



TITLE #96
Ordinance # 08-16-24-074

Date: October 18, 2024

AN ORDINANCE AMENDING THE LAND USE ORDINANCE OF THE TOWN OF CHESWOLD TO AUTHORIZE MARIJUANA-BASED BUSINESSES IN CERTAIN ZONING DISTRICTS PURSUANT TO CONDITIONAL USE APPROVAL

DESCRIPTION: This Ordinance amends: Article 2 to add definitions; Article 4, Section 4.7, Conditional Uses, to change labeling and add Section C, Marijuana Establishments and conditions; and Article 7, Use Regulations, Section 7-2, Specific Requirements by District and Overlay Zone, and Table 7-2, Permitted Uses & Structures, to authorize marijuana-based businesses in the C-2, AG, and I-1 zoning districts pursuant to conditional use approval. This Ordinance shall hereby be known as the “Marijuana Ordinance.”

Section 1. PURPOSE: This Ordinance amends the Land Use Ordinance of the Town of Cheswold to permit marijuana establishments in the C-2, (Highway Commercial), AG (Agriculture), and I-1, (Light Industrial), Zoning Districts within the corporate limits of the Town, subject to conditional use approval as recommended by the Planning Commission and approved by the Town Council.

This Ordinance also adds definitions to Article 2 and provides that no conditional use permits for a Marijuana Establishment, (see Definitions – Section 4), will be issued until after March 1, 2025.

Section 2. APPLICABILITY: This amendment to the Land Use Ordinance shall apply to all applicants submitting land use requests, applications, reviews and/or approvals, or the like, related to any type of marijuana-based business or establishment within the corporate limits of the Town of Cheswold.

Section 3. Article 2, DEFINITIONS, shall be amended to add the following the definitions:

- 1. Marijuana Retail Store** — An establishment operated by an entity licensed by the State of Delaware to purchase marijuana from marijuana cultivation facilities; to purchase marijuana and marijuana products from marijuana product manufacturing facilities; and to sell marijuana and marijuana products to consumers.

2. **Marijuana Testing Facility** — An establishment operated by an entity licensed by the State of Delaware to test marijuana for potency and contaminants.

3. **Marijuana Cultivation Facility** — An establishment operated by an entity licensed by the State of Delaware to cultivate, prepare, and package marijuana and sell marijuana to retail marijuana stores, to marijuana product manufacturing facilities, and to other marijuana cultivation facilities, but not to consumers. A marijuana cultivation facility may not produce marijuana concentrates, tinctures, extracts, or other marijuana products.

4. **Marijuana Product Manufacturing Facility** - An establishment operated by an entity licensed by the State of Delaware to do the following: purchase marijuana; manufacture, prepare, and package marijuana products; and sell marijuana and marijuana products to other marijuana product manufacturing facilities and retail marijuana stores, but not to consumers.

Section 4. REQUIREMENTS OF THE DELAWARE CODE:

The Town of Cheswold will adhere to all Codes of the State of Delaware associated with all laws governing the cultivation, growth, manufacturing and sale of marijuana, including:

§4917A of Title 16 of the Delaware Medical Marijuana Act - local governments may enact "ordinances or regulations not in conflict with [The Act] or with Department regulations regulating the time, place, and manner of registered compassion center operations and registered safety compliance facilities

§1351(a) of Title 4 of the Delaware Marijuana Control Act, - A municipality may prohibit the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, or retail marijuana stores through the enactment of an ordinance.

§1351(b) of Title 4 of the Delaware Marijuana Control Act - municipalities may also adopt regulations governing the time, place manner, and number of marijuana establishment operations.

Industrial Hemp and CBD

In addition, the Town of Cheswold will comply with the 2011 Medical Marijuana Act as associated to the federal Farm Bill of 2018 and the Delaware Industrial Hemp Act of 2018, which under Title 3 – Chapter 28 of the Delaware Code permits the cultivation of industrial hemp for agricultural or academic research for the maximum extent permitted by federal law.

Section 5. PERMITTED MARIJUANA ESTABLISHMENTS

Requests for land use approval for the following marijuana establishments shall be permitted contingent upon conditional use approvals and the active number of permits may not exceed the number shown at any given time:

- (1) Marijuana Retail: 1 permit
- (2) Marijuana Testing Facility: 1 permit
- (3) Marijuana Cultivation Facility: 1 permit
- (4) Marijuana Product Manufacturing Facility: 1 permit

The following conditions shall also apply to permitted usage:

a. If multiple conditional use applications are submitted for the same category of marijuana establishment and multiple applications are determined to satisfy the criteria for granting a conditional use permit approval, the approval shall be granted to the applications that are determined to most completely satisfy the criteria. If a conditional use permit application is submitted while another conditional use permit application is pending, the Town may delay consideration of the pending application so that both applications may be given full consideration and heard at the same time.

b. No conditional use permits for Marijuana Establishments, (which are permitted per Section 7), will be issued prior to March 1, 2025.

Section 6. This Ordinance amends ARTICLE 4, ADMINISTRATIVE PROCEDURES, SECTION 4.7, CONDITIONAL USES, as follows:

- a. Change C., Action, to D., Action.
- b. Add C, Marijuana Establishments and include the following conditions:
 - (1) No retail marijuana establishment shall be located within 1,000 feet of any church, licensed childcare facility; school, college, university or educational institution, either public or private; or alcohol or drug rehabilitation service center or facility.
 - (2) Hours of operation shall be limited to 10:00 a.m. to 6:00 p.m. for retail sales and no retail operations may take place on Holidays.
 - (3) No Outdoor seating areas shall be permitted at a Retail Marijuana Store.
 - (4) Drive-through services shall be permitted.
 - (5) Curb-side services shall not be permitted.
 - (6) All retail sales must occur within the confines of an enclosed building except with drive thru which has been certified as secure by an up-to-date Zoning Certificate signed by the Town of Cheswold Chief of Police and Code Enforcement Officer.
 - (7) The owner(s) and operator(s) shall ensure the absence of loitering.
 - (8) Lighting shall be required such that will illuminate the retail store, its immediate surrounding area, any accessory uses including storage areas, the parking lot(s), its front facade, and any adjoining public sidewalk.

(9) Lighting shall be hooded or oriented to deflect light away from adjacent properties.

(10) Signage must adhere to the current standards of the Land Use Ordinance as defined in Article 13.

Section 7. This Ordinance amends ARTICLE 7, USE REGULATIONS, TABLE 7-2 PERMITTED USES & STRUCTURES by making insertions as shown by underline and deletions as shown by strike throughs as follows:

Table 7-2 Permitted Uses & Structures

Blank	Not Permitted	Zone A-1	Zone R-1	Zone R-2	Zone R-3	Zone R-4	Zone C-1	Zone C-2	Zone I-1	Zone I-1
P	Permitted									
SP	Site Plan Review Required. See Sec. 4-2									
CU	Conditional Use. See Sec. 4-7									
O	Overlay Zone Applies. See Sec. 6-2.									
Public, Semi-Public, Emergency										
Public Utility Service Facilities							P SP	P SP	P SP	P SP
Recreation Facilities				CU SP	CU SP		CU SP	CU SP	CU SP	CU SP
Not Grouped Elsewhere										
Accessory Uses, generally		P SP	P SP	P SP	P SP	P SP	P SP	P SP	P SP	P SP
Cemeteries					CU SP		CU SP	P SP		
Cell Towers		CU SP					CU SP	CU SP	CU SP	CU SP
Funeral Homes – without Crematorium					CU SP		CU SP	P SP	P SP	
Marijuana Establishment		CU SP						CU SP	CU SP	
Mixed Use Developments – See "Overlay" Districts				CU SP	CU SP		P,SP	CU SP		
Veterinary Clinics; Animal Hospitals or Commercial Kennels – Provided that no Open Pens, Runs, Kennels or Cages are located within 100 feet of land that is used as or zoned as Residential							CU SP	P,SP	CU SP	

Section 8. Severability

If any provision of this Ordinance or any application of this Ordinance to any particular entity or circumstance shall be deemed invalid, such invalidity shall not affect any other provision or application of this Ordinance, or the Land Use Ordinance, which may otherwise be given effect and to this end the provisions of this Ordinance are hereby declared to be severable.

Section 9. Effective Date. This Ordinance shall become effective immediately upon its adoption by the Town Council.

NOW THEREFORE, BE IT HEREBY ENACTED by the Town Council of the Town of Cheswold, a majority thereof concurring in Council duly met, that the Land Use Ordinance of the Town of Cheswold is hereby amended as aforementioned.

I, Santo Faronea, Mayor of the Town of Cheswold, do hereby certify that the foregoing is a true and correct copy of the Ordinance passed by an affirmative majority vote of all elected members of the Town Council of Cheswold at a regularly scheduled Town Council Meeting, held on, Monday, _____, 2024, at which a quorum was present and voting throughout, and that the same is still in force and effect.

CERTIFIED: [Signature] Date: December 2, 2024
Santo Faronea - Mayor

ATTEST: [Signature] Date: December 2, 2024
Theon E. Callender - Secretary/Treasurer

Agreed: [Signature] Date: December 2, 2024
Vice-Mayor Judith Johnson

Agreed: Excused Date: December 2, 2024
Councilperson Mark Moxley

Agreed: Excused Date: December 2, 2024
Councilperson Robin Ridgway

Agreed: [Signature] Date: December 2, 2024
Councilperson Jamie Bartlett

NOTARIZED: [Signature] Date: December 2, 2024
Camryn Jones - Town Clerk

READINGS & REVIEWS:

- 1st Public Reading
- 2nd Public Reading
- Public Hearing



- November 4th, 2024
- December 2nd, 2024
- December 2nd, 2024