CHADDS FORD TOWNSHIP
DELAWARE COUNTY, PENNSYLVANIA
ORDINANCE No. 169

AN ORDINANCE TO AMEND THE CODE OF CHADDS FORD TOWNSHIP BY AMENDING CHAPTER 135 ZONING, ARTICLE II DEFINITIONS §135-4 TO ADD AND DEFINE MARIJUANA DISPENSARY FACILITY AND TO AMEND ARTICLE X B-1 DISTRICT (BUSINESS-1) TO ADD MARIJUANA DISPENSARY FACILITIES AS A SPECIAL EXCEPTION

WHEREAS, the Act of April 17, 2016, P.L. 84, No 16, 35 P.S. §§1023.101 - 1023.2110, known as the Medical Marijuana Act ("MMA"), effective April 17, 2016, established a comprehensive State licensing and regulatory framework for the growing, processing, testing, distribution, transportation, and dispensing of medical marijuana; and

WHEREAS, the Township of Chadds Ford (hereinafter "Township") is acting to comply with Pennsylvania Law and allow for dispensary facilities for medical marijuana in accordance with the applicable state laws; and

WHEREAS, it is the purpose and intent of the Township to regulate marijuana dispensaries in a manner that is consistent with State law while promoting the health, safety, and general welfare of the residents and businesses within the Township, and limiting the potential negative impacts associated with the dispensing of such medical marijuana; and

WHEREAS, nothing in this Ordinance shall be construed to allow persons to engage in any conduct inconsistent with state law, endanger others, cause a public nuisance, or allow any activity relating to marijuana that is otherwise illegal under Pennsylvania law; and

WHEREAS, the Medical Marijuana Act requires that a Medical Marijuana Dispensary "shall meet the same municipal zoning and land use requirements as other commercial facilities that are located in the same zoning district"; and

WHEREAS, the Township desires to be proactive in its zoning in anticipation of the potential eventual legalization of marijuana by adults for recreational use.

NOW, THEREFORE, this day of , 2021, **THE BOARD OF SUPERVISORS OF CHADDS FORD TOWNSHIP HEREBY ENACTS AND ORDAINS AS FOLLOWS:**

SECTION I: Chapter 135 Zoning, Article II Definitions, §135-4 A., of the Township Zoning Code shall be amended to include the following definition for Marijuana Dispensary Facility:

MARIJUANA DISPENSARY FACILITY - A facility permitted by the Pennsylvania Department of Health under the Medical Marijuana Act (MMA) or any future legislation governing the dispensing of cannabis products for adult uses to dispense marijuana. A Marijuana Dispensary Facility shall meet the same municipal zoning and land use requirements as other commercial facilities that are located in the same zoning district.

SECTION II: Chapter 135 Zoning, Article IX B District (Business) §135-45 Permitted uses. and Chapter 135 Zoning, Article X B-1 District (Business-1) §135-52 Permitted uses. of the Township Zoning Code shall be amended to include Subsection D. Marijuana Dispensary Facility, as a use by Special Exception in the Business (B-1) Zoning District as follows:

A. **Purpose**. The purpose and intent of this Section is to regulate the dispensing of medical and/or recreational marijuana in strict compliance with the Medical Marijuana Act (MMA) ,

including any future amendments related to the dispensing of cannabis products for adult recreational use and other applicable Pennsylvania codes and regulations while promoting the health, safety, morals, and general welfare of the residents and businesses within the Township.

B. The use of a building for dispensing marijuana shall be permitted only upon grant of a Special Exception to an Applicant possessing a Dispensary Permit issued by the Commonwealth of Pennsylvania, in accordance with the criteria and process set forth in the Township's Zoning Code, for properties located within the Business (B-1) Zoning District.

C. The Marijuana Dispensary Facility shall only be located in a secure, stand alone facility with each and every entrance and exit thereto dedicated solely to the dispensary facility. Marijuana Dispensary Facilities shall have a single secure public entrance. There shall be no passageways connecting the dispensary to any other facility. The building in which any Marijuana Dispensing Facility is located, as well as the operations as conducted therein, shall fully comply with all applicable rules, regulations, and laws including, but not limited to, zoning and building codes, the Township's business license ordinances, the Revenue and Taxation Code, the Americans with Disabilities Act, and the MMA or any successor legislation permitting the recreational use of marijuana by adults.

D. A Marijuana Dispensary Facility shall be a maximum of 5,000 gross square feet and have a minimum of thirty (30) dedicated parking spaces including a minimum of two (2) handicapped spaces which meet all Americans with disabilities Act Guidelines (ADAAG) in compliance with the 2019 International Construction Code (ICC).

E. A Marijuana Dispensary Facility must operate entirely within an indoor, enclosed and secure facility. No exterior sales, sidewalk displays, outdoor seating or vending machines shall be permitted. No drive-through, drop-off, or pick-up services shall be permitted.

F. Each Marijuana Dispensary Facility shall install surveillance cameras capable of both day and night infrared and which provide 360 degree perimeter coverage. Security cameras shall be installed and maintained in good working condition, and used in an on-going manner with at least one hundred and twenty (120) concurrent hours of digitally recorded documentation as a condition of the grant of the Special Exception. The camera shall be in use twenty-four (24) hours a day, seven (7) days a week. The areas to be covered by the day and night infrared security cameras shall include, but are not limited to, the parking areas; the storage areas; all perimeter doors and windows; all public and non-public indoor areas where waste facilities, cash or cannabis products are stored, and any other areas as required by the conditions imposed as part of the grant of the Special Exception. Any and all recordings shall be kept for a period of at least two (2) years.

G. All entrances and exits (except emergency exits) to any Marijuana Dispensary Facility shall require a card or token-style access device with an inner locking door to create a man-trap area to prevent unauthorized access to the facility and token or card-style access to the non-public areas of the facility and the area used to secure handling of product and cash, including the vault access area.

H. A Marijuana Dispensary Facility may not be located within 1,000 feet of the property line of a public, private or parochial school, day-care center, place of worship, playground, public park, or business whose primary clientele are minors. This 1,000-foot minimum distance shall be defined as the shortest distance between any point on the Marijuana Dispensary Facility building and any point on the property line of the protected district or use, without regard to intervening structures or objects.

I. A Marijuana Dispensary Facility shall not be located within 200 feet of any residential dwelling. This 200-foot minimum distance shall be defined as the shortest distance between

any point of the Marijuana Dispensary Facility building and any point on the existing residential dwelling, without regard to intervening structures or objects.

J. A Marijuana Dispensary Facility shall not be located within 3000 feet from another Marijuana Dispensary Facility.

K. A Marijuana Dispensary Facility shall not be operated or maintained within 2,000 feet, measured by a straight line in all directions, without regard to intervening structures or objects, from the nearest point of the dispensary building to the nearest point of the property line of a licensed residential substance abuse diagnostic and treatment facility or other licensed drug or alcohol rehabilitation facility.

L. A Marijuana Dispensary Facility shall not be operated or maintained on the same site as a marijuana grower or processor.

M. Signage for all Marijuana Dispensary Facilities shall be limited to the name of the business only, shall be in compliance with the Township's sign regulations, and shall contain no advertising of any companies, brands, products, goods or services, or any drug-related symbols.

N. A visual buffer planting screen with perimeter privacy fencing 6 to 8 feet in height is required where a Marijuana Dispensary Facility adjoins a residential zoning district.

O. There shall be no emission of dust, fumes, vapors, or odors that can be seen, smelled, or otherwise perceived beyond the exterior walls of the Marijuana Dispensary Facility.

P. No use of marijuana shall be permitted on the premises of a Marijuana Dispensary Facility. There shall be "No loitering" signs posted in the parking lots at all Marijuana Dispensary Facilities.

Q. There is no set restriction on the hours of operation of a Marijuana Dispensary Facility; however, restricted hours of operation may be established as a condition of the grant of the Special Exception.

R. The operators of all Marijuana Dispensary Facilities shall provide the Township Manager or his or her designee with the name, phone number, and email address of an on-site representative to whom the Township and the public can provide notice if there are any operational problems associated with the Marijuana Dispensary Facility. This information shall be updated by the operators as necessary so that the information is always kept current. All Marijuana Dispensary Facilities shall make every good faith effort to encourage residents and the public to call this representative to resolve any operational problems before any calls or complaints are made to the Township or law enforcement.

S. The application for a Special Exception shall include at a minimum the following information:

[1] An estimate of the size of the proposed Marijuana Dispensary Facility;

[2] The address of the location for which the Special Exception is sought;

[3] The site plan and floor plan for the proposed premises denoting the use of all areas of the premises, including storage, dispensary areas, lighting, signage, parking, etc.;

[4] The proposed security plan in compliance with the MMA or any successor statute permitting the recreational use of marijuana by adults. A Marijuana Dispensary

Facility shall submit a security plan to, and obtain approval from, the Township Engineer and the Township Code Enforcement Officer. Security shall be provided by a licensed third-party security firm.

[a] With regard to a medical Marijuana Dispensary Facility, the security plan shall specify the type and manner of 24-hour security, tracking, recordkeeping, record retention, and surveillance system to be utilized in the facility as required by Section 1102 of the MMA and as supplemented by regulations promulgated by the Department of Health pursuant to the MMA.

[b] With regard to a recreational Marijuana Dispensary Facility, the security plan shall include sufficient specificity to illustrate compliance with all applicable Pennsylvania laws and regulations.

[5] A Marijuana Dispensary Facility shall submit a disposal management plan to, and obtain approval from the Township Code Enforcement Officer or his or her designee. Marijuana remnants and bi-products shall be disposed of according to an approved plan, and shall not be placed within an exterior refuse container;

[6] The name and address of the owner and lessor of the real property upon which the Marijuana Dispensary Facility is proposed to be conducted. In the event the applicant is not the legal owner of the property, the application must also have a notarized acknowledgement from the owner of the real property that a Marijuana Dispensary Facility will be operated on the property;

[7] Evidence that the Marijuana Dispensary Facility will be located in a structure that is compliant with all of the requirements of the MMA or any successor statue permitting the recreational use of marijuana by adults;

[8] It shall be the responsibility of the applicant to identify other nearby land uses within a half mile radius of the proposed Marijuana Dispensary Facility. Failure to properly identify uses surrounding the application site may result in denial of the application, and

[9] A community impact analysis which includes an evaluation of the potential impacts on the following community facilities:

[a] Emergency services and fire protection;
[b] Solid waste disposal;
[c] Parks, trails or other recreational facilities;
[d] Surrounding roadway systems;
[e] School facilities and school district budget;
[f] Water supply;
[g] Sewage disposal; and
[h] Township revenues and expenses.

T. The Township Building Code Official and law enforcement personnel shall have the right to enter the Marijuana Dispensary Facility with due cause for the purpose of making reasonable inspections, to observe and enforce compliance with this Section, all laws of the Township, and all state laws.

U. Enforcement

[1] Marijuana Dispensary Facilities shall be operated in compliance with the approved security and disposal management plans and all other provisions approved in the Special Exception.

[2] Any person who engages in a violation of this Ordinance, or who owns, possesses, controls, or has charge of any parcel of real property in the Township upon which a violation of this Ordinance is maintained, shall be subject to the penalties and remedies provided by this Section.

[3] Any violation of this Ordinance shall constitute a separate offense for each and every day the violation occurs or persists.

[4] Any person in violation of any provision of this Ordinance shall be punishable by a fine of up to $1,000 per offense.

[5] Any violation of this Ordinance may result in the revocation of the Certificate of Occupancy until the Township finds the Marijuana Dispensary Facility to be in compliance.

SECTION III. REPEALER.

All Township ordinances and parts of ordinances inconsistent with the provisions hereof are hereby repealed and rescinded to the extent of any inconsistency or conflict.

SECTION IV. SEVERABILITY.

If any sentence, clause, section or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any remaining provisions, sentences, clauses, sections, or parts of this Ordinance. It is hereby declared as the intent of the Board of Supervisors in Chadds Ford Township that such remainder shall be and shall remain in full force and effect. Failure to enforce shall not constitute a waiver.

BY THE BOARD OF SUPERVISORS:

FRANK G. MURPHY, Chairman

Samantha Reiner

SAMANTHA REINER, Vice Chair

Noelle M. Barbone

NOELLE M. BARBONE, Supervisor

ATTEST:

Maryann D. Furlong

Maryann D. Furlong, Township Secretary