

TOWNSHIP OF PEMBERTON
ORDINANCE NO. 29-2021

**AN ORDINANCE AMENDING CHAPTER 190 OF THE CODE OF THE
TOWNSHIP OF PEMBERTON ENTITLED "ZONING" TO ALLOW THE
OPERATION OF CERTAIN CANNABIS LICENSES WITHIN THE
GEOGRAPHICAL LIMITS OF THE TOWNSHIP OF PEMBERTON AND TO
CREATE A NEW SECTION, CHAPTER 65, ENTITLED "CANNABIS"**

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") (P.L. 2021, c.16), 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 to cultivate, manufacture, wholesale, distribute, sell and deliver cannabis and cannabis related products; 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, Section 31b 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 (or by August 22, 2021); and

WHEREAS, pursuant to Section 31b of the Act, the failure to do so shall mean that for a period of five years thereafter, the growing, cultivating, manufacturing, selling, and reselling of cannabis and cannabis items shall be permitted uses in all industrial zones, and the retail selling of cannabis items to consumers shall be a conditional use in all commercial and retail zones; and

WHEREAS, at the conclusion of the initial and any subsequent five-year period following a failure to enact local regulations or prohibitions, the municipality shall again have 180 days to adopt an ordinance regulating or prohibiting cannabis businesses, but any such ordinance would be prospective only and would not apply to any cannabis business already operating within the municipality; 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

WHEREAS, the Township Committee of the Township of Pemberton has determined that the cultivation, manufacture, wholesale, and distribution of cannabis as well as its retail sale and delivery present special concerns and should be permitted in appropriate locations and regulated to protect the health safety and welfare of its citizens;

NOW THEREFORE, BE IT ORDAINED, by the Council of the Township of Pemberton, in the County of Burlington, State of New Jersey that Chapter 190 known as Zoning is hereby amended as follows:

§ 190-5.B. Definitions.

“Cannabis”

Cannabis means 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 for use in cannabis products as set forth in this act, 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, 26c.158 (C.18A:40-12.22 et al.); marijuana as defined in N.J.S.2C:35-272 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 consumption area”

Cannabis consumption area means, as further described in section 28 of P.L.2019, c.153 (C.24:6I-21), a designated location operated by a licensed cannabis retailer or permit holder for dispensing medical cannabis, for which both a State and local endorsement has been obtained, that is either: (1) an indoor, structurally enclosed area of the cannabis retailer or permit holder that is separate from the area in which retail sales of cannabis items or the dispensing of medical cannabis occurs; or (2) an exterior structure on the same premises as the cannabis retailer or permit holder, either separate from or connected to the cannabis retailer or permit holder, at which cannabis items or medical cannabis either obtained from the retailer or permit holder, or brought by a person to the consumption area, may be consumed.

“Cannabis cultivator”

Cannabis cultivator means 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 service”

Cannabis delivery service means 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”

Cannabis distributor means 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”

Cannabis establishment means a cannabis cultivator, a cannabis manufacturer, a cannabis wholesaler, or a cannabis retailer.

“Cannabis extract”

Cannabis extract means a substance obtained by separating resins from cannabis by: (1) a chemical extraction process using a hydrocarbon-based solvent, such as butane, hexane, or propane; (2) a chemical extraction process using the hydrocarbon-based solvent carbon dioxide, if the process uses high heat or pressure; or (3) any other process identified by the Cannabis Regulatory Commission by rule or regulation.

“Cannabis item”

Cannabis item means any usable cannabis, cannabis product, cannabis extract, and any other cannabis resin. “Cannabis item” does not include: any form of 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.); 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 leaf” means the leaf of the plant *Cannabis sativa* L. within the plant family Cannabaceae.

“Cannabis manufacturer”

Cannabis manufacturer means 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”

Cannabis paraphernalia means 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”

Cannabis product means 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 resin”

Cannabis resin means the resin extracted from any part of the plant *Cannabis sativa* L., including cannabis extract and resin extracted using non-chemical processes, processed, and used in accordance with P.L.2021, c.16. Cannabis resin does not include: any form of 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.); hashish 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 as defined in section 2 of P.L.1970, c.226 (C.24:21-2) and applied to any offense of 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 retailer”

Cannabis retailer means 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”

Cannabis testing facility means 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”

Cannabis wholesaler means 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.

“Commission”

Commission means the Cannabis Regulatory Commission established pursuant to section 31 of P.L.2019, c.153 (C.24:6I-24).

“Conditional license”

Conditional license means a temporary license designated as either a Class 1 Cannabis Cultivator; license, a Class 2 Cannabis Manufacturer license, a Class 3 Cannabis Wholesaler license, a Class 4 Cannabis Distributor license, a Class 5 Cannabis Retailer license, or a Class 6 Cannabis Delivery license that allows the holder to lawfully act as a cannabis cultivator, cannabis manufacturer, cannabis wholesaler, cannabis distributor, cannabis retailer, or cannabis delivery service as the case may be, which is issued pursuant to an abbreviated application process, after which the conditional license holder shall have a limited period of time in which to become fully licensed by satisfying all of the remaining conditions for licensure which were not required for the issuance of the conditional license.

“Consumer”

Consumer means a person 21 years of age or older who purchases, directly or through a cannabis delivery service, acquires, owns, holds, or uses cannabis items for personal use by a person 21 years of age or older, but not for resale to others.

“Consumption”

Consumption means the act of ingesting, inhaling, or otherwise introducing cannabis items into the human body.

“Delivery”

Delivery means the transportation of cannabis items and related supplies to a consumer. Delivery also includes the use by a licensed cannabis retailer of any third party technology platform to receive, process, and fulfill orders by consumers, which third party shall not be required to be a licensed cannabis establishment, distributor, or delivery service, provided that any physical acts in connection with fulfilling the order and delivery shall be accomplished by a certified cannabis handler performing work for or on behalf of the licensed cannabis retailer, which includes a certified cannabis handler employed or otherwise working on behalf of a cannabis delivery service making off-premises deliveries of consumer purchases fulfilled by that cannabis retailer.

“Department”

Department means the News Jersey Department of Health.

“License”

License means a license issued under P.L.2021, c.16, including a license that is designated as either a Class 1 Cannabis Cultivator license, a Class 2 Cannabis Manufacturer license, a Class 3 Cannabis Wholesaler license, a Class 4 Cannabis Distributor license, a Class 5 Cannabis Retailer license, or a Class 6 Cannabis Delivery license. The term includes a conditional license for a designated class, except when the context of the provisions of P.L.2021, c.16, otherwise intend to only apply to a license and not a conditional license.

“Licensee”

Licensee means a person or entity that holds a license issued under P.L.2021, c.16., including a license that is designated as either a Class 1 Cannabis Cultivator license, a Class 2 Cannabis Manufacturer license, a Class 3 Cannabis Wholesaler license, a Class 4 Cannabis Distributor license, a Class 5 Cannabis Retailer license, or a Class 6 Cannabis Delivery license, and includes a person or entity that holds a conditional license for a designated class, except when the context of the provisions of P.L.2021, c.16., otherwise intend to only apply to a person or entity that holds a license and not a conditional license.

“Licensee representative”

Licensee representative means an owner, director, officer, manager, employee, agent, or other representative of a licensee, to the extent that the person acts in a representative capacity.

“Manufacture”

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

“Mature cannabis plant” means a cannabis plant that is not an immature cannabis plant.

“Medical cannabis” means 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.). Medical cannabis does not include any cannabis or cannabis item which is cultivated, produced, processed, and consumed in accordance with P.L.2021, c.16.

“Microbusiness”

Microbusiness means a person or entity licensed under P.L.2021, c.16., as a cannabis cultivator, cannabis manufacturer, cannabis wholesaler, cannabis distributor, cannabis retailer, or cannabis delivery service that may only, with respect to its business operations, and capacity and quantity of product: (1) employ no more than 10 employees; (2) operate a cannabis establishment occupying an area of no more than 2,500 square feet, and in the case of a cannabis 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; (3) 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; (4) acquire each month, in the case of a cannabis manufacturer¹, no more than 11,000 pounds of usable cannabis; (5) acquire or resale each month, in the case of a cannabis wholesaler, no more than 1,000 pounds of usable cannabis, or the equivalent amount in any form of manufactured cannabis product or cannabis resin, or any combination thereof; and (6) acquire for retail sale each month, in the case of a cannabis retailer, no more than 1,000 pounds of usable cannabis, or the equivalent amount in any form of manufactured cannabis product or cannabis resin, or any combination thereof.

“Premises”

Premises or licensed premises includes the following areas of a location licensed under P.L.2021, c.16.: all public and private enclosed areas at the location that are used in the business operated at the location, including offices, kitchens, rest rooms, and storerooms; all areas outside a building that the Cannabis Regulatory Commission has specifically licensed for the production, manufacturing, wholesaling, distributing, retail sale, or delivery of cannabis items; and, for a location that the commission has specifically licensed for the production of cannabis outside a building, the entire lot or parcel that the licensee owns, leases, or has a right to occupy.

“Produce”

Produce means the planting, cultivation, growing or harvesting of cannabis. Produce does not include the drying of cannabis by a cannabis manufacturer if the cannabis manufacturer is not otherwise manufacturing cannabis.

“Public place”

Public place means 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, 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.

The following sections of Chapter 190 are revised to provide for conditional uses in the following manner:

§ 190-12. AR Agricultural Residential District.

B (1). Conditional Uses. The following conditional uses re permitted in the AR Agricultural Residential District.

- (1) Class 1 Cannabis Cultivator shall comply with the following requirements as set forth in § 190-56.I.

- (2) Class 2 Cannabis Manufacturer shall comply with the following requirements as set forth in § 190-56.I.
- (3) Class 3 Cannabis Wholesaler shall comply with the following requirements as set forth in § 190-56.I.
- (4) Class 4 Cannabis Distributor shall comply with the following requirements as set forth in § 190-56.I.

§ 190-13. AP Agricultural Production District.

B (1). Conditional Uses. The following conditional uses are permitted in the AP Agricultural Production District.

- (1) Class 1 Cannabis Cultivator shall comply with the following requirements as set forth in § 190-56.I.
- (2) Class 2 Cannabis Manufacturer shall comply with the following requirements as set forth in § 190-56.I.
- (3) Class 3 Cannabis Wholesaler shall comply with the following requirements as set forth in § 190-56.I.
- (4) Class 4 Cannabis Distributor shall comply with the following requirements as set forth in § 190-56.I.

§ 190-23.1 NC Neighborhood Commercial District.

C. Conditional uses. The following conditional uses are permitted in the NC District:

- (2) Class 2 Cannabis Manufacturer shall comply with the following requirements as set forth in § 190-56.J.
- (3) Class 3 Cannabis Wholesaler shall comply with the following requirements as set forth in § 190-56.J.
- (4) Class 4 Cannabis Distributor shall comply with the following requirements as set forth in § 190-56.J.
- (5) Class 5 Cannabis Retailer shall comply with the following requirements as set forth in § 190-56.G.
- (6) Class 6 Cannabis Delivery Service shall comply with the following requirements as set forth in § 190-56.H.

§ 190-23.2 NCP Neighborhood Commercial Pinelands District.

C. Conditional uses. The following conditional uses are permitted in the NCP District:

- (2) Class 2 Cannabis Manufacturer shall comply with the following requirements as set forth in § 190-56.J.
- (3) Class 3 Cannabis Wholesaler shall comply with the following requirements as set forth in § 190-56.J.
- (4) Class 4 Cannabis Distributor shall comply with the following requirements as set forth in § 190-56.J.
- (5) Class 5 Cannabis Retailer shall comply with the following requirements as set forth in § 190-56.G.

- (6) Class 6 Cannabis Delivery Service shall comply with the following requirements as set forth in § 190-56.H.

§ 190-24 GCLI General Commercial/Light Industry District.

B (1) Conditional Uses. The following conditional uses are permitted in the GCLI General Commercial/Light Industry District.

- (1) Class 2 Cannabis Manufacturer shall comply with the following requirements as set forth in § 190-56.J.
- (2) Class 3 Cannabis Wholesaler shall comply with the following requirements as set forth in § 190-56.J.
- (3) Class 4 Cannabis Distributor shall comply with the following requirements as set forth in § 190-56.J.
- (4) Class 5 Cannabis Retailer shall comply with the following requirements as set forth in § 190-56.G.
- (5) Class 6 Cannabis Delivery Service shall comply with the following requirements as set forth in § 190-56.H.

CONDITIONAL USE AMENDMENTS

§ 190-56.G. CANNABIS RETAIL ESTABLISHMENT

- (a) The cannabis retail establishment shall comply with § 190-23.1 E.(1).
- (b) The cannabis retail establishment shall comply with the following gross floor area (GFA) restrictions:
 - [1] Minimum GFA shall be 1,500 square feet.
 - [2] Maximum GFA shall be 10,000 square feet.
- (c) The cannabis retail establishment shall be located in the following manner:
 - [1] In a stand-alone, single use building as permitted in the NC District, or
 - [2] On the first floor of a commercial building the contains other commercial businesses permitted in the NC District, or
 - [3] On the first floor of a shopping center consisting of one or more principle buildings.
- (d) Signage identifying the cannabis retail establishment shall be restricted in the following manner:
 - [1] For stand alone, single-use buildings, signage identifying the retail operation shall be limited to one façade sign and one freestanding monument sign. The façade and freestanding monument sign shall comply with the provisions set forth in § 190-41 and 44.
 - [2] For commercial buildings and shopping centers that contain other commercial businesses, signage identifying the retail operation shall be limited to one façade sign and one freestanding monument or pylon sign for multiple occupants. The façade and freestanding monument sign shall comply with the provisions set forth in § 190-41 and 44.

- [3] Window and temporary signs shall be prohibited.
 - [4] Door signs shall be limited to the name of the business, street address, and days and hours of operation.
 - [5] Exterior and interior signage shall be prohibited from containing text and/or images that promote excessive consumption of legal cannabis products.
- (e) A Class 5 Cannabis Retailer shall not be located within a distance of five hundred feet from the boundaries of the property on which the retail operation is located to the boundaries of the property on which the following land uses are located: a public or private school including elementary, vocational, or secondary schools, colleges, and universities; a state-licensed childcare center; a house of worship; and a state-licensed addiction recovery facility.
- (f) A Class 5 Cannabis Retailer shall not be located within a distance of five hundred feet from the boundaries of the property on which the retail operation is located to the boundaries of the property on which another Class 5 Cannabis Retailer is located.
- (g) The days and hours of operation for a Class 5 Cannabis Retailer shall be limited to: Monday–Saturday, 9 a.m.–9 p.m.; and Sunday, 12 p.m.–7 p.m.
- (h) On-site sales of alcohol or tobacco products are prohibited.
- (i) On-site consumption of food, alcohol, tobacco, or cannabis products by patrons is prohibited.
- (j) Security Requirements for Class 5 Cannabis Retailers:
- [1] All licensed retail establishments shall be equipped with security cameras covering all exterior parking and loading areas, all points of entry into the facilities, and interior spaces that are open to the public and that are used to store cannabis products.
 - [a] Security cameras shall be installed to monitor and record all areas of the premises, except in restrooms, and where persons may gain or attempt to gain access to cannabis products or cash maintained by the Cannabis Retailer. Cameras shall record operations of the business and all potential areas of ingress and egress to the facility with sufficient detail to identify facial features and clothing. Recordings from security cameras shall be maintained for a minimum of forty days in a secure offsite location or through a service over a network that provides on-demand access, commonly referred to as a “cloud.” The offsite location shall be submitted to the Pemberton Township Police Department and shall be updated within forty-eight hours of any change of such location.
 - [2] All licensed retail establishments shall provide the Pemberton Township Police Department with access to recorded security footage immediately upon request by the Department.
 - [3] All licensed retail establishments shall have at least one privately license security guard stationed at each facility during operation and when the facility is open to the public. The expense of providing the privately licensed security guard shall be paid by the cannabis establishment.
 - [4] All licensed retail establishments shall provide a dimensioned floor plan, clearly labeled, showing: the layout of the structure and floor plan in which the retail operation is to be located; the

principal uses of the floor area depicted on the floor plan including, but not limited to, public areas, retail areas, storage areas and restricted areas where cannabis products will be located; all points of entry into the facility; and the locations of all security cameras that will be positioned within the facility.

- [5] All licensed retail establishments shall provide a plan for exterior lighting for security purposes.
- [6] All licensed retail establishments shall install and use a safe for storage of any cannabis products and cash on the premises when the business is closed to the public. The safe shall be incorporated into the building structure or securely attached thereto as approved by the Pemberton Township Police Department and Construction Official.
- [7] All licensed retail establishments shall install and use an alarm system that is monitored by a company that is staffed twenty-four hours a day, seven days a week. The name, location and contact information of the company monitoring the alarm shall be provided to the Pemberton Police Department and shall be updated within forty-eight hours of any change of monitoring company. If the alarm system includes a panic alarm, an operable dedicated phone for Pemberton Police Department to respond to the alarm shall remain on the premises at all times.

190-56.H.

Cannabis Delivery establishment operations as regulated by § 190-1 et. seq. shall be permitted only in accordance with the following provisions:

- (a) No maintenance and repair of any vehicle shall be permitted on the premises.
- (b) All parking areas and access drives shall be paved in accordance with § 190-38D.
- (c) All parking areas and access drives shall be adequately buffered and screened from all common property lines in accordance with the general requirements for the zone in which the Cannabis Delivery operation is located, and in accordance with § 190-39.
- (d) There shall be no exterior sound amplification systems or devices of any kind used in conjunction with the Cannabis Delivery operation.
- (e) All site lighting shall conform to the requirements of § 190-39.
- (f) The Cannabis Delivery operation shall provide adequate indoor seating for employees so that no employees shall loiter or await calls for service outdoors at any time.

190-56.I.

The following class cannabis establishments are permitted as conditional uses in the AR and AP Districts:

<u>Class</u>	<u>Description</u>
1	Cannabis Cultivator
2	Cannabis Manufacturer
3	Cannabis Wholesaler
4	Cannabis Distributor

The foregoing class cannabis establishments shall comply with the following requirements:

- (a) Class 1, 2, 3, and 4 cannabis establishments shall be located on a single-use site that shall be devoid of other principal uses. Only one cannabis establishment shall be permitted on the single-use site.
- (b) Cannabis establishments shall comply with the following bulk, area, and yard requirements:

<u>Description</u>	<u>AR</u> <u>Requirement</u>	<u>AP</u> <u>Requirement</u>
Minimum Lot Area	6 acres	10 acres
Minimum Lot Frontage	200 feet	250 feet
Minimum Lot Width	200 feet	250 feet
Minimum Lot Depth	400 feet	600 feet
Principal Building Yard Setbacks		
Front	100 feet	100 feet
Side	50 feet	50 feet
Rear	100 feet	100 feet
Maximum Building Coverage	10%	10%
Maximum Site Coverage	30%	30%
Maximum Building Height	40 feet	40 feet

- (c) Signage identifying the cannabis establishment shall be restricted in the following manner:
 - [1] One façade sign, which complies with § 190-41 and 44, shall be permitted.
 - [2] One freestanding monument sign, which complies with § 190-41 and 44, shall be permitted.
 - [3] Window and temporary signs shall be prohibited.
 - [4] Door signs shall be limited to the name of the business, street address, and days and hours of operation.
 - [5] Exterior and interior signage shall be prohibited from containing text and/or images that promote excessive consumption of legal cannabis products.
- (d) A Class 1, 2, 3, and 4 cannabis establishment shall not be located within a distance of one thousand feet from the boundaries of the property on which the cannabis establishment is located to the boundaries of the property on which the following land uses are located: a public or private school including elementary, vocational, or secondary schools, colleges, and universities; a state-licensed childcare center; a house of worship; and a state-licensed addiction recovery facility.
- (e) A Class 1, 2, 3, and 4 cannabis establishment shall not be located within a distance of five hundred feet from the boundaries of the property on which the cannabis establishment is located to the boundaries of the property on which another Class 1, 2, 3, and 4 cannabis establishment is located.
- (f) The days and hours of operation for Class 1, 2, 3, and 4 cannabis establishment shall comply with the following limitations:
 - [1] Class 1 Cannabis Cultivator – Sunday through Saturday, 7 a.m. to 7 p.m.
 - [2] Class 2 Cannabis Manufacturer, Class 3 Cannabis Wholesaler and Class 4 Cannabis Distributor – Monday through Saturday, 7 a.m. to 7 p.m.

- (g) The cannabis establishment shall be duly licensed by the State of New Jersey with its license maintained in good standing.
- (h) On-site sales of alcohol or tobacco products are prohibited.
- (i) On-site consumption of food, alcohol, tobacco, or cannabis products by patrons is prohibited.
- (j) Security Requirements for Class 1, 2, 3, and 4 cannabis establishments:
 - [1] All licensed facilities shall be equipped with security cameras covering all exterior parking and loading areas, all points of entry into the facilities, and interior spaces that are open to the public and that are used to store cannabis products.
 - [a] Security cameras shall be installed to monitor and record all areas of the premises, except in restrooms, and where persons may gain or attempt to gain access to cannabis products or cash maintained by the cannabis establishment. Cameras shall record operations of the business and all potential areas of ingress and egress to the facility with sufficient detail to identify facial features and clothing. Recordings from security cameras shall be maintained for a minimum of forty days in a secure offsite location or through a service over a network that provides on-demand access, commonly referred to as a "cloud." The offsite location shall be submitted to the Pemberton Township Police Department and shall be updated within forty-eight hours of any change of such location.
 - [2] All licensed cannabis establishments shall provide the Pemberton Township Police Department with access to recorded security footage immediately upon request by the Department.
 - [3] All licensed cannabis establishments shall have at least one privately licensed security guard stationed at each facility during operation. The expense of providing the privately licensed security guard shall be paid by the cannabis establishment.
 - [4] All licensed retail establishments shall provide a dimensioned floor plan, clearly labeled, showing: the layout of the structure and floor plan in which the retail operation is to be located; the principal uses of the floor area depicted on the floor plan including, but not limited to, public areas, processing and manufacturing areas, loading and unloading areas, storage areas and restricted areas where cannabis products will be located; all points of entry into the facility; and the locations of all security cameras that will be positioned within the facility.
 - [5] All licensed cannabis establishments shall provide a plan for exterior lighting for security purposes.
 - [6] All licensed cannabis establishments shall install and use a safe for storage of any cannabis products and cash on the premises when the business is closed. The safe shall be incorporated into the building structure or securely attached thereto as approved by the Pemberton Township Police Department and Construction Official. For cannabis products that require refrigerated storage, the refrigerated container or freezer shall

be locked in a manner authorized by the Pemberton Township Police Department.

- [7] All licensed cannabis establishments shall install and use an alarm system that is monitored by a company that is staffed twenty-four hours a day, seven days a week. The name, location and contact information of the company monitoring the alarm shall be provided to the Pemberton Police Department and shall be updated within forty-eight hours of any change of monitoring company. If the alarm system includes a panic alarm, an operable dedicated phone for Pemberton Police Department to respond to the alarm shall remain on the premises at all times.
- [8] The perimeter of the parcel of land on which the cannabis establishment is located shall be fenced in the following manner:
 - [a] An eight (8)-foot high black or green vinyl coated chain link fence shall circumscribe the cannabis establishment by enclosing the rear and side yards of the parcel of land and connecting to the building and/or buildings in which the cannabis establishment operates so as to avoid locating the fence in the front yard.
 - [b] An eight (8)-foot high gate shall be provided as the single point of access in the driveway from the public road to the cannabis establishment. The gate shall be incorporated into the eight (8)-foot high fence that circumscribes the cannabis establishment. A security camera, which is previously described in this section, shall be provided to monitor, and record all vehicles and pedestrians moving through the gate.
 - [c] The chain link openings of the fence fabric shall be restricted to a size that prohibits the ability of adults and children to climb the fence. The Township Engineer shall approve the chain link openings of the fence fabric before it is installed.

190-56.J.

The following class cannabis establishments are permitted as conditional uses in the NC, NCP and GCLI Districts:

<u>Class</u>	<u>Description</u>
2	Cannabis Manufacturer
3	Cannabis Wholesaler
4	Cannabis Distributor

The foregoing class cannabis establishments shall comply with the following requirements:

- (a) Class 2, 3, and 4 cannabis establishments shall be located on a single-use site that that shall be devoid of other principal uses. Only one cannabis establishment shall be permitted on the single-use site.

- (b) Cannabis establishments shall comply with the following bulk, area, and yard requirements:

<u>Description</u>	<u>NC Requirement</u>	<u>NCP Requirement</u>	<u>GCLI Requirement</u>
Minimum Lot Area	2 acres	2 acres	2 acres ¹
Minimum Lot Frontage	200 feet	200 feet	200 feet
Minimum Lot Width	200 feet	200 feet	200 feet
Minimum Lot Depth	400 feet	400 feet	400 feet
Principal Building Yard Setbacks			
Front	100 feet	100 feet	100 feet
Side	50 feet	50 feet	50 feet
Rear	100 feet	100 feet	100 feet
Maximum Building Coverage	25%	25%	25%
Maximum Site Coverage	65%	65%	70%
Maximum Building Height	40 feet	40 feet	40 feet

¹ Notwithstanding the minimum lot areas set forth, no such minimum lot area for a nonresidential use within the Agricultural Production Area of the NCP District or the GCLI District shall be less than that needed to meet the water quality standards of § 190-50H(2)(d), whether or not the lot may be served by a centralized sewer treatment or collection system.

- (c) Signage identifying the cannabis establishment shall be restricted in the following manner:
- [1] One façade sign, which complies with § 190-41 and 44, shall be permitted.
 - [2] One freestanding monument sign, which complies with § 190-41 and 44, shall be permitted.
 - [3] Window and temporary signs shall be prohibited.
 - [4] Door signs shall be limited to the name of the business, street address, and days and hours of operation.
 - [5] Exterior and interior signage shall be prohibited from containing text and/or images that promote excessive consumption of legal cannabis products.
- (d) A Class 2, 3, and 4 cannabis establishment shall not be located within a distance of one thousand feet from the boundaries of the property on which the cannabis establishment is located to the boundaries of the property on which the following land uses are located: a public or private school including elementary, vocational, or secondary schools, colleges, and universities; a state-licensed childcare center; a house of worship; and a state-licensed addiction recovery facility.
- (e) A Class 2, 3, and 4 cannabis establishment shall not be located within a distance of five hundred feet from the boundaries of the property on which the cannabis establishment is located to the boundaries of the property on which another Class 1, 2, 3, and 4 cannabis establishment is located.
- (f) The days and hours of operation for Class 2, 3, and 4 cannabis establishment shall comply with the following requirements:
- [1] Class 2 Cannabis Manufacturer, Class 3 Cannabis Wholesaler and Class 4 Cannabis Distributor – Monday through Saturday, 7 a.m. to 7 p.m.
- (g) The cannabis establishment shall be duly licensed by the State of New Jersey with its license maintained in good standing.
- (h) On-site sales of alcohol or tobacco products are prohibited.

- (i) On-site consumption of food, alcohol, tobacco, or cannabis products by patrons is prohibited.
- (j) Security Requirements for Class 2, 3, and 4 cannabis establishments:
 - [1] All licensed facilities shall be equipped with security cameras covering all exterior parking and loading areas, all points of entry into the facilities, and interior spaces that are open to the public and that are used to store cannabis products.
 - [a] Security cameras shall be installed to monitor and record all areas of the premises, except in restrooms, and where persons may gain or attempt to gain access to cannabis products or cash maintained by the cannabis establishment. Cameras shall record operations of the business and all potential areas of ingress and egress to the facility with sufficient detail to identify facial features and clothing. Recordings from security cameras shall be maintained for a minimum of forty days in a secure offsite location or through a service over a network that provides on-demand access, commonly referred to as a “cloud.” The offsite location shall be submitted to the Pemberton Township Police Department and shall be updated within forty-eight hours of any change of such location.
 - [2] All licensed cannabis establishments shall provide the Pemberton Township Police Department with access to recorded security footage immediately upon request by the Department.
 - [3] All licensed cannabis establishments shall have at least one privately licensed security guard stationed at each facility during operation. The expense of providing the privately licensed security guard shall be paid by the cannabis establishment.
 - [4] All licensed retail establishments shall provide a dimensioned floor plan, clearly labeled, showing: the layout of the structure and floor plan in which the retail operation is to be located; the principal uses of the floor area depicted on the floor plan including, but not limited to, public areas, processing and manufacturing areas, loading and unloading areas, storage areas and restricted areas where cannabis products will be located, storage areas and restricted areas where cannabis products will be located; all points of entry into the facility; and the locations of all security cameras that will be positioned within the facility.
 - [5] All licensed cannabis establishments shall provide a plan for exterior lighting for security purposes.
 - [6] All licensed cannabis establishments shall install and use a safe for storage of any cannabis products and cash on the premises when the business is closed. The safe shall be incorporated into the building structure or securely attached thereto as approved by the Pemberton Township Police Department and Construction Official. For cannabis products that require refrigerated storage, the refrigerated container or freezer shall be locked in a manner authorized by the Pemberton Township Police Department.
 - [7] All licensed cannabis establishments shall install and use an alarm system that is monitored by a company that is staffed twenty-four hours a day, seven days a week. The name,

location and contact information of the company monitoring the alarm shall be provided to the Pemberton Police Department and shall be updated within forty-eight hours of any change of monitoring company. If the alarm system includes a panic alarm, an operable dedicated phone for Pemberton Police Department to respond to the alarm shall remain on the premises at all times.

- [8] The perimeter of the parcel of land on which the cannabis establishment is located shall be fenced in the following manner:
 - [a] An eight (8)-foot high black or green vinyl coated chain link fence shall circumscribe the cannabis establishment by enclosing the rear and side yards of the parcel of land and connecting to the building and/or buildings in which the cannabis establishment operates so as to avoid locating the fence in the front yard.
 - [b] An eight (8)-foot high gate shall be provided as the single point of access in the driveway from the public road to the cannabis establishment. The gate shall be incorporated into the eight (8)-foot high fence that circumscribes the cannabis establishment. A security camera, which is previously described in this section, shall be provided to monitor, and record all vehicles and pedestrians moving through the gate.
 - [c] The chain link openings of the fence fabric shall be restricted to a size that prohibits the ability of adults and children to climb the fence. The Township Engineer shall approve the chain link openings of the fence fabric before it is installed.

BE IT FURTHER ORDAINED, a new Chapter 65 entitled "Cannabis" is hereby created as follows:

§ 65-1. License.

- A. Laws applicable. All application for licenses, all licenses issued and all proceedings under this Chapter shall be in accordance with the Act, rules, regulations, and all other applicable laws of the state of New Jersey.
- B. Issuing authority. All licenses required by this chapter shall be issued by the Township Clerk.
- C. License required. It shall be unlawful for any person, firm, or corporation to own or operate within Pemberton Township any recreational cannabis businesses for the cultivation, manufacture, wholesale, and distribution of cannabis as well as its retail sale and delivery without first having obtained a properly issued license that is issued in accordance with the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (P.L. 2021, c.16) and the provisions of this chapter.
- D. License fees. The annual license fees, type and maximum number of licenses for the cultivation, manufacture, wholesale, distribution retail sale and delivery of cannabis shall be as follows:
 - i. The application fee for Class 1-5 Licenses shall be \$10,000 and \$2,500 per annum thereafter.
 - ii. The application fee for Class 6 License shall be \$2,500 and \$2,500 per annum thereafter.

- iii. There shall be a maximum of two licenses issued for each Class I, II, III, IV, licenses.
- iii. There shall be a maximum of two (2) Class 5 Licenses issued, exclusive of any vertically integrated alternative treatment centers.
- iv. There shall be a maximum of two (2) Class 6 Licenses issued, exclusive of any vertically integrated alternative treatment centers.

§. 65-2. On-site restrictions.

On-site consumption of cannabis in any form or its transfer from its original packaging by patrons, employees or other persons in the building, premises, or in any automobile or other vehicle located on the premises is prohibited.

§. 65-3 Persons under legal age.

- A. Presence. No person under the legal age of 21 shall be allowed in any building where cannabis is sold.
- B. Purchase of cannabis by a person under legal age. No person under the legal age of 21 shall purchase, attempt to purchase or have another purchase for that person any cannabis on any premises license for the sale of cannabis.
- C. Purchase of cannabis for a person under the legal age. No person shall purchase, attempt to purchase, or transfer cannabis to a person under the legal age of 21. It shall be unlawful for any person to induce or attempt to induce any licensee or any employee of a licensing to sell, serve or deliver cannabis to a person under the legal age of 21.

§ 65-4. Taxation.

Cannabis products will be subject to the State sales tax and, as authorized by the Legislature, local cannabis tax of 2% for cannabis cultivator, manufacturer, and/or retailer; and 1% for wholesalers. The tax percentage is based on the receipts for each sale and will be paid directly to the municipality in the manner prescribed by the Township. Any delinquencies are treated the same as delinquent property taxes. The local tax does not apply to delivery services to consumers transfers for the purpose of bulk transportation.

§ 65-5. Revocation of license.

- A. Any license issued under this chapter may be suspended or revoked for a violation of any of the provisions of this chapter, or any provision of the applicable statute or any of the rules or regulations of the State of New Jersey.
- B. The provisions of this Ordinance shall be enforced by the Police Department or the Director of the Department of Community Development, or his designee. In the event that the Township Council finds upon a written complaint filed that there is such a serious infraction of the rules, regulations and ordinances of the Township of Pemberton or the rules, regulations and laws of the State of New Jersey or that the operation of a premises licensed hereunder will constitute a serious menace to the health, safety, welfare and morals of the people of the Township or the occupants of such licensed premises, the Township Council shall have the right to hold a hearing where said operator and complainant will be given the right to provide testimony and be subject to cross-examination regarding said complaint. Upon the Council's finding of good cause, it may immediately suspend the license of such person, firm, partnership, corporation or entity licensed under this article. The hearing to continue the suspension or revocation of the license or take such other action as the Township Council deems necessary in its lawful discretion shall proceed where applicable in the same manner as if the proceeding were for the issuance of a new license. Nothing contained herein shall prevent the Township of

Pemberton or the officers of the Township from proceeding against the applicant in a court of competent jurisdiction.

- C. Suspension or revocation of a license shall be in addition to any other penalty which may be imposed for a violation of this Chapter.

§ 65-6. Violations and penalties.

- A. Any licensee or any person who shall violate or fail to comply with the provisions of this chapter shall, upon conviction, have his, her or its license subject to a fine of \$500.00 for the first offense and \$2,000.00 for any subsequent offense or by imprisonment for a term not exceeding 90 days or by a period of community service not exceeding 90 days as well as such penalties as may otherwise be provided by law as well as such penalties as may otherwise be provided by law.

Section 2. Any article, section, paragraph, subsection, clause, or other provision of the Code of the Township of Pemberton inconsistent with the provisions of this ordinance is hereby repealed to the extent of such inconsistency.

Section 3. 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 4. This ordinance shall take effect upon its passage and publication in accordance with applicable law.

**TOWNSHIP OF PEMBERTON
ORDINANCE NO. 29-2021**

NOTICE OF PUBLIC HEARING

**AN ORDINANCE AMENDING CHAPTER 190 OF THE CODE OF THE
TOWNSHIP OF PEMBERTON ENTITLED "ZONING" TO ALLOW THE
OPERATION OF CERTAIN CANNABIS LICENSES WITHIN THE
GEOGRAPHICAL LIMITS OF THE TOWNSHIP OF PEMBERTON AND TO
CREATE A NEW SECTION, CHAPTER 65, ENTITLED "CANNABIS"**

The foregoing Ordinance was introduced and passed on first reading by the governing body of Pemberton Township at a meeting held on July 14, 2021, and will be considered for final passage after a public hearing at a meeting of the said governing body to be held on August 18, 2021 at the Pemberton Township Municipal Building, 500 Pemberton-Browns Mills Road, Pemberton, New Jersey, at 6:00 p.m. prevailing time, at which time any interested member of the public may comment on said Ordinance. During the week prior to and up to and including the date of such meeting for further consideration, copies of said Ordinance in its entirety may be obtained from the Township Clerk.

ATTEST:


AMY P. COSNOSKI, RMC, TOWNSHIP CLERK

**TOWNSHIP OF PEMBERTON
ORDINANCE NO. 29-2021**

NOTICE OF FINAL PASSAGE

**AN ORDINANCE AMENDING CHAPTER 190 OF THE CODE OF THE
TOWNSHIP OF PEMBERTON ENTITLED "ZONING" TO ALLOW THE
OPERATION OF CERTAIN CANNABIS LICENSES WITHIN THE
GEOGRAPHICAL LIMITS OF THE TOWNSHIP OF PEMBERTON AND TO
CREATE A NEW SECTION, CHAPTER 65, ENTITLED "CANNABIS"**

Notice is hereby given that Ordinance No. 29-2021 as entitled above has been finally adopted on final reading by the governing body of Pemberton Township after a public hearing, at a meeting held on August 18, 2021. Said Ordinance shall take effect in accordance with law.

ATTEST:


AMY P. COSNOSKI, RMC, TOWNSHIP CLERK

ACKNOWLEDGEMENT OF APPROVAL BY MAYOR


DAVID A. PATRIARCA

DATE: August 19, 2021

ATTEST:


AMY P. COSNOSKI, RMC, TOWNSHIP CLERK