

**ROXANNE LANDY, RMC
MUNICIPAL CLERK**