

**TOWNSHIP OF ABERDEEN
MONMOUTH COUNTY, NEW JERSEY
ORDINANCE NO. 11-2021**

**ORDINANCE OF THE TOWNSHIP OF ABERDEEN ADOPTING AN AMENDMENT
TO THE COMMERCE AND TRANSPORTATION CENTER REDEVELOPMENT
PLAN TO PERMIT CANNABIS ESTABLISHMENTS, DISTRIBUTORS AND
DELIVERY SERVICES**

WHEREAS, on November 3, 2020, more than two-thirds of the registered voters in New Jersey voted to approve 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 21 years of age and older; and

WHEREAS, in the Township of Aberdeen (the “Township”), nearly 70% of registered voters voted in favor of 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 legalized the recreational use of marijuana by adults 21 years of age or older; and

WHEREAS, the Act establishes a comprehensive regulatory and licensing scheme for commercial, recreational (adult use) cannabis operations, use and possession; and

WHEREAS, the Act establishes six (6) marketplace classes of licensed businesses to cultivate, manufacture, wholesale, distribute, sell and deliver cannabis and cannabis related products; 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 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 31(b) of the Act authorizes municipalities by ordinance to prohibit the operation of any one or more classes of cannabis establishments, cannabis distributors, or cannabis delivery services anywhere in the municipality; and

WHEREAS, Section 31(b) of the Act also stipulates, however, that any municipal regulation or prohibition must be adopted within 180 days of the effective date of the Act (*i.e.*, by August 21, 2021); and

WHEREAS, on August 9, 1999, the Mayor and Council, by way of Resolution No. 99-116, designated an area in proximity of the train station as an “Area in Need of Redevelopment”

(the “Redevelopment Area”) pursuant to the Local Redevelopment and Housing Law (the “Redevelopment Law”), N.J.S.A. 40A:12A-1 et seq.; and

WHEREAS, pursuant to N.J.S.A. 40A:12A-7, a Governing Body may adopt, revise or amend a redevelopment plan; and

WHEREAS, pursuant to N.J.S.A. 40A:12A-7(c), a redevelopment plan shall supersede applicable provisions of the development regulations of the municipality or constitute an overlay zoning district within the redevelopment area; and

WHEREAS, on or about a date in 1999, the Township adopted a redevelopment plan for the area entitled “Commerce and Transportation Center” (the “Redevelopment Plan”), which Redevelopment Plan was subsequently amended on or about a date in 2020; and

WHEREAS, by way of Resolution No. 2012-54 adopted on April 24, 2012, the Township approved the Supplemental Updated Preliminary Investigation Report reaffirming the designation of the Redevelopment Area as an area in need of redevelopment in accordance with the Redevelopment Law;

WHEREAS, by way of Ordinance No. 16-2012 adopted on July 17, 2012, the Township adopted amendments to the Redevelopment Plan, which Redevelopment Plan was further amended by the Township by way of Ordinance No. 12-2015 on July 7, 2015; and

WHEREAS, the Township of Aberdeen is desirous to amend the Redevelopment Plan to impose development regulations on any one or more classes of cannabis establishments, cannabis distributors, or cannabis delivery services throughout the Township; and

WHEREAS, the Township of Aberdeen has carefully considered the benefits and detriments of permitting any one or more classes of cannabis establishments within the Township of Aberdeen and the impact upon the health, safety, and welfare of its residents; and

WHEREAS, the Mayor and Council of the Township of Aberdeen has determined that it is necessary and appropriate, and in the best interest of the health, safety and welfare of the Township of Aberdeen’s residents and members of the public who visit, travel, or conduct business in the Township of Aberdeen, to adopt an ordinance to permit and prohibit the operation of any one or more classes of cannabis establishments, cannabis distributors, or cannabis delivery services within the Township of Aberdeen in accordance with Section 31(b) of the Act; and

WHEREAS, the Mayor and Council of the Township of Aberdeen has determined that an amendment to the Redevelopment Plan is the most prudent course of action to address the six (6) cannabis marketplace classes of licensed businesses and the adoption of such an ordinance satisfies Section 31(b) of the Act.

NOW THEREFORE, BE IT ORDAINED, by the Mayor and Council of the Township of Aberdeen, in the County of Monmouth, State of New Jersey, as follows:

Section 1. The Redevelopment Plan is amended and supplemented as follows:

- a) The definitions set forth in the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act, N.J.S.A. 24:6I-1 et seq. (the “Act”), are incorporated herein and the relevant terms shall have the same meaning and definition as set forth in the Act.
- b) A cannabis retailer as defined in the Act is a prohibited use in the Redevelopment Area.
- c) The following conditional uses, restrictions and special requirements shall be applicable to any property located in the Redevelopment Area:

A. Permitted conditional uses shall be:

1. Class 1, Cannabis cultivators, Class 2, Cannabis manufacturers, Class 3, Cannabis wholesalers Class 4, Cannabis distributors, and Class 6, Delivery Service, subject to the special requirements set forth in Section B below.

B. The permitted conditional uses shall be subject to the following special requirements:

1. The cannabis cultivators, cannabis manufacturers, cannabis wholesalers, cannabis distributors or cannabis delivery services shall be duly licensed by the State of New Jersey with its license maintained in good standing.
2. Class 1, 2, 3, 4 and 6 cannabis establishments shall comply with the bulk, area, and yard requirements of the underlying zone for the property subject to any development application and/or redevelopment agreement.
3. No vehicular access is permitted from a residential street.
4. No cannabis establishment, cannabis distributor or cannabis delivery services shall be located closer than 300 feet from a residential zone, church, public or parochial school, private school, child-care center, or public park.
5. On-site sales of alcohol or tobacco products are prohibited.
6. On-site consumption of food, alcohol, tobacco, or cannabis products is prohibited.
7. Cannabis paraphernalia shall not be displayed or visible from the building’s exterior.
8. Minimum Off-street parking requirements:
 - i. Shall provide parking at the ratios of one (1) space for everyone thousand (1,000) square feet of gross floor area used for inside storage and warehousing plus one (1) space for every seven hundred (700)

square feet of gross floor area used for manufacturing plus one (1) space for every two hundred (200) square feet of gross floor area used for offices. Additionally, one (1) space shall be provided for every vehicle owned and/or operated by the manufacturing or industrial plant operating from the site.

- ii. Additionally, all classes shall provide one (1) space for every vehicle owned and/or operated by a use operating from a site in addition to any parking requirement set forth hereinabove. Such spaces shall be of sufficient size to accommodate the vehicles intended to be parked therein, if oversized.

9. Signage shall comply with §25.5.18 of the Land Development Chapter of the Township of Aberdeen and the following requirements:

- i. No sign shall contain any visual representation of cannabis or associated paraphernalia.
- ii. Cannabis establishment, cannabis distributor or cannabis delivery services shall not display on the exterior of the facility advertisements for marijuana, marijuana paraphernalia or a brand name except for the purposes of identifying the building by the permitted name.

10. Classes 1, 2, 3, and 4 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 anywhere on adjacent property, within public rights of way, or within any other unit located within the same building as the licensed facility if the use only occupies a portion of a building. At no cost to the Township, odor from the facility shall be monitored by a qualified contractor chosen, on an annual basis, by the Township.

11. Hours of public operation shall be limited to 8:00 AM through 10:00 PM daily. No licensed marijuana business shall be open to the public between the hours of 10:01 PM and 7:59 AM on any day.

12. All licensed facilities shall submit a detailed security plan, which shall be subject to the review and approval of the Township's Chief of Police. Such plan should include measures and procedures designed to protect both tenants and the visitors from criminal activity, unsafe conditions and incidents of nuisance/harassment. Any approval granted may be rescinded at any time such plan fails to comply with the approved procedures of the security plan or which fails to provide adequate security and safety for tenants and visitors. The proposed security plan shall include at a minimum:

- i. a map of all points of public entry and a description of all security measures (e.g., locks, alarms, access keypads, security cameras, foot patrols) to restrict access by unauthorized persons;

- ii. procedures for maintaining records which shall include the date and a detailed description of all incidents of suspected criminal activity/unlawful behavior, unauthorized access, assaults, threatening conduct or harassment and a detailed description of the action taken in response to each complaint;
- iii. procedures for maintaining records of regular audits to ensure that the security plan is current and that procedures are being followed.

13. All licensed facilities shall be subject to the maximum local cannabis transfer tax and user tax, as authorized by the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (P.L. 2021, c. 16).

14. Any applicant, property owner, developer or redeveloper that proposes a conditional use as set forth herein shall be required to enter into a Redevelopment Agreement with the Township. An executed Redevelopment Agreement with the Township shall be required (as a checklist item) as a part of an application submission for site plan approval to the Township Planning Board or as part of any other application for land use approvals utilizing the requirements set forth herein.

- d) It is intended and expressly understood that with respect to any issue of relevant land use and building requirements not specifically addressed in this Redevelopment Plan, those issues are subject to the Land Development Ordinance and all other ordinances and regulations of the Township of Aberdeen not contravened in this Redevelopment Plan.

Section 2. The Redevelopment Plan and the amendment shall constitute an overlay zone to the extent set forth therein.

Section 3. Prior to the adoption of this Ordinance and the amendments to the Redevelopment Plan, the Township Council shall refer the amendments to the Redevelopment Plan to the Planning Board pursuant to the Redevelopment Law.

Section 4. The Planning Board shall, within 45 days after referral by the Township Council, transmit to the Township Council, a report containing its recommendation concerning the amendments to the Redevelopment Plan pursuant to the Redevelopment Law, including any provisions which are inconsistent with the master plan and any recommendations concerning those inconsistencies.

Section 5. Upon receipt of the Planning Board's recommendation or if the Planning Board fails to transmit a recommendation within 45 days after referral, the

Township Council shall act upon this Ordinance adopting the amendments to the Redevelopment Plan pursuant to the Redevelopment Law.

Section 6. The Township Council hereby adopts the amendments to the Redevelopment Plan for Redevelopment Area as set forth herein.

Section 7. All ordinances or parts of ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

Section 8. In the event any clause, section or paragraph of the Ordinance is deemed invalid or unenforceable for any reason, it is the intent of the Township Council that the balance of the Ordinance remains in full force and effect to the extent it allows the Township to meet the goals of the Ordinance.

Section 9. This Ordinance shall take effect after final adoption and publication according to law.

ROLL CALL VOTE:

Ayes: Councilmember Cannon, Hirsch, Kelley, Montone, Swindle, Deputy Mayor Martucci and Mayor Tagliarini

Nays: None

Abstain: None

Absent: None

I hereby certify the foregoing to be a true copy
of an ordinance adopted by the Township
Council of the Township of Aberdeen at
a special council meeting held on July 22, 2021

Karen Ventura
Karen Ventura, Municipal Clerk