

TOWN OF WEST NEW YORK

ORDINANCE #16/21

**AN ORDINANCE TO AMEND CHAPTER 414, ZONING,
AND CHAPTER 231, LAND USE PROCEDURES, OF THE
CODE OF THE TOWN OF WEST NEW YORK WITH
RESPECT TO MEDICAL CANNABIS DISPENSARIES**

WHEREAS, in 2019, Governor Murphy signed into law the “Jake Honig Compassionate Use Medical Cannabis Act,” P.L.2009, c.307 (C.24:6I-1 et seq.) and P.L. 2015, c. 158 (C.18A:40-12.22 et seq.) (the “Act”); and

WHEREAS, the Act protects from arrest, prosecution, property forfeiture, and criminal and other penalties, those patients who use cannabis to alleviate suffering from qualifying medical conditions, as well as their health care practitioners, designated caregivers, institutional caregivers, and those who are authorized to produce cannabis for medical purposes; and

WHEREAS, the Act also establishes stringent requirements for medical cannabis dispensaries in the State and permits municipalities to collect sales taxes on medical cannabis dispensaries; and

WHEREAS, pursuant to the Act, the Board of Commissioners of the Town of West New York desires, at this time, to permit medical cannabis dispensaries to operate in certain zones within the geographic boundaries of the Town and to impose a sales tax as permitted by law.

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of The Town of West New York, as follows:

Section 1: Chapter 414-11, Article III, of the Code of the Town of West New York, entitled “Definitions” shall hereby be amended and supplemented to add the following terms and definitions as indicated in bold:

ALTERNATIVE TREATMENT CENTER or ATC

An organization issued a permit pursuant to the “Jake Honig Compassionate Use Medical Cannabis Act,” P.L.2009, C.307 (C.24:6I-1 et al.) to operate as a medical cannabis cultivator, medical cannabis manufacturer, medical cannabis dispensary,

or clinical registrant, as well as any alternative treatment center deemed pursuant to Section 7 of the Act (C.24:6I-7) to concurrently hold a medical cannabis cultivator permit, a medical cannabis manufacturer permit and a medical cannabis dispensary permit.

MEDICAL CANNABIS DISPENSARY

A business licensed by the State of New Jersey to sell medical cannabis and medical cannabis products to registered qualifying patients and their authorized care givers. This term shall include the organization’s officers, directors, board members and employees.

Section 2: The current text of Chapter 414 Attachment 1, of the Code of the Town of West New York, entitled “Schedule of District Regulations”, shall hereby be amended and supplemented to include the following principal use allowed as of right in the C-R Retail and Service Commercial District, as indicated in bold:

Medical Cannabis Dispensary authorized by the “Jake Honig Compassionate Use Medical Cannabis Act,” P.L.2009, c.307 (C.24:6I-1 et seq.) and P.L. 2015, c. 158 (C.18A:40-12.22 et seq.).

Section 3: The current text of Chapter 414-29, Article VI Controlled Waterfront Development District, of the Code of the Town of West New York, entitled “General regulations”, shall hereby be amended and supplemented as follows, as indicated in bold:

§ 414-29 General regulations.

A. Permitted uses. The uses permitted in the Controlled Waterfront Development District may include and shall be limited to:

- (1) No change.
- (2) No change.
- (3) No change.
- (4) No change.
- (5) No change.

- (6) No change.
- (7) No change.
- (8) No change.
- (9) Medical Cannabis Dispensary authorized by the “Jake Honig Compassionate Use Medical Cannabis Act,” P.L.2009, c.307 (C.24:6I-1 et seq.) and P.L. 2015, c. 158 (C.18A:40-12.22 et seq.).**

Section 4: The current text of Chapter 231, Land Use Procedures, Article VI, Fees and Escrows, shall hereby be amended and supplemented to include the following subsection, as indicated in bold:

§ 231-61 Medical Cannabis Dispensaries – License required.

- A. The Town of West New York shall collect two percent (2%) of the receipts from each sale by a medical cannabis dispensary.**
- B. A medical cannabis dispensary shall be required to submit an application for a license, to be accompanied by a fee of six thousand dollars (\$6,000.00), with all documentation as set forth in the application as required by the Town of West New York.**
- C. A medical cannabis dispensary shall be required to pay an annual license renewal fee. The annual license renewal fee, payable on the first day of January of each calendar year, is fifteen thousand dollars (\$15,000.00).**

Section 5: All other provisions of Chapter 414 and Chapter 231 of the Code of the Town of West New York shall remain unchanged.

Section 6: Pursuant to N.J.S.A. 40:55D-26 and/or 40:55D-64, after introduction of this Ordinance, it shall be referred to the West New York Planning Board for the review required by the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., prior to the hearing on adoption of this Ordinance.

Section 7: *Repeal of Inconsistent Provisions.* All ordinances or parts thereof in conflict or inconsistent with this Ordinance are hereby repealed, but only however, to the extent

of such conflict or inconsistency, it being the legislative intent that all ordinances or part of ordinances now existing or in effect unless the same being conflict or inconsistent with any provision of this Ordinance shall remain in effect.

Section 8: *Severability.* The provisions of this Ordinance are declared to be severable and if any section, subsection, sentence, clause or phrase thereof for any reason is held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses and phrases of this Ordinance, but shall remain in effect; it being the legislative intent this Ordinance shall stand notwithstanding the invalidity of any part.

Section 9: The Town Clerk is hereby directed to give notice at least ten (10) days prior to the hearing on the adoption of this ordinance to the Hudson County Planning Board, and to all others entitled thereto pursuant to the provisions of N.J.S.A. 40:55D-15. Upon adoption of this ordinance, after public hearing thereon, the Town Clerk is further directed to publish notice of the passage thereof and to file a copy of this ordinance as finally adopted with the Hudson County Planning Board, as required by N.J.S.A. 40:55D-16, and with the Town's Tax Assessor.

Section 10: *Codification.* This Ordinance shall be a part of the Code of the Town of West New York as though codified and fully set forth therein. The Municipal Clerk shall have this ordinance codified and incorporated in the official copies of the Code. The Municipal Clerk and Town Attorney are authorized and directed to change any Chapter, Article and/or Section number of the Town Code in the event that the codification of this Ordinance reveals that there is a conflict between the numbers and the existing Code, and in order to avoid confusion and possible accidental repealers of existing provisions not intended to be repealed.

Section 11: This Ordinance shall take effect immediately upon publication and final passage according to law.

Introduced: August 4, 2021

Notice

The foregoing Ordinance was adopted for first reading by the Mayor and Board of Commissioners of the Town of West New York, New Jersey, on **August 4, 2021** and ordered published, and will be further considered before final passage at a public hearing on **September**

15, 2021 at 6:30 p.m. held remotely. Instructions regarding attendance and participation in the meeting will be posted on the Town's website: <http://www.westnewyorknj.org> . A copy of this Ordinance has been posted on the bulletin board upon which public notices are customarily posted on in the Town Hall of the Town of West New York, and a copy (at no charge) is available up to and including the time of such meeting to the members of the public of the Town who shall request such copies, at the Office of the Town Clerk in said Town Hall in West New York, N.J.