
TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, NEW JERSEY

Minutes of: Governing Body Regular Meeting
Date of Meeting: September 22, 2021
Time of Meeting: 6:30 p.m.
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The Regular Meeting of the Governing Body was called to order by Mayor Michele Dale at 6:30 p.m.

Adequate Notice Statement

Mayor Dale read the following statement:

Pursuant to the provisions of the Open Public Meetings Act (N.J.S.A. 10:4-8) adequate notice of this Regular Meeting was advertised in the Herald News in its issue of December 27, 2020 and January 11, 2021; a copy was provided to the Record and posted on the bulletin board in the main corridor of the Town Hall and on file in the Office of the Township Clerk.

Please also make note of all fire and emergency exits – located to the left, right and rear of this room – for use in case of an emergency. Thank you.

Agenda No. I

Pledge of Allegiance

Mayor Dale led all in attendance in a salute to the flag.

Agenda No. II

Roll Call

Present: Councilmembers Ada Erik, Michael Chazukow, Marilyn Lichtenberg, Kevin Goodsir, Warren Gross (arrived at 6:52 p.m.), David Marsden

Absent:

Also Present: Mayor Michele Dale, Township Administrator William Senande, Township Attorney Ed Pasternak

Agenda No. III

Reading of or Approval of Unapproved Minutes

September 8, 2021 Executive Session Minutes

September 8, 2021 Workshop Meeting Minutes

Moved: Erik Seconded: Lichtenberg
Voted Aye: Erik, Chazukow, Lichtenberg, Goodsir, Marsden
Voted Nay: None
Motion carried:

Agenda No. IV

Meetings

Mayor Dale noted the future meeting schedule:

October 6, 2021 Workshop Meeting

October 20, 2021 Regular Meeting

November 10, 2021 Workshop and Regular Meeting

This date of the November 10, 2021 meeting was discussed and was changed to November 3, 2021. The change will be advertised.

Agenda No. V

Proclamations

None

Agenda No. VI

Presentations

Remembrance and moment of silence for Bill Francis – Mayor Dale read a brief history about Bill Francis. He was a wonderful, gentle man who was beloved by all who knew him and he will be greatly missed. Condolences to the family. Councilwoman Lichtenberg indicated that Bill was very active with the Lion's Club and they were working on getting a scholarship in Bill's name.

Agenda No. VII

Executive Session

None

Agenda No. VIII

Discussion Items / Official Communications

1.	The Tax Abatement Ordinance –Draft was discussed. Councilwoman Lichtenberg explained the assessment. It is being done for one year on a trial basis. It is basically a deferred assessment for homeowners making improvements and is not meant for rental properties. Councilman Marsden indicated that there is a maximum of \$15,000 allowed under the statute.
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Agenda No. IX

Unfinished Business, Final Passage of Ordinances

Agenda No. IX 1

~ Ordinance 2021 – 033 ~

ORDINANCE OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY ADDING A NEW SECTION §500-191 NOTICE OF ZONING VIOLATION TIME TO ABATE AND MODIFY ALL CODE PROVISIONS REGARDING ABATEMENT OF ZONING ISSUES AND REQUIRE SUCH ABATEMENT NO LATER THAN TWENTY (20) DAYS AFTER AN OWNER LEARNS OF THE VIOLATION

WHEREAS, the Township Council has determined upon a review of the Town Code of West Milford Township that in various Zoning provisions, differing time periods are set forth to abate zoning violations, upon an owner learning of such violation; and

WHEREAS, the Township Council wishes to provide a standardized period of time for an owner to abate such violations; and

WHEREAS, having a standardized period of time to abate noted zoning violations will allow conformity between differing code sections, and establish fairness and predictability, and better allow enforcement actions should they become necessary.

NOW THEREFORE BE IT ORDAINED, by the Township Council of the Township of West Milford, Passaic County, New Jersey, that the Code of the Township of West Milford shall be amended to add a new section, setting forth the time for a property owner to abate a zoning violation as follows:

SECTION 1. General Code [Blanket] Update.

Chapter 500. Zoning.
§500-191; Notice of Zoning Violation; Time to Abate.

Upon learning of a violation, which shall describe the zoning violation in detail, an owner shall be given twenty (20) days to abate the zoning violation.

All zoning sections which currently reflect such abatement to occur “within a time specified by the Zoning Officer” or otherwise reflect either a lesser or greater term to abate such violation shall be herewith updated to reflect twenty (20) days to abate such zoning violation.

SECTION 2. All ordinances of the Township of West Milford, which are inconsistent with the provisions of this Ordinance, are hereby repealed to the extent of such inconsistency.

SECTION 3. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, preempted by Federal or State law, or otherwise invalid by any court of competent jurisdiction, such decision shall not affect the remaining portions of this Ordinance.

SECTION 4. No provision of this Ordinance shall be construed to impair any common law or statutory cause of action, or legal remedy there from, of any person for injury or damage arising from any violation of this Ordinance or from other law.

SECTION 5. This Ordinance shall take effect immediately upon final passage, approval, and publication as required by law.

SECTION 6. This Ordinance may be renumbered for codification purposes.

Introduced: August 11, 2021
Adopted: September 22, 2021
Effective Date: October 12, 2021

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This Ordinance was introduced on August 11, 2021 and Notice of Public Hearing was published in the Herald News on August 17, 2021. The Governing Body will open the meeting to the public to speak on this ordinance only.

Tony Battinelli – 2 Somerville Road, Hewitt indicated that he had no issues with the Ordinance itself but has been having a very difficult time with the Zoning Department. He cannot get in touch with the people in Zoning, they only work 16 hours a week. He has emails that prove it takes sometimes 10 days to get an answer. If he gets to speak with them they need to check with someone else to get an answer, so if the time period with the new ordinance is going to be 20 days to abate, there should be a way to speak to get an answer about something in less than 10 days. Though he did not agree with the previous Zoning Officer, Jim Lupo would always get back to him and he had an answer.

Ms. Battinelli, from Battinelli Enterprises, 1611 Warwick Turnpike, handles the majority of customer permits and has had issues with the Zoning Department where you cannot get in touch with anyone and they do not have answers. Multiple times paperwork has been lost. If they are reading the surveys wrong and a violation is issued, there could be a problem and the 20 day period could be exceeded. She is concerned with the few hours that there are Zoning people in the office and the incompetence of the staff there. Ms. Battinelli agreed that Jim Lupo would at least answer you, and the people now seem to have to run things by their supervisor because they do not know the answers themselves, and that could potentially use up half of the 20 days.

Seeing no one else wanted to speak, Councilwoman Erik moved to close the public portion and all were in favor.

Councilwoman Erik indicated that after hearing from the public and drawing from some recent experience with trying to solve some problems due to violations that were issued by the Zoning Officer, the matter should be looked into because something is wrong.

There was discussion about how the Ordinance actually was going from a current time period of 10 days to 20 days to abate a Zoning violation. Mayor Dale said the Zoning Officer is licensed by the DCA, the Department of Community Affairs, and so the Township has no influence as to how they do their job. They answer to the DCA and this Ordinance was intended to make it easier for people to abate any issues. Extensions have been granted in the past, involving businesses where property was being purchased and there were extenuating circumstances. There is a lot of volume when it comes to Zoning and the position has been outsourced and there is a learning curve as there would be with any new job. The Mayor said that the Council is currently looking at many of the rules and the goal is to try to make processes easier for homeowners and businesses. It is a process that takes time. The Mayor said she was unaware of the issues raised today and they would be addressed.

Moved: Erik Seconded: Lichtenberg
Voted Aye: Erik, Chazukow, Lichtenberg, Goodsir, Marsden
Voted Nay: None
Motion carried:

Councilman Gross arrived at 6:52 p.m.

Agenda No. X

Public Comments

Mayor Dale opened the meeting to the public after advising that there is a five-minute limit for each speaker.

Rick Ashley – 14 Orange Road, West Milford, wanted to discuss Brown's Point. He gave a history of Long Pond, Greenwood Lake and surrounding area. He wants the Town to secure the property forever. Certain families lost a lot of money taking care of the land. The condition of the lake has gotten worse. He found an arrowhead from the Munsee Indians from Brown's Point recently. He feels the Township should secure the land.

Kathy Shwiff – 43 Lake Park Terrace, Hewitt, has a problem with 41 Lake Park Terrace not being used as a single family home, which she believes is what it is zoned for. It is owned by two business partners and it is being run as a business with various groups renting the property and throwing parties. She's requesting the Zoning be enforced.

Tony Battinelli – 2 Somerville Road, questioned when the learning curve ends, just today he was unable to get an answer to a question that he asked two weeks ago. He has made multiple complaints about Zoning in the last two months to the Administrator and has not received a call back.

There being no one else wishing to be heard, Councilwoman Erik made a motion, seconded by Councilwoman Lichtenberg and carried by unanimous voice vote to close the public comment period.

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Agenda No. XI

Council Comments

Councilman Chazukow has a special place in his heart for Brown’s Point and is in favor of purchasing it if the Township could come up with the money. Councilman Chazukow suggested that with regard to the Zoning Department, documentation of when calls are made, emails and complaints submitted would be beneficial moving forward so that changes can be made accordingly.

Mayor Dale clarified that residents would still have access to Brown’s Point and that the only change that was to take place, would be that the State would be handling the maintenance. It is not fair to tax and burden the residents of West Milford for a State owned property. Also, there have been police reports filed regarding 41 Lake Park Terrace. Speaking about the permit process, contractors may have experience with the permit process but the average homeowner may not and so the goal is to simplify the process as much as possible.

Councilwoman Erik asked if the residence that Ms. Shwiff discussed was an Air B&B. It was unclear if it was currently registered.

Councilman Marsden indicated that the services provided in the Zoning Department are a work in progress. He has been meeting every Friday with the Zoning and Building Departments in order to make improvements. People should be getting answers if a question is asked, permits should be getting processed in a timely manner. Numbers are being compiled and if more staff is needed, that will happen but first things need to be analyzed.

Agenda No. XII

New Business, Introduction of Ordinance, Resolutions

Agenda No. XII 1

~ Ordinance 2021 – 035 ~

ORDINANCE OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY AMENDING THE FOLLOWING TOWNSHIP OF WEST MILFORD TOWN CODE CHAPTER 420 LAND USE PROCEDURES, CHAPTER 470 SUBDIVISION OF LAND AND SITE PLAN REVIEW, ADDING A NEW SECTION TO CHAPTER 500-XX EXCEPTIONS AND SUPPLEMENTAL REGULATIONS TO BULK AND AREA REQUIREMENTS AND AMENDING CHAPTER 500-68 FENCES, WALLS AND SIGHT TRIANGLES

WHEREAS, the Township Code contains development standards for properties within the residential; zones throughout the Township; and

WHEREAS, a review of the Township Code demonstrates a need to change and to reduce variances on residential lots for a variety of setback encroachments and accessory structures are necessary; and

WHEREAS, the Township Council has determined that it is necessary to amend the Code to establish such changes and address issues which have become code enforcement issues; and

NOW THEREFORE BE IT ORDAINED, by the Township Council of the Township of West Milford, Passaic County, New Jersey, that Chapters 420 “Land Use Procedures”, Chapter 470 “Subdivision of Land and Site Plan Review, Chapter 500-92 “Exceptions and Supplemental Regulations to Bulk and Area Requirements” and Chapter 500-68 “Fences, Walls and Sight Triangles shall be amended to read as follows:

SECTION 1. §420 “Land Use Procedures”, Section 420-6 “Definitions” adding definitions for clarity on items that were previously undefined.

§420-6 Definitions

ACCESSORY BUILDING, STRUCTURE, OR USE

A building, structure or use which is customarily associated with but is subordinate and incidental to the principal building, structure or use and which is located on the same lot therewith. An accessory building or structure attached to the principal building shall comply in all respects with the requirements applicable to the principal building, except for decks, which must follow standards set forth in § 500-92.

AWNING or CANOPY

A roof-like cover that projects from the wall of a principal or accessory building for the purpose of shielding a doorway or window from the elements. Awnings may be either fixed or retractable.

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CARPORT
A permanent roofed structure permanently open on at least two sides, designed for or occupied by private passenger vehicles or other personal vehicles.

ENCROACH
To break the plane of a vertical or horizontal regulatory limit with a structural element, so that it extends into a setback.

ENCROACHMENT
Any structural element that breaks the plane of a vertical or horizontal regulatory limit, extending into the setback.

GAZEBO
An accessory building consisting of a detached, covered, freestanding, open-air structure not exceeding 200 square feet.

MINOR ACCESSORY STRUCTURE
Accessory structures which are detached from the principal building, non-habitable by humans, livestock, or household pets, and under 100 square feet. Minor accessory structures are subject to § 500-92 Exceptions and supplemental regulations to bulk and area requirements. Coops, stables, and livestock shelters are subject to § 500-66 Accessory buildings and § 500-90 Farm Animals.

PATIO, TERRACE
A level, landscaped, and/or surfaced area directly adjacent to a principal building and not covered by a permanent roof.

PORCH
A roofed, open area, which may be screened, attached to, or part of a building, and with direct access to or from it.

PORTICO
An open-sided structure attached to a building supported by columns.

PERGOLA
A structure of parallel colonnades, or columns, supporting an open roof of crossing rafters or trelliswork.

OVERHANG
The part of a roof or wall that extends beyond the façade of a lower wall.

ROOF
The outside top covering of a building.

STORAGE PERIOD
The period of time during which a shipping container or temporary structure has been stored on a property.

TEMPORARY STRUCTURE
A structure that is erected or placed without any foundation or footings and is not in place for more than 180 days total in one calendar year. Structures in place for more than 180 days total in one calendar year are considered regulated structures that must adhere to § 500 Zoning and must obtain appropriate permits. Temporary structures must adhere to accessory structure setbacks.

TENT
A structure, enclosure, or shelter with or without sidewalls or drops, constructed of fabric or pliable material supported by a central pole or poles.

SECTION 2. Chapter §470 “Subdivision of Land and Site Plan Review” with updates below to the Bulk Variance Checklists Attachment 7 For Additions or Accessory Structures and Attachment 8 For New Homes to read as follows:

§470 Attachment 7 Bulk Variance Checklist (For Additions or Accessory Structures)

Item 1. Completed bulk variance application form, including the variances being requested and copy of zoning permit denial from Zoning Officer.

§470 Attachment 8 Bulk Variance Checklist (New Homes)

Item 1. Completed bulk variance application form, including the variances being requested and copy of zoning permit denial from Zoning Officer.

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SECTION 3. Chapter §470-44 "Zoning Permits" paragraph B to read as follows:

- B. Waiver of Zoning Permit Application for Interior Renovations and Window Replacements. For interior renovations within existing building that do not change the number of bedrooms, dwelling units or kitchen(s), the applicant may first submit to the Building Department, where the Construction Official, or the Construction Official's appointed Designee, will determine whether a Zoning Permit Application is necessary for the proposed project.

SECTION 4. Chapter 500 "Zoning", Article IX General Provisions and Design Standards, adding a new section under 500-92 to read as follows:

§500-XX Exceptions and supplemental regulations to bulk and area requirements.

- A. Building elements. Building elements which are permitted encroachments into setback requirements include but are not limited to, overhangs or porticos, awnings, steps, porches, balconies, bay and box windows, fireplaces or chimneys, and heating or air-conditioning units provided that no encroachment is more than half the total distance of the required setback.
- B. Setback exemptions. Patios/terraces, fences of any height and structures less than one foot in height are exempt from setbacks requirements; however, all structures including fences should be set at least one foot off of the property line.
- C. Minor accessory structures. Minor accessory structures are permitted to encroach into side and rear property setbacks subject to the following limitations:
- a. Minor accessory structures may be located within the side yard and rear yard setbacks provided that a minimum of five feet is maintained for clear access between the minor accessory structure and any other structure or property line.
 - b. Minor accessory structures shall be limited to a maximum height of 12 feet.
 - c. Minor accessory structures shall count towards the total accessory building coverage.
- D. Decks.
- a. Decks attached to the principal building shall be permitted to encroach into principal building side and rear yard setbacks provided that no encroachment is more than half the total distance of the required setback.
 - b. Decks detached from the principal building shall be permitted to encroach into accessory building side and rear yard setbacks provided that no encroachment is more than half the total distance of the required setback.
 - c. No deck shall cover more than 50% of the rear yard or 50% of either side yard.

SECTION 5. Chapter 500 "Zoning", Article IX General Provisions and Design Standards", Chapter §500-68 Fences, walls and sight triangles to streamline the process of retaining walls in some instances to read as follows:

Chapter §500-68 Fences, walls and sight triangles

- A. All permitted fences shall be situated on a lot in such a manner that the finished side of the fence shall face adjacent properties. No fence shall be erected of barbed wire, topped with metal spikes, or constructed of any material or in any manner which may be dangerous to persons or animals, except that these provisions shall not apply to farms or where necessary for the keeping of farm animals as provided in §500-90 and except further that fences permitted for commercial and industrial uses may be topped by a barbed wire protective barrier. Moreover, notwithstanding any other provisions of this section, retaining walls which are under four feet in height, part of a larger project certified by an engineer, or on a site plan approved by the Township Engineer do not require a separate Zoning or Building Permit Application. Retaining walls over four feet in height require both a zoning and building permit application. Any Township review of the submitted request shall consider the safety and aesthetic aspects of the proposed retaining wall.

SECTION 6. All ordinances of the Township of West Milford, which are inconsistent with the provisions of this Ordinance, are hereby repealed to the extent of such inconsistency.

SECTION 7. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, preempted by Federal or State law, or otherwise invalid by any court of competent jurisdiction, such decision shall not affect the remaining portions of this Ordinance.

SECTION 8. No provision of this Ordinance shall be construed to impair any common law or statutory cause of action, or legal remedy there from, of any person for injury or damage arising from any violation of this Ordinance or from other law.

SECTION 9. This Ordinance shall take effect immediately upon final passage, approval, and publication as required by law.

SECTION 10. This Ordinance may be renumbered for codification purposes.

Introduced: September 22, 2021

Adopted:
Effective Date:

Second reading and public hearing for this Ordinance is set for the Regular Meeting of the Township Council scheduled for October 20, 2021. Notice of this public hearing shall be published in the Herald News on or about September 28, 2021.

There was some discussion about Officials providing a waiver, and about windows and direct replacement versus enlarging the window size. If the window replacement is going to increase the window size, the header above would need to support the span of the window, and the Construction Official would need to do an inspection.

Moved: Erik Seconded: Lichtenberg
Voted Aye: Erik, Chazukow, Lichtenberg, Goodsir, Gross, Marsden
Voted Nay: None
Motion carried:

Agenda No. XII 2

~ Ordinance 2021 – 036 ~

ORDINANCE OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC,
STATE OF NEW JERSEY TO CREATE A NEW SECTION WITHIN CHAPTER 500 “ZONING”
ENTITLED “MEDICAL AND RECREATIONAL CANNABIS ACTIVITY” AMENDED

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,” N.J.S.A. 24:6I-31 et seq. (the “Act”), 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 the following six marketplace classes of business licenses to be issued by the State of New Jersey Cannabis Regulatory Commission for the legal operation of cannabis establishments and other types of cannabis marketplace activity in the State, including:

- Class 1

Class 2

Class 3

Class 4

Class 5

Class 6
- Cannabis Cultivator license, for facilities involved in growing and cultivating cannabis;

Cannabis Manufacturer license, for facilities involved in the manufacturing, preparation, and packaging of cannabis items;

Cannabis Wholesaler license, for facilities involved in obtaining and selling cannabis items for later resale by other licensees;

Cannabis Distributer license, for businesses involved in transporting cannabis plants in bulk from one licensed cultivator to another licensed cultivator, or cannabis items in bulk from any type of licensed cannabis business to another;

Cannabis Retailer license for locations at which cannabis items and related supplies are sold to consumers; and

Cannabis Delivery license, for businesses providing courier services for consumer purchases that are fulfilled by a licensed cannabis retailer in order to make deliveries of the purchased items to a consumer, and which service would include the ability of a consumer to make a purchase directly through the licensed cannabis delivery service which would be presented by the delivery service for fulfillment by a retailer and then delivered to a consumer.

WHEREAS, section 31a of the Act, N.J.S.A. 24:6I-45a, authorizes municipalities to adopt ordinances and regulations prohibiting outright and/or limiting the number of any class of license “cannabis establishments” (defined in section 33 of the Act, N.J.S.A. 24:6I-33, as “a cannabis cultivator, a cannabis manufacturer, a cannabis wholesaler, or a cannabis retailer”), cannabis distributors and cannabis delivery services allowed to operate within its municipal boundaries; and the location, manner and times of operation of such cannabis establishments, cannabis distributors and cannabis delivery services, except that the time of operations for cannabis delivery services, shall only be subject to the regulation by the Cannabis Regulatory Commission (the “Commission”); and

WHEREAS, section 31a of the Act, N.J.S.A. 24:6I-45a, also authorizes municipalities to establish certain civil penalties for violations of any ordinance or regulations governing cannabis establishments, distributors or delivery services that may operate in a municipality, as well as to their location, manner and times of operation; and

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WHEREAS, section 31b of the Act, N.J.S.A. 24:6I-45b, authorizes municipalities to prohibit, by ordinance, the operation of any one or more classes of cannabis establishments, cannabis distributors, and the principal premises of a cannabis delivery service from anywhere in the municipality, but not the actual delivery of cannabis items and related supplies by a licensed cannabis delivery service operating outside the boundaries of the municipality; and

WHEREAS, section 31b of the Act, N.J.S.A. 24:6I-45b, also stipulates that any municipal ordinance, regulation or prohibition must be adopted within 180 days of the effective date of the Act (i.e., by August 22, 2021); and

WHEREAS, section 31b of the Act, N.J.S.A. 24:6I-45b, provides that a municipality's failure to adopt such ordinances within 180 days, shall result in any cannabis cultivator, manufacturer, wholesaler, distributor or delivery service to be deemed a permitted use in all industrial zones of the municipality for an initial period of five years, first beginning on August 22, 2021; and

WHEREAS, section 31b of the Act, N.J.S.A. 24:6I-45b, also provides that a municipality's failure to adopt such ordinances within 180 days shall result in a cannabis retailer being authorized to operate in all commercial/retail zones in a municipality as a conditional use, subject to meeting certain conditions of the Township, or receiving a variance from one or more of those conditions in accordance with the "Municipal Land Use Law," P.L. 1975, c. 291 (N.J.S.A. 40:55D-1 et seq.) for a period of five years, five years, first beginning on August 22, 2021; and

WHEREAS, at the conclusion of the initial and any subsequent five-year period following a municipality's failure to enact local ordinances, regulations or prohibitions, the municipality shall again have 180 days to adopt an ordinance regulating or prohibiting cannabis businesses, but such ordinances would be prospective only and would be inapplicable to any cannabis establishments, cannabis distributors and cannabis delivery services already operating within the municipality; and

WHEREAS, section 33 of the Act, (P.L. 2021, c. 16 §33, N.J.S.A. 24:6I-46) and section 34 of the Act, (P.L. 2021, c.16 §34, amending N.J.S.A. 24:6I-7) deems certain pre-existing State licensed alternative treatment centers to concurrently hold certain class(es) of the above-referenced cannabis establishment license(s), which enables such pre-existing alternative treatment centers to simultaneously operate a licensed cannabis establishment so long as a municipality first approves same by municipal endorsement or through a local licensing procedure; and

WHEREAS, section 31c of the Act, N.J.S.A. 24:6I-45c, authorizes municipalities to impose a separate local licensing or endorsement requirement as part of its restrictions on the number of cannabis establishments, distributors or delivery services; and

WHEREAS, section 40 of the Act, N.J.S.A. 40:48I-1, authorizes municipalities to adopt ordinances imposing a transfer tax on the sale of cannabis or cannabis items by a cannabis establishment located in the municipality on receipts from the sale of cannabis to other cultivators, sales between cannabis establishments, and any combination thereof, and sets forth the limits for same; and

WHEREAS, the Township of West Milford has specifically allowed cultivation (Cannabis Cultivator License Class 1), manufacturing (Cannabis Manufacturer License Class 2), wholesaler (Cannabis Wholesaler License Class 3), distribution (Cannabis Cultivator License Class 4), retailer (Cannabis Retailer License Class 5) and delivery (Cannabis Deliver License Class 6) under the Act, subject to municipal regulation where appropriate in the Township; and

NOW THEREFORE BE IT ORDAINED, by the Mayor and Township Council of the Township of West Milford, County of Passaic, and the State of New Jersey that a new Code section and Article shall be created, as follows:

SECTION 1. ARTICLE _____, MEDICAL AND RECREATIONAL CANNABIS ACTIVITY

Title: MEDICAL AND RECREATIONAL CANNABIS ACTIVITY"

§ 500-194 Definitions.

"Alternative treatment center" and "Pre-existing Alternative treatment center" Shall mean an organization issued a permit, conditional permit, and/or a vertically integrated permit pursuant to the "Jake Honing 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 prior to February 22, 2021; and includes any alternative treatment center deemed pursuant to section 7 of the "Jake Honing Compassionate Use Medical Cannabis Act" (C. 24:26I-7) to concurrently hold a medical cannabis cultivator permit, a medical cannabis manufacturer permit, and a medical cannabis dispensary permit and/or any alternative treatment center deemed to concurrently hold any one or more class(es) of Cannabis Licensed Marketplace license(s) pursuant to PL. 2021, c. 16 §33, N.J.S.A. 24:6I-46, and P.L. 2021, c.16 §34, amending N.J.S.A. 24:6I-7.

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“Designated Caregiver” Shall mean and refer to a “Designated Caregiver” as defined under the “Jake Honig Compassionate Use Medical Cannabis Act,” P.L. 2009, C. 307 (C. 24:6I-1 et al.).

Cannabis Shall mean 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. 2016, 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, c.158 (C.18A:40-12.22 et al.); marijuana 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 marihuana 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” Shall mean and refer to a “Cannabis Consumption Area” as defined under P.L. 2021, c. 16 §3, N.J.S.A. 24:6I-33, of the “New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act”.

“Cannabis Cultivator”

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.

“Cannabis Delivery Service”

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.

“Cannabis Distributor” Shall mean 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.

“Cannabis Establishment”

A cannabis cultivator, a cannabis manufacturer, a cannabis wholesaler, a cannabis retailer or a cannabis distributor.

“Cannabis Item”

Any item available for lawful consumption pursuant to the “New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act,” P.L.2021, c.16 (C.24:6I-31 et al.).

“Cannabis Manufacturer”

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.

“Cannabis Retailer”

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.

“Cannabis Wholesaler”

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.

“Cannabis Licensed Marketplace”

A license issued under relevant State law including a license that is designated as either a:

A. Class 1 Cannabis Cultivator license

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- B. Class 2 Cannabis Manufacturer license
- C. Class 3 Cannabis Wholesaler license
- D. Class 4 Cannabis Distributor license
- E. Class 5 Cannabis Retailer license
- F. Class 6 Cannabis Delivery license

The term shall also include a conditional license for a designated class, except when the context of the provisions of relevant State law otherwise intend to only apply for a license and not a conditional license.

The term shall also include any activity related to cannabis cultivation, cannabis manufacturing, cannabis wholesale, cannabis distribution cannabis retail and/or cannabis delivery service by a pre-existing alternative treatment center deemed to concurrently hold any one or more class(es) of the above-listed cannabis license(s) pursuant to P.L. 2021, c. 16 §33, N.J.S.A. 24:6I-46, and P.L. 2021, c.16 §34 of the Act, amending N.J.S.A. 24:6I-7; but shall not include the pre-existing alternative treatment’s activities related to medical cannabis cultivation, medical cannabis manufacturing, medical cannabis processing and/or medical cannabis dispensing by a pre-existing medical cannabis alternative treatment center pursuant to a license or conditional licensed issued by the State of New Jersey pursuant to the “Jake Honing Compassionate Use Medical Cannabis Act,” P.L. 2009, c. 307 (N.J.S.A.24:6I-1 et seq.) and P.L. 2015, c. 158 (N.J.S.A. 18A:40-12.22 et seq.).

“Consumption”
Shall mean the act of ingesting, inhaling, or otherwise introducing medical cannabis items and/or cannabis items into the human body.

“Delivery”
Shall mean the transportation of cannabis items and related supplies to a consumer.

“Delivery” shall also mean 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.

“Indoor Public Place”
Shall mean a structurally enclosed place of business, commerce or other service-related activity, whether publicly or privately owned or operated on a for-profit or nonprofit basis, which is generally accessible to the public, including, but not limited to: a commercial or other office building; office or building owned, leased or rented by the State or by a county or municipal government; public and nonpublic elementary or secondary school building; board of education building; theater or concert hall; public library; museum or art gallery; bar; restaurant or other establishment where the principal business is the sale of food for consumption on the premises, including the bar area of the establishment; garage or parking facility; any public conveyance operated on land or water, or in the air, and passenger waiting rooms and platform areas in any stations or terminals thereof; health care facility licensed pursuant to P.L.1971, c. 136 (C.26:2H-1 et seq.); patient waiting room of the office of a health care provider licensed pursuant to Title 45 of the Revised Statutes; child care center licensed pursuant to P.L.1983, c. 492 (C.30:5B-1 et seq.); race track facility; facility used for the holding of sporting events; ambulatory recreational facility; shopping mall or retail store; hotel, motel or other lodging establishment; apartment building lobby or other public area in an otherwise private building; or a passenger elevator in a building other than a single-family dwelling.

“Institutional Caregiver”
Shall mean and refer to an “Institutional Caregiver” as defined under the “Jake Honing Compassionate Use Medical Cannabis Act,” P.L. 2009, c. 307 (N.J.S.A.24:6I-1 et seq., and P.L. 2015, c. 158, N.J.S.A. 18A:40-12.22 et seq.).

“Licensee”
Shall mean a person or entity that holds a license issued under P.L. 2021, c. 16 (C.24:6I-31 et al.) 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, a Class 6 Cannabis Delivery license, and also includes: a person or entity that holds a conditional license for a designated class; a person or entity holding a pre-existing Medical Cannabis Cultivator License, pre-existing alternative treatment center permit first issued by the State of New Jersey, Department of Health, Division of Medicinal Marijuana in accordance with the provisions of the “Jake Honing Compassionate Use Medical Cannabis Act” (P.L. 2009, c. 307, N.J.S.A.24:6I-1 et seq., and P.L. 2015, c. 158, N.J.S.A. 18A:40-12.22 et seq.) prior to February 22, 2021, and approved by the Township to hold a concurrent municipal license to operate as a Class 1 Cannabis Cultivator, Class 2 Cannabis Manufacturer, Class 3 Cannabis Wholesaler and/or Class 4 Cannabis Distributor in accordance with the provisions hereinafter and P.L. 2021, c. 16 §33, N.J.S.A. 24:6I-46, and

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P.L. 2021, c.16 §34, (Amending N.J.S.A. 24:6I-7) of the Act; and/or any other person or entity holding a local annual cannabis license issued by the Township pursuant to this Code.

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

“Medical Cannabis”
Means cannabis dispensed to registered qualifying patients or their designated or institutional care giver(s) pursuant to the “Jake Honing Compassionate Use Medical Cannabis Act,” P.L. 2009, c. 307 (N.J.S.A.24:6I-1 et seq.) and P.L. 2015, c. 158 (N.J.S.A. 18A:40-12.22 et seq.). “Medical cannabis” does not include any cannabis or cannabis item that is cultivated, manufactured, produced, processed, distributed, delivered, sold and/or resold for the ultimate purpose of recreational consumption by persons that are not registered qualifying patients.

“Personal Use” and/or “Recreational Use”
Means the purchase, sale, possession, and/or consumption of cannabis items by person(s) who are not a Registered Qualifying Patient under the “Jake Honing Compassionate Use Medical Cannabis Act” P.L. 2009, c. 307 (N.J.S.A.24:6I-1 et seq.) and P.L. 2015, c. 158 (N.J.S.A. 18A:40-12.22 et seq.).

“Premises” or “licensed premises”
Means the following areas of a location licensed under P.L.2021, c.16 (C.24:6I-31 et al.): 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.

“Public Place”
Shall mean any place to which the public has access that is not privately owned, including but not limited to any property owned by the Township of West Milford, County of Passaic, and or any other government subdivision of the State of New Jersey situated within the geographic boundaries of the Township; 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.

“Registered Qualifying Patient” or “Qualifying Patient” or “Patient”
Shall mean and refer to a Qualifying Patient or Patient registered under the “Jake Honing Compassionate Use Medical Cannabis Act.” P.L. 2009, c. 307 (N.J.S.A.24:6I-1 et seq.) and P.L. 2015, c. 158 (N.J.S.A. 18A:40-12.22 et seq.).

“Veteran”
As applicable to this section, to receive any discount, “veteran” shall mean any person who presents a DD Form 214 reflecting they have received an honorable characterization of service, and as to any corporate entity, shall mean when such corporate entity is more than 50% owned by such veterans, as defined above.

“Wholesale Trade”
Shall mean establishments or places of business primarily engaged in selling merchandise to other businesses, including retailers, industrial, commercial, institutional, or professional business users, other wholesalers, or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

§ 500-195 Purposes and Application.

- A. This Chapter has been adopted by the Mayor and Township Council of the Township of West Milford for the following purposes:
- (1) To protect the public health, safety, and general welfare of the residents of the Township of West Milford by establishing strict limits and regulations on the lawful sale and use of legal cannabis.

(2) To regulate the operation of licensed cannabis establishments to protect against the unlawful operation and use of cannabis and marijuana.

(3) To establish certain conditions and limitations on the number of cannabis licenses authorized to be issued within the Township of West Milford.

(4) To establish regulations on the time, location and manner of licensed cannabis establishments and activities.

(5) To prohibit the operation of any cannabis establishments and other cannabis marketplace activities within the Township unless strictly in conformance with State and local laws.

(6) To establish limitations on the number and types of cannabis establishment licenses and cannabis marketplace activities.

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- (7) To establish local regulations as to the time, location, and manner of cannabis establishments and cannabis marketplace operations and activities in accordance with State law.

B. Applicability. The provisions herein shall apply to all licensees, persons, organizations and businesses operating and/or seeking to operate as any class of licensed cannabis establishment pursuant to the "New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act," P.L. 2021, c. 16, N.J.S.A. 24:6I-31, et seq., including any pre-existing alternative treatment center deemed to concurrently hold any class(es) of cannabis marketplace license(s) pursuant to P.L. 2021, c. 16 §33, N.J.S.A. 24:6I-46 and P.L. 2021, c.16 §34 (amending N.J.S.A. 24:6I-7) of the Act.

§ 500-196 Prohibitions on Cannabis Establishments, Retail, Consumption Areas, and Cannabis Delivery Service Premises.

- A. Pursuant to section 31 of the Act (N.J.S.A. 24:6I-45b), Licenses for Class 1 Cannabis Cultivation, Class 2 Cannabis Manufacturing, Class 3 Cannabis Wholesaler, Class 4 Cannabis Distribution, Class 5 Cannabis Retailer and Class 6 Cannabis Delivery shall be allowed within the geographic boundaries of the Township of West Milford.
- B. Nothing herein shall be construed to prohibit the delivery of cannabis items and related supplies within the Township of West Milford by a New Jersey licensed Class 6 Cannabis Delivery Service to a consumer of 21 years of age or older for personal use from the licensed premises of a Class 6 Cannabis Delivery Service, located outside the geographic boundaries of the Township.
- C. Nothing herein shall prohibit a pre-existing alternative treatment center to operate at a location separate from a pre-existing licensed location.

§ 500-197 Numerical Limit on Local Cannabis Licenses and Class Types of Cannabis Establishment Permitted.

A. The following number and type of municipal cannabis establishment licenses, otherwise known as a "local annual cannabis license" are hereby authorized to be available for issuance by the Township of West Milford on an annual basis pursuant to the "New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act," P.L. 2021, c. 16, (N.J.S.A. 24:6I-31, et seq.,) first commencing August 22, 2021:

- (1) Ten (10) Class 1 Cannabis Cultivator licenses to be issued to initial licensees, with not more than two (2) of such licenses as an annual concurrent license to a qualified pre-existing alternative treatment center holding a current valid permit to cultivate medical cannabis from a location previously approved by the Township and actively licensed by the State of New Jersey, Department of Health, Division of Medicinal Marijuana pursuant the "Jake Honing Compassionate Use Medical Cannabis Act," P.L. 2009, c. 307 (N.J.S.A.24:6I-1 et seq.) and P.L. 2015, c. 158 (N.J.S.A. 18A:40-12.22 et seq.), and P.L. 2021, c. 16 §33, N.J.S.A. 24:6I-46, and P.L. 2021, c.16 §34 of the Act (amending N.J.S.A. 24:6I-7) before February 22, 2021.
- (2) Ten (10) Class 2 Cannabis Manufacturer licenses to initial licensees, with not more than two (2) of such licenses as an annual concurrent license to a qualified pre-existing alternative treatment center holding a current valid permit to manufacture, package and/or process medical cannabis, and selling such medical cannabis to other manufacturers, wholesalers or retailers, but not directly to consumers, from a location previously approved by the Township and actively licensed by the State of New Jersey, Department of Health, Division of Medicinal Marijuana pursuant the "Jake Honing Compassionate Use Medical Cannabis Act," P.L. 2009, c. 307 (N.J.S.A.24:6I-1 et seq.) and P.L. 2015, c. 158 (N.J.S.A. 18A:40-12.22 et seq.), and P.L. 2021, c. 16 §33, N.J.S.A. 24:6I-46, and P.L. 2021, c.16 §34 of the Act (amending N.J.S.A. 24:6I-7) before February 22, 2021.
- (3) Ten (10) Class 3 Cannabis Wholesaler licenses to initial licensees, with not more than two (2) of such licenses as an annual concurrent license to a qualified pre-existing alternative treatment center holding a current valid permit to purchase, store, sell or otherwise transfer and/or transport medical cannabis items for the purpose of resale to other medical cannabis wholesalers or dispensaries, but not directly to consumers, from a location previously approved by the Township and actively licensed by the State of New Jersey, Department of Health, Division of Medicinal Marijuana pursuant the "Jake Honing Compassionate Use Medical Cannabis Act," P.L. 2009, c. 307 (N.J.S.A.24:6I-1 et seq.) and P.L. 2015, c. 158 (N.J.S.A. 18A:40-12.22 et seq.), and P.L. 2021, c. 16 §33, N.J.S.A. 24:6I-46, and P.L. 2021, c.16 §34 of the Act (amending N.J.S.A. 24:6I-7) before February 22, 2021;
- (4) Ten (10) Class 4 Cannabis Distributor licenses to initial licensees, with not more than to (2) of such licenses as an annual concurrent license to a qualified pre-existing alternative treatment center holding a current valid permit to transport in bulk medical cannabis from

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a location previously approved by the Township and actively licensed by the State of New Jersey, Department of Health, Division of Medicinal Marijuana pursuant the "Jake Honing Compassionate Use Medical Cannabis Act," P.L. 2009, c. 307 (N.J.S.A.24:6I-1 et seq.) and P.L. 2015, c. 158 (N.J.S.A. 18A:40-12.22 et seq.), and P.L. 2021, c. 16 §33, N.J.S.A. 24:6I-46, and P.L. 2021, c. 16 §34 of the Act (amending N.J.S.A. 24:6I-7) before February 22, 2021.

- (5) Ten (10) Class 5 Cannabis Retailer licenses for locations at which cannabis items and related supplies are sold to consumers.
 - (6) Ten (10) Class 6 Cannabis Delivery licenses for businesses providing courier services for consumer purchases.
- B. Except for the number and classification types of the municipal licenses listed hereinabove, no additional licenses or license types shall be issued or otherwise made available by the Township except by formal adoption of an ordinance.
- C. Any person, organization and/or business, including a licensed cannabis establishment of limited class type operating outside the scope of a license, found to engage in the cultivation, manufacturing, wholesale, bulk transport and/or retail sale of cannabis items without first having a valid license issued by the Township shall be subject to a civil fine and penalty as set forth herein below.
- D. Any person, organization and/or business found to operate a delivery service from any premises within the geographic boundaries of the Town shall be subject to a civil fine and penalty as set forth herein below.

§ 500-197 Municipal Licensure Requirements.

- A. Prior to commencing the cultivation of cannabis and/or engaging in cannabis manufacturing activities, cannabis wholesale activities and/or cannabis distribution activities, any person, business, organization, including a pre-existing alternative treatment seeking to concurrently operate, shall first apply for and secure from the Township of West Milford an annual local Class 1 Cannabis Cultivator license, annual local Class 2 Cannabis Manufacturer license, annual local Class 3 Cannabis Wholesaler license, annual local Class 4 Cannabis Distributor license, annual local Class 5 Cannabis Retailer license or annual local Class 6 Cannabis Delivery license, or any combination thereof.
- B. The Township of West Milford, through its Municipal Clerk, shall begin accepting applications for any class of annual local cannabis license 15 days following final passage of this ordinance. The initial local annual license shall be valid until December 31, 2022. Thereafter, the period of each annual local cannabis establishment license shall commence January 1, and expire on December 31 of the calendar year.
- C. The licensee of an alternate treatment center authorized cannabis establishment shall be required to maintain a valid alternative treatment center permit from the State of New Jersey, Cannabis Regulatory Commission for each applicable class of concurrently held local annual cannabis license as a condition of holding a local annual cannabis license.
- D. By no later than December 1 of the license year, all licensees shall be required to file an application for the renewal of a local annual cannabis license to be authorized to continue operation as a cannabis establishment within the Township of West Milford.
- E. All local cannabis establishments' licenses shall be conditional, and shall remain subject to all laws and regulations of the Township of West Milford and the State of New Jersey. Failure of any licensee to comply with such applicable laws shall be grounds for revocation and/or nonrenewal by the Township of West Milford.
- F. The initial application fee for each local cannabis establishment license shall be \$2,500 and the renewal application fee shall be \$1,500. An escrow shall be established for administrative and professional fees and costs relating to the application and oversight during the term.
- G. There shall be a \$500 discount available for veterans as to the initial application fee, and to any subsequent renewals. Veteran status shall be determined by the Township Council and as delegated to the designated representative.
- H. There shall be a \$500 discount available for a microbusiness as to the initial application fee, and as to any subsequent renewals.
- I. All local cannabis establishment licenses shall be non-transferrable. All local cannabis establishment licenses shall be specific to the property location authorized and approved by the Township and shall not otherwise be considered a "pocket license." Nothing herein shall prevent a pre-existing alternative treatment center to operate at a location separate from a pre-existing licensed location.
- J. All local cannabis establishments shall be subject to unannounced inspections by a designated representative of the Township. Access shall be permitted by the designated representative.

§ 500-197 Local Cannabis Transfer and User Taxes.

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- A. Pursuant to section 40 of the Act, N.J.S.A. 40:48I-1a(1), the following transfer taxes are hereby established on all cannabis establishments operating within the Township of West Milford as the maximum amount as permitted by the laws of the State of New Jersey or the amounts set forth below, whichever is greater:
- (1) 2% on the gross receipts from each sale of all cannabis and cannabis items by any cannabis cultivator to any other cannabis cultivator;
 - (2) 2% on the gross receipts from each sale by a cannabis manufacturer;
 - (3) 1 % on the gross receipts from each sale by a cannabis wholesaler; and
 - (4) 2% on the gross receipts from each sale of cannabis and/or cannabis items from any cannabis establishment to another cannabis establishment.
- B. Pursuant to section 40 of the Act, N.J.S.A. 40:48I-1a(2), the following user taxes are hereby established on all concurrent license holders operating within the Township of West Milford, which shall be in addition to any other tax imposed by law as the maximum amount as permitted by the laws of the State of New Jersey or the amounts set forth below, whichever is greater:
- (1) 2% of the receipts from each sale by a cannabis cultivator;
 - (2) 2% of the receipts from each sale by a cannabis manufacturer;
 - (3) 1% of the receipts from each sale by a cannabis wholesaler; and
 - (4) 2% of the receipts from each sale by a cannabis retailer.
- C. The above provisions as to the user and transfer taxation of any cannabis marketplace activities shall not apply to that portion of any business activities conducted by a concurrent licensee with respect to medical cannabis cultivation, medical cannabis manufacturing, medical cannabis processing, medical cannabis distribution and/or the dispensing of medical cannabis items. Such user and transfer taxation amounts shall be governed by a contractual agreement with the licensed medical cannabis facility.

§ 500-198 Odor Mitigation and Control.

- A. All cannabis establishments, including licensed pre-existing alternative treatment centers, shall provide fully integrated air treatment systems, with sufficient odor absorbing ventilation and exhaust systems such that any odor generated within the confines of the premises shall not unreasonably interfere with the enjoyment of life or property outside the boundaries of the establishment's property, in accordance with NJDEP regulations and guidance.
- B. All medical cannabis establishments and cannabis establishments shall be required to retain a qualified environmental consultant approved by the Township, who shall be available to promptly respond to the site in the event of an incident or adverse event within a reasonable period of time not to exceed 12 hours.
- C. All medical cannabis establishments and cannabis establishments shall be required to monitor all activities for odors on a daily basis; shall maintain and produce written records of all odor monitoring, investigations, air quality studies and adverse events.
- D. All records as to odor monitoring, investigations, air quality studies and adverse events shall be produced to the Township upon request.

§ 500-199 Corporate Designee Contact.

All medical cannabis establishments and cannabis establishments operating within the Township of West Milford shall be required to designate a corporate representative of the business who shall be available 24 hours daily to serve as the primary person of contact for the establishment, and shall have full authority to make decisions on behalf of the establishment in the event of an emergency. The establishment shall provide the up-to-date direct telephone and email contact information for the corporate designee to the Township Police Department and the Township Administrator and shall assure that such contact information remains current at all times. At a minimum, the corporate designee shall be responsible to respond to the Township in the event of a report of criminal activity, adverse odor event, or any suspected violation of applicable State and/or local laws.

§ 500-200 Manner of Delivery of Cannabis and Cannabis Items.

The actual delivery of cannabis and cannabis items by any Class 6 Cannabis Delivery services to a consumer occurring within the Township shall be prohibited from taking place in any public place and shall only be permitted to take place within the confines of private property or indoor public places with the express permission and authorization of the owner of the property.

§ 500-201 Civil Fines and Penalties.

- A. Any person(s), firm(s), business(es), corporation(s) and/or other organizations, including any licensed medical and/or cannabis establishment, found in violation of any provision(s) of this Code shall be subject to a civil fine and penalty not exceeding \$2,000.
- B. Any licensed medical and/or cannabis establishment found in violation of any provision(s) of this Code may be grounds for revocation and/or nonrenewal of any issued local cannabis establishment license. Upon reasonable notice to the licensee by the Administration of the Township of West Milford, a hearing shall be conducted before the Township Council of the Township of West Milford to decide whether sufficient grounds exist to revoke any and all classes of local cannabis establishment licenses issued to the licensee. The licensee may be permitted to be represented by legal counsel during the hearing, present evidence, testimony and witnesses.
- C. Each and every day any person(s), firm(s), business(es), corporation(s) and/or other organizations, including any licensed medical and/or cannabis establishment remains in violation

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of the provisions of this Code after the deadline for compliance set forth in any notice of violation issued by the enforcing officer(s) of the Township shall be considered a continuing violation punishable as a separate and distinct offense and subject to a separate civil fine and penalty for each and every day the violation continues.

- D. The Municipal Court or Superior Court shall have jurisdiction to hear and decide any action(s) brought to enforce the provisions of this code, the hearing for which shall be conducted in a summary manner pursuant to N.J.S.A. 2B12-16a, and any final order imposing fines and penalties for a violation of this code shall be enforceable in the Municipal Court or Superior Court and collectible as a lien against the property of the violator in accordance with the Penalty Enforcement Law of 1999, N.J.S.A. 2A:58-10 to -12.

SECTION 2. All ordinances or parts of ordinances of the Township of West Milford inconsistent with the provisions of this Ordinance, are hereby repealed to the extent of such inconsistency.

SECTION 3. If any section, subsection, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid by any court or competent jurisdiction, such decision shall not affect the remaining portion of this Ordinance.

SECTION 4. This Ordinance may be renumbered for purposes of codification

SECTION 5. This Ordinance shall take effect upon final passage, approval, and publication as required by law.

Introduced: September 22, 2021
Adopted:
Effective Date:

Second reading and public hearing for this Ordinance is set for the Regular Meeting of the Township Council scheduled for October 20, 2021. Notice of this public hearing shall be published in the Herald News on or about September 28, 2021.

There was some discussion about the language on page 8, section 6b and Attorney Pasternak indicated that any of the terms for the licenses could fit into classes one through six and so it was covered in the language and that the language can also be amended in the future.

The number of licenses was also discussed and Attorney Pasternak indicated that if for example all the Class 5 licenses had been issued at some point more could possibly be allowed based on location etc. Another consideration is that you would not want one entity to buy all the licenses up, and there would need to be some way to keep track of the number of licenses, most likely through the Clerk's office. A minor typo "ris/are" was corrected.

Page 7 paragraph b regarding distribution means even someone not licensed by the Township may deliver to the Township. That would be considered a State issue and distribution cannot be precluded. Page 8, paragraph c would be changed to alternative treatment center, another minor change.

There was a motion by Councilwoman Erik to approve the amended Ordinance seconded by Councilman Marsden.

Moved: Erik Seconded: Goodsir
Voted Aye: Erik, Chazukow, Lichtenberg, Goodsir, Gross, Marsden
Voted Nay: None
Motion carried:

Mayor Dale asked to move resolutions 2021-347 through 2021-356

Agenda No. XII 3

~ Resolution 2021 – 347 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY AUTHORIZING THE AWARD OF A COMPETITIVE BIDDING CONTRACT TO MORTON SALT, INC. FOR ROCK SALT

WHEREAS, the Township of West Milford advertised for the receipt of sealed competitive bids to be received on August 27, 2021 for the purchase of rock salt as per bid specifications; and

WHEREAS, in response to the "Notice to Bidders" the Township received three (3) bids; and

WHEREAS, said bids have been duly reviewed and analyzed by the Township Attorney and the Director of Public Works; and

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WHEREAS, the bid received from the lowest bidder, Morton Salt, Inc. in the amount of \$818,375.00, does comply with and meet all minimum bid requirements as outlined in the bid specifications and thus Morton Salt, Inc., is deemed to be the lowest responsible bidder in accordance with N.J.S.A. 40A:11-2(27); and

WHEREAS, the Director of Public Works has submitted a written recommendation for the award of this contract to Morton Salt, Inc., 444 W. Lake Street, Suite 3000, Chicago, IL 60606; and

WHEREAS, the Chief Financial Officer has certified as to the availability of funds for this purchase, said funds to be encumbered from account numbers:(2021) 01-201-26-294-363 (\$250,000.00) and (2022) 01-201-26-294-363 (\$568,375.00); and

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Township Council of the Township of West Milford, County of Passaic, State of New Jersey, the following:

1. The Township Council hereby awards a contract to Morton Salt, Inc. for rock salt in an amount not to exceed \$818,375.00.
2. The Mayor and Township Clerk are hereby authorized and directed to execute a contract with Morton Salt, Inc., 444 W. Lake Street, Suite 3000, Chicago, IL 60606 in accordance with its bid for rock salt.
3. The Township's Chief Financial Officer has certified the availability of funds for same.
4. This Resolution and contract shall be available for public inspection in the office of the Township Clerk.

Adopted: September 22, 2021

Agenda No. XII 4

~ Resolution 2021 – 348 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC STATE OF NEW JERSEY AUTHORIZE CONTRACTS FOR 2021-2022 SNOWPLOWING SERVICES

WHEREAS, the Township of West Milford advertised for the receipt of sealed bids for 4x4 pickups and single axle dump trucks to be received on August 27, 2021 for 2021-2022 Snowplowing Services; and

WHEREAS, said bids have been duly reviewed and analyzed by the Director of Public Works, Engineering Division and the Township Attorney; and

WHEREAS, the award of contracts to vendors whose bids have been found to be in proper form and in compliance with the provisions of N.J.S.A. 40A:11-23.5 and the specifications as written, noting Special Rates for additional equipment to be used if and when needed per rates bid; and

WHEREAS, the Township Attorney has rendered an opinion; and

WHEREAS, the Chief Financial Officer has certified as to the availability of funds, said funds to be encumbered from account number 01-201-26-294-364.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Township of West Milford, County of Passaic, State of New Jersey, that the Mayor and Township Clerk be and are hereby authorized to execute contracts for 2021-2022 Snowplowing Services in accordance with the following outline:

	CONTRACTOR	# TRKS	\$ Per Hr Class 1	\$ Per Hr Class 2
1	Longstaff Paving, LLC	10	\$129.00	\$134.00
2	Silver Stone Landscaping, LLC	2	\$145.00	\$155.00
3	Tom Buske & Son Construction, LLC	8	\$145.00	\$155.00
4	Albert Christmann Inc.	2	\$150.00	\$150.00
	TOTAL TRUCKS	22		

BE IT FURTHER RESOLVED that this resolution and these contracts shall be available for public inspection in the office of the Township Clerk.

Adopted: September 22, 2021

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~ Resolution 2021 – 349 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY AUTHORIZING ENTRY INTO AND EXECUTION OF AN AGREEMENT WITH THE PASSAIC COUNTY COOPERATIVE PRICING SYSTEM #38PCCP

WHEREAS, N.J.S.A. 40A:11-11 (5) authorizes contracting units to establish a Cooperative Pricing System and to enter into Cooperative Pricing Agreements for its administration; and

WHEREAS, the County of Passaic, hereinafter referred to as the "Lead Agency" has offered voluntary participation in a Cooperative Pricing System for the purchase of goods and services; and

WHEREAS, on September 22, 2021, the governing body of the Township of West Milford, County of Passaic, State of New Jersey duly considered participation in a Cooperative Pricing System for the purchase of goods and services;

NOW, THEREFORE, BE IT RESOLVED, by the Township of West Milford, County of Passaic, State of New Jersey as follows:

1. The Township Council of the Township of the West Milford hereby authorize the Mayor and Township Clerk to execute an Agreement with the Passaic County Cooperative Pricing System by the County of Passaic as Lead Agency pursuant to N.J.S.A. 40A:11-11(5).
2. The Municipal Clerk of the Township of West Milford is hereby directed to submit a copy of this adopted Resolution, along with an executed Agreement, to Passaic County as Lead Agency of the #38PCCP.
3. This Resolution shall take effect immediately upon final passage according to law.
4. All appropriate officials in the Township of West Milford are authorized and directed to perform all required acts to affect the purpose of the Resolution.

Adopted: September 22, 2021

Agenda No. XII 6

~ Resolution 2021 – 350 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY AUTHORIZING THE AWARD OF A COMPETITIVE BIDDING CONTRACT TO TYCO ANIMAL CONTROL FOR PROFESSIONAL ANIMAL CONTROL SERVICES

WHEREAS, the Township of West Milford advertised on August 17, 2021 for the receipt of sealed competitive bids to be received on September 3, 2021 at 10:00 am for Professional Animal Control Services; and

WHEREAS, the Township of West Milford received one (1) bid for this contract; and

WHEREAS, said bid has been duly reviewed and analyzed by the Township Attorney and Chief of Police; and

WHEREAS, said bid is considered a reasonable cost and a contract recommendation was provided by the Township Administrator and Chief of Police; and

WHEREAS, the bid received from the lowest bidder, Tyco Animal Control Services, has been found to be in proper form, in compliance with the provisions of N.J.S.A. 40A:11-23.5 and is a qualified bidder; and

WHEREAS, the Chief Financial Officer has certified that encumbrances for these services shall come from account number 02-213-41-749-000.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Council of the Township of West Milford, County of Passaic, State of New Jersey, as follows:

1. The Mayor and Township Council hereby authorizes an agreement with Tyco Animal Control Services, 1 Stouts Lane, Ho-Ho-Kus, NJ, 07423 in an amount not to exceed \$79,600.00 annually including emergency calls.
2. The Mayor and Township Clerk are hereby authorized and directed to execute a contract with Tyco Animal Control Services, in accordance with its bid for said professional animal control services for the Township of West Milford.
3. The Township's Chief Financial Officer has certified the availability of funds for same.
4. This resolution and contract shall be available for public inspection in the office of the Township Clerk.

Adopted: September 22, 2021

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Agenda No. XII 7

~ Resolution 2021 – 351 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY ACCEPTING THE BIDS FOR THE SALE OF CERTAIN MUNICIPAL LANDS AND PROPERTIES FROM THE TOWNSHIP AUCTION OF SEPTEMBER 8, 2021

WHEREAS, on September 8, 2021, the Township of West Milford conducted the sale of municipal properties no longer needed by the Township in accordance with Resolution 2021-264; and

WHEREAS, the Township Clerk reports that the schedule below outlines the bidders and their respective proposals to purchase said lands and recommends that the Township Council accept these bids.

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of West Milford that the proposals set forth in the schedule below are hereby accepted and incorporated herein.

BE IT FURTHER RESOLVED, that the terms of such acceptance will be set forth in the Contracts of Sale to be prepared by the Township Attorney as set forth in Resolution 2021-264.

This Resolution shall be effective immediately.

Adopted: September 22, 2021

Agenda No. XII 8

~ Resolution 2021 – 352 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY APPROVING THE COLLECTIVE BARGAINING MEMORANDUM OF AGREEMENT AND TERMS WITH AFSCME LOCAL 3301

WHEREAS, the Township of West Milford and the AFSCME Local 3301 have negotiated an agreement to the current contract; and

WHEREAS, the Mayor and Township Council desire to approve the terms of a Memorandum of Agreement which shall cover a 4-year period expiring on December 31, 2023; and

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Township Council of the Township of West Milford in the County of Passaic hereby ratify the Agreement as described above.

BE IT FURTHER RESOLVED that the Mayor and Township Clerk be and are hereby authorized to execute the Agreement with AFSCME Local 3301 and ratifies the terms contained in the Memorandum of Agreement with AFSCME Local 3301.

Adopted: September 22, 2021

Agenda No. XII 9

~ Resolution 2021 – 353 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC STATE OF NEW JERSEY, AUTHORIZING THE TOWNSHIP OF WEST MILFORD PLANNING BOARD TO UNDERTAKE A PRELIMINARY INVESTIGATION TO DETERMINE WHETHER THE PROPOSED STUDY AREA, WHICH INCLUDES 960 BURNT MEADOW ROAD, WEST MILFORD TOWNSHIP QUALIFIES AS AN AREA IN NEED OF NON-CONDEMNATION REDEVELOPMENT PURSUANT TO N.J.S.A. 40A:12A ET SEQ.

WHEREAS, the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq. provides a mechanism to assist local governments in efforts to promote programs of redevelopment; and

WHEREAS, the Redevelopment Law sets forth the procedures for the Township to declare an area in need of redevelopment, along with the development and effectuation of a redevelopment plan; and

WHEREAS, pursuant to the required redevelopment procedures, specifically set forth in N.J.S.A. 40A:12A-6, no area of a municipality shall be determined a redevelopment area unless the Governing Body of the municipality shall by resolution, authorize the Planning Board to undertake a preliminary investigation to determine whether a proposed area is a redevelopment area meeting the criteria set forth in N.J.S.A. 40A:12A-5; and

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WHEREAS, the New Jersey Legislature adopted and the Governor signed P.L. 2013, Chapter 159, which amended the Redevelopment Law, including the procedural requirements of N.J.S.A. 40A:12A-5 and N.J.S.A. 40A:12A-6; and

WHEREAS, pursuant to N.J.S.A. 40A:12-6, "the resolution authorizing the Planning Board to undertake a preliminary investigation shall state whether the redevelopment area determination shall authorize the municipality to use all those powers provided by the Legislature for use in a redevelopment area other than the use of eminent domain (hereinafter referred to as a "Non-Condensation Redevelopment Area") or whether the redevelopment area determination shall authorize the municipality to use all those powers provided by the Legislature for use in a redevelopment area, including the power of eminent domain (hereinafter referred to as a "Condensation Redevelopment Area"); and

WHEREAS, the Township Council finds it to be in the best interest of the Township and its residents to authorize the Township's Planning Board pursuant to N.J.S.A. 40A:12-4 and 6 to undertake such preliminary investigation of the study area which includes 960 Burnt Meadow Road, identified on the West Milford Tax Map as Block 4601, Lot 17 (hereinafter, the "study area"); and

WHEREAS, the Township of West Milford wishes to direct the Planning Board to undertake a preliminary investigation utilizing Jessica Caldwell, PP, to prepare the preliminary investigation to determine whether the proposed study area qualifies as an area in need of Non-Condensation Redevelopment pursuant to N.J.S.A. 40A:12A-5.

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of West Milford, in the County of Passaic, and State of New Jersey, that the Planning Board is hereby authorized to undertake a preliminary investigation, utilizing Jessica Caldwell, PP, to prepare the preliminary investigation, pursuant to the notice, conduct a hearing and comply with other requirements of the Redevelopment Law, N.J.S.A. 40A:12A-1, et seq., as amended, in order to recommend to the Township Committee whether the area comprising the study area is an area in need of Non-Condensation Redevelopment according to the criteria set forth in N.J.S.A. 40A:12A-5.

BE IT FURTHER RESOLVED that, pursuant to N.J.S.A. 40A:12A-1 et seq., the redevelopment area determination shall authorize the Township to use all those powers provided by the Legislature for use in a Non-Condensation Redevelopment area.

BE IT FURTHER RESOLVED that the Planning Board shall submit its findings and recommendations to the Township Committee in the form of a Resolution with supporting documentation.

BE IT FURTHER RESOLVED that a certified copy of this Resolution is to be forwarded to the Planning Board of the Township of West Milford.

BE IT FURTHER RESOLVED that this Resolution shall take effect pursuant to law.

This Resolution shall take effect immediately.

Adopted: September 22, 2021

Agenda No. XII 10

~ Resolution 2021 – 354 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, IN THE COUNTY OF PASSAIC AND STATE OF NEW JERSEY, AUTHORIZING PAYMENT OF MINOR MAILBOX DAMAGE CLAIMS WITHOUT FILING A FORMAL TORT CLAIMS NOTICE

WHEREAS, it is recognized that the Township Council has the power and authority under N.J.S.A. 40:67-23.1 to provide for the removal of snow, ice and other obstructions from any roads or streets for public travel; and

WHEREAS, on occasion, a mailbox may be damaged by a plow or a plow truck; and

WHEREAS, the Township Council desires to provide and easier, more expedited method of paying such small damage claims to property owners when Township liability is clear, without the need for a formal claim under the New Jersey Tort Claims Act, N.J.S.A. 59:1-1, et seq, but only upon certain conditions.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Township Council of the Township of West Milford, in the County of Passaic and State of New Jersey, that it does hereby establishes the below noted policy as to such claims:

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1. The Township shall reimburse property owners up to \$50.00 if a Township snowplow or plow truck strikes and damages a mailbox, without the need for the filing of a formal tort claim pursuant to the New Jersey Tort Claims Act; however
2. The Township will not reimburse a property owner if the damage is caused by the weight or force of the snow that is pushed against the mailbox. In such a case where the weight or force of the snow caused such damage, or if the claim is more than \$50.00, such property owner shall be required to file such formal tort claim.

This Resolution shall take effect immediately.

Adopted: September 22, 2021

Agenda No. XII 11

~ Resolution 2021 – 355 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, IN THE COUNTY OF PASSAIC AND STATE OF NEW JERSEY AS TO “100% DISABLED VETERAN TAX REFUNDS” AND LIMITING SUCH REFUNDS TO THE DATE OF SUBMISSION

WHEREAS, pursuant to N.J.S.A. 54:4-3.30, the dwelling house and the lot whereupon the same is erected, of any citizen and resident of this State, honorably discharged or released under honorable circumstances, from active service, in time of war, in any branch of the Armed Forces of the United States, who has been or shall be declared by the United States Veterans Administration or its successor to have a service-connected disability declared by the United States Veterans Administration or its successor to be a total or 100 percent permanent disability, and not so evaluated solely because of hospitalization or surgery and recuperation, sustained through enemy action, or accident, or resulting from disease contracted while in such active service, shall be exempt from taxation on proper claim made therefor; and

WHEREAS, pursuant to N.J.S.A. 54:4-3.31, upon review and approval of the required documentation by the municipal tax assessor, the assessor shall allow said exemption from taxation for the tax year in which the claim was filed; and

WHEREAS, pursuant to N.J.S.A. 54:4-3.32, the governing body of each municipality, by appropriate resolution, may return all taxes collected on property from prior years which would have been exempt had proper claim been timely made in writing; and

WHEREAS, the statutory intent to grant discretion to the governing body of every municipality has been affirmed by court decisions that have held that a municipality has discretion to grant or deny a taxpayer a retroactive refund of property taxes that has been paid from the effective date of the disability as determined by the United States Department of Veterans Affairs as set forth in N.J.S.A. 54:4-3.32; and

WHEREAS, the Township Council desires to establish a formal policy providing that a retroactive refund of property taxes as set forth in N.J.S.A. 54:4-3.32 shall be limited to the current year of the submission of a proper claim to the tax assessor as required by N.J.S.A. 54:4-3.30.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Township Council of the Township of West Milford, in the County of Passaic and State of New Jersey, that it does hereby establishes the below:

A refund of property taxes pursuant to N.J.S.A. 54:4-3.32 shall be granted provided that the applicant submits a complete application to the tax assessor as required by N.J.S.A. 54:4-3.30. A retroactive refund of property taxes as set forth in N.J.S.A. 54:4-3.32 shall be limited to the date of the submission of a proper claim to the Tax Assessor as required by N.J.S.A. 54:4-3.30.

This Resolution shall take effect immediately.

Adopted: September 22, 2021

Agenda No. XII 12

~ Resolution 2021 – 356 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY AUTHORIZING THE FORECLOSURE OF TAX SALE CERTIFICATE NO. 12-0078, BLOCK 7214, LOT 3, BEARFORT ROAD, WEST MILFORD, NEW JERSEY

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WHEREAS, pursuant to the provisions of N.J.S.A. 54:5-104.29 et seq., the Tax Collector has certified to the Municipal Council for the Township of West Milford, in the County of Passaic, a municipality of the State of New Jersey, is the holder of a certain Tax Sale Certificate, No. 12-0078 covering the lands and premises situated in the Township of West Milford shown on the Tax Maps as Block 7214, Lot 3, Bearfort Road, in the amount of \$319.52 as of March 27, 2012 the date of the tax sale herein, not including subsequent liens, municipal charges which are made a part hereof; and

WHEREAS, title searches reveal several federal tax liens pursuant to the Internal Revenue Code, filed by the United States of America, against the assessed owner, Steven Castronova and Christine Castronova regarding an interest in the subject property. The federal tax liens were issued on January 6, 2017 (\$61,183.56), June 28, 2017 (\$15,073.88) and November 15, 2017 (\$1,363.44); and

WHEREAS, Pursuant to N.J.S.A.54:5-87, in order to debar and foreclose a lien held by the United States of America or any agency or instrumentality thereof, the tax lien held by the municipality may be foreclosed in the same manner as a mortgage and final judgment shall provide for issuance of a writ of execution to the Sheriff, Passaic County, for a judicial sale; and

WHEREAS, by virtue of the aforesaid statute and Rules of Court the federal tax lien imposed upon Block 7214, Lot 3 will require a municipality holding a tax sale certificate to conduct its foreclosure by the "In Personam Process", and

WHEREAS, the Township of West Milford Tax Collector has requested that the municipal council authorize foreclosure to debar and discharge the federal tax liens provided by statute.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Township Council of the Township of West Milford, County of Passaic, State of New Jersey:

1. That Stuart B. Klepesch, Esq is hereby authorized and directed on behalf of the Township to foreclose Tax Sale Certificate No.12-0078 as provided by N.J.S.A. 54:5-104.87 and the Rules of Court to bar and foreclosure all rights of interest, inclusive of that of the Unites States of America as to any federal tax lien held by the United States of America or any agency or any instrumentality thereof.
2. That compensation for special counsel in the foreclosure of said certificate shall be in accordance with the hourly rate of township attorney and that said services and the funds dedicated herein is pursuant to Contract dated December 17, 2020 pursuant to Resolution No. 2020-390 pertaining to Foreclosure List 37 and the appointment of the aforesaid counsel for which these services are professional and expertise awarded without competitive bid and is a "Professional Service" in accordance with N.J.S.A. 40A:11-5 of the Local Public Contracts Law
3. That the Township Clerk shall certify this resolution which shall be made a part of any such action instituted by the Township through its delegated officers, officials, or designated counsel for the purpose of foreclosing the aforesaid tax sale certificate.

Adopted: September 22, 2020

Moved: Erik
Voted Aye: Erik, Chazukow, Lichtenberg, Goodsir, Gross, Marsden
Voted Nay: None
Motion carried:

Seconded: Lichtenberg

Agenda No. XIII

Consent Agenda

~ Resolution 2021 – 357 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY AUTHORIZING PASSAGE OF CONSENT AGENDA

WHEREAS, the Mayor and Township Council of the Township of West Milford has reviewed the Consent Agenda consisting of various proposed Resolutions.

NOW, THEREFORE, BE IT RESOLVED, that the following Resolutions on the Consent Agenda are hereby approved:

Resolutions:

- a) **2021-358** – Refund Recreation Fees
- b) **2021-359** – Refund Other Liens
- c) **2021-360** – Refund Overpayment
- d) **2021-361** – Reinstatement Of Taxes
- e) **2021-362** – Refund ALF Fees
- f) **2021-363** – Refund Engineering Performance Guarantee

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g) 2021-364 – Refund Escrow-Nicoletti & Shiloh

Adopted: September 22, 2021

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~ Resolution 2021 – 358 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY AUTHORIZING THE REFUND OF RECREATION FEES

BE IT RESOLVED that the following recreational fees upon the report of the Director of Community Services and Recreation be refunded:

SWIM TEAM			
\$90.00	Pamela Polglaze 40 Cedar Brook Road Hewitt, NJ 07421		
ZUMBA GOLD			
\$30.00	Merry Eggerling 25 Cleveland Drive West Milford, NJ 07480		
SENIOR PROGRAM – Low Impact Aerobics			
\$40.00	Rosemarie Marcus 384 Union Valley Road West Milford, NJ 07480		

Adopted: September 22, 2021

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~ Resolution 2021 – 359 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY AUTHORIZING THE REFUND OF OTHER LIENS

WHEREAS, the Collector of Taxes has reported receiving the amounts shown below for the redemption of the respective lien.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Township of West Milford that the proper officers be and are hereby authorized and directed to pay the indicated amount to the holder of the lien certificate as hereinafter shown below:

Certificate No.	Certificate Date	Block/Lot/Qual	Reimbursement Amount	Pay to Lien Holder
19-0004	10/15/2019	01811-004.02	\$12,331.88	FIG CUST FIGNJ19LLC \$ SEC PTY P.O.BOX 54226 NEW ORLEANS, LA 70154
19-0017	10/15/2019	02406-008	\$44,285.49	FNA DZ LLC 120 N LASALLE ST. SUITE 1 CHICAGO, IL 60602
20-0061	10/13/2020	11002-007	\$1,565.85	711FLIP LLC 1831 ROUTE 52 FISHKILL, NY 12524
TOTAL			\$58,183.22	

Adopted: September 22, 2021

Agenda No. XIII c

~ Resolution 2021 – 360 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY AUTHORIZING REFUND OF OVERPAYMENT

WHEREAS, there appears on the tax records overpayment as shown below and the Collector of Taxes recommends the refund of such overpayment.

NOW, THEREFORE, BE IT RESOLVED that the proper officers be and they are hereby authorized and directed to issue checks refunding such overpayment as shown below:

- REASON:
1. Incorrect Payment

2. Duplicate Payment

3. Senior Citizen

4. Veteran Deduction

5. Homestead Rebate

6. Tax Appeal County Board

7. Tax Appeal State Tax Court

8. 100% Disabled Veteran

9. Replacement Check

Block/Lot	Name	Amount	Interest	Year	Reason
00703-005	Nikken Properties LLC 17 Jessup Rd Warwick, NY 10990	\$499.13		2021	6
13809-023	Marc Foster & Deborah Foster 42 Walker Ave West Milford, NJ 07480	\$669.98		2021	6
Total		\$1,169.11			

Adopted September 22, 2021

Agenda No. XIII d

~ Resolution 2021 – 361 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY AUTHORIZING REINSTATEMENT OF TAXES

WHEREAS, there appears on the tax records receipt of payment of taxes; and

WHEREAS, the Collector of Taxes recommends the reinstatement of taxes due to reasons stated below.

NOW, THEREFORE BE IT RESOLVED, that the proper officers be and they are hereby authorized and directed to reinstate as listed below:

REASON: INSUFFICIENT FUNDS

BLOCK/LOT	NAME	AMOUNT	YEAR
07205-009	Colleen P. Boyle	\$1,922.27	2021
TOTAL		\$1,922.27	

Adopted: September 22, 2021

Agenda No. XIII e

~ Resolution 2021 – 362 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY AUTHORIZING THE REFUND OF AUTUMN LIGHTS FESTIVAL (ALF) FEES

BE IT RESOLVED that the following ALF fees be refunded:

Refund Amount	Applicant	Refund Amount	Applicant
\$3,000	Columbia Bank 19-01 Route 208N Fair Lawn, NJ 07410	\$225.00	Kenneth Jannucci 2 West 1 st Street Moonachie, NJ 07074
\$75.00	Marine Corps League PO Box 8 Pompton Lakes, NJ 07442	\$75.00	Tracilyn Pacailler 16 Grandview Lane West Milford, NJ 07480-1425
\$50.00	W.M.H.S. Soccer Booster Club 8 Fair Lawn Drive Hewitt, NJ 07421	\$150.00	Tristan Nedd 654 Lyons Avenue Apt 106 Irvington, NJ 07111-3436
\$75.00	Karen LoPorto 165 Paradise Road Oak Ridge, NJ 07438-8933	\$75.00	Janet Schwartz PO Box 416 Thiells, NY 10984
\$75.00	Steve Fu 45 Cleveland Avenue East Brunswick, NJ 08816	\$75.00	Dawn Guthrie 46 Setting Sun Trail West Milford, NJ 07480-0244
\$75.00	Accurate Well and Pump LLC 1045 Macopin Road West Milford, NJ 07480	\$150.00	Aromatherapy Products 119 Holland Avenue New Milford, NJ 07646

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Refund Amount	Applicant	Refund Amount	Applicant
\$75.00	Jennifer Parrello 39 Charissa Court Hewitt, NJ 07421	\$75.00	Margaret J. Fylstra 84 Payne Avenue Midland Park, NJ 07432
\$75.00	Joseph Pacelli 14 Arundel Road West Milford, NJ 07480	\$225.00	Robert A. West 10 Reid Avenue Bloomfield, NJ 07003
\$75.00	Chrissa Van Duffelen 60 Greenwood Avenue Pequannock, NJ 07440	\$150.00	Elmer Zimmerman 30 Windsor Road West Milford, NJ 07480
\$75.00	Susan Boleen 15 Rollins Trail Hopatcong, NJ 07843-1910	\$225.00	Gerardo S. Chappe 103 6 th Street Clifton, NJ 07011
\$75.00	Susan Ahlers-Ossi 496 495 County Route 515 Vernon, NJ 07462-3002	\$75.00	Hannah's House of Dance 1805 Union Valley Road West Milford, NJ 07480
\$75.00	Denise Calderone 60 Setting Sun Trail West Milford, NJ 07480	\$75.00	Geraldine Becher PO Box 166 Hewitt, NJ 07421
\$75.00	Precision Dance Academy 1811 Union Valley Road West Milford, NJ 07480	\$75.00	Samantha Genader 10 Neosha Road Highland Lakes, NJ 07422
\$75.00	Susan M. O'Neill 33-07 91 Street Apt. 6B Jackson Heights, NY 11372	\$75.00	Vincent Struble 308 Germantown Road West Milford, NJ 07480
\$75.00	Michael Spiess 308 Germantown Road West Milford, NJ 07480-2404	\$75.00	Michelle M. Jacobs 9 Pinkneyville Road Sparta, NJ 07871
\$75.00	Resale Brigade 44 Ridge Road T-21 Oak Ridge, NJ 07438	\$150.00	Alan Dragunoff 80 Bradley Road Woodbridge, CT 06525
\$75.00	Tac House, LLC 20 Clinton View Terrace Hewitt, NJ 07421	\$225.00	Fredericks Fuel & Heating 225 Oak Ridge Road Oak Ridge, NJ 07438
\$75.00	Dawes Distribution 216 Irvington Road Teaneck, NJ 07666	\$75.00	Roxanne Sampson 229 Long Pond Road Hewitt, NJ 07421-3121
\$25.00	West Milford Cub Scout Pack 24 Postbrook Road South West Milford, NJ 07480	75.00	West Milford Chamber of Commerce 1614-0 Union Valley Rd PMB 500 West Milford, NJ 07480
\$340.00	B. Maisah Watts 153 North Munn Avenue East Orange, NJ 07017	\$190.00	Brian M Bell 327 Riva Avenue Milltown, NJ 08850-2149
\$190.00	Ruth or Anthony Russo 12 Travelers Way Bayville, NJ 08721	\$340.00	Caribbean Breeze Frozen Foods Corp. 204 Hanover Street Pemberton, NJ 08068
\$75.00	Gradie E. Carroll 19 Academy Road Morris Plains, NJ 07950	\$25.00	Gideons International U29056 PO Box 151 Pompton Plains, NJ 07444
\$75.00	K.O. Invo LLC d/b/a Art-n-Soul 129 Pine Island Turnpike Warwick, NY 10990	\$75.00	Yenal Awari 469 Colfax Road Wayne, NJ 07470
\$75.00	Steven M. Bennett 210 Pershing Road Clifton, NJ 07013	\$25.00	PA Chapter of the American Chestnut FDN 206 Forest Resources Lab University Park, PA 16802-4704
\$75.00	Awesome Rooms, LLC 1 Yearling Trail Hewitt, NJ 07421	\$225.00	Faye A. McIntosh PO Box 199 West Point, NY 10996
\$150.00	Traditional Okinawan Karate LLC 1375 Route 23 South Butler, NJ 07405	\$25.00	Animal Protection League of NJ PO Box 186 Glen Gardner, NJ 08826
\$75.00	Michele DeBlock 7 Moore Road West Milford, NJ 07480	\$75.00	Cactus Pete's Homemade Jerky LLC 28 Church Street, Suite 6 Warwick, NY 10990
\$75.00	Echo Lake Baptist Church Inc. 1355 Macopin Road West Milford, NJ 07480	\$75.00	Christopher J. Aziz 58 Gould Road Newfoundland, NJ 07435

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Refund Amount	Applicant	Refund Amount	Applicant
\$340.00	Margaret Mandato 196 Garden Avenue Belleville, NJ 07109	\$75.00	Laura Hoffman 1799 Macopin Road West Milford, NJ 07480

Adopted: September 22, 2021

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~ Resolution 2021 – 363 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC AND STATE OF NEW JERSEY AUTHORIZING REFUND OF ENGINEERING DEPARTMENT PERFORMANCE GUARANTEES

BE IT RESOLVED, by the Township Council of the Township of West Milford that, upon the report and request of the Township's Engineering Department, the following Performance Guarantees be refunded as follows:

Name & Address	Block & Lot	Amount Refunded	Amount Remaining
Environmental Construction Company PO Box 746 Ringwood, NJ 07456	2707-3	\$1,250.00	\$250.00

Adopted: September 22, 2021

Agenda No. XIII g

~ Resolution 2021 – 364 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC AND STATE OF NEW JERSEY AUTHORIZING REFUND OF ESCROW MONIES

BE IT RESOLVED, by the Township Council of the Township of West Milford that, based upon the report and request of the Planning Department the following escrow monies be refunded:

Name & Address	Application No.	ARTICLE IAccount No.	ARTICLE IIAmount of Escrow Deposit	ARTICLE IIIAmount of Refund
Kathleen Nicoletti 58 Spring Avenue West Milford, NJ 07480	ZB05-17-04	16-288-56-705-105	\$950.00	\$480.80
Shiloh Bible Camp 753 Burnt Meadow Road Hewitt, NJ 07421	ZB08-16-18	16-288-56-705-096	\$7,909.65	\$6,119.34

Adopted: September 22, 2021

Moved: Erik
Voted Aye: Erik, Chazukow, Lichtenberg, Goodsir, Gross, Marsden
Voted Nay: None
Motion carried:

Seconded: Lichtenberg

Agenda No. XIV

Approval of Expenditures

~ Resolution 2021 – 365 ~

RESOLUTION APPROVING THE PAYMENT OF BILLS

WHEREAS, the Township Treasurer has submitted to the members of the Township Council a supplemental report listing individual disbursement checks prepared by this office in payment of amounts due by the Township.

NOW, THEREFORE, BE IT RESOLVED that the Township Treasurer's report of checks prepared by the Treasurer's Office be approved and issued as follows:

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Acct #	Account Name	Amount
1	Current Account	\$134,167.84
3	Reserve Account	23,210.65
2	Grants	66,801.00
6	Refunds	76,472.47
1	General Ledger	1,375.50
26	Refuse	178,000.00
4	Capital	1,264.00
19	Animal Control	0.00
19	Heritage Trust	250.00
19	Open Space Trust	0.00
19	Trust	7,635.30
19	Scala Trust	0.00
16	Development Escrow	5,040.00
19	Tax Sale Trust	0.00
21	Assessment Trust	20,588.60
	Special Reserve	0.00
Total		\$514,555.36
Less Refund Resolution		-76,472.47
Actual Bills List		\$438,082.89
Other Payments		
Payroll		\$512,808.61
Treasurer, State of NJ Dog Report		33.00
Enterprise lease		8,406.23
Total Expenditures		\$959,330.73

Adopted: September 22, 2021

Mayor Dale announced that Autumn Lights Festival Refunds are on this bills list and will be going out.

Moved: Erik Seconded: Lichtenberg
Voted Aye: Erik, Chazukow, Lichtenberg, Goodsir, Gross, Marsden
Voted Nay: None
Motion carried:

Agenda No. XV

Reports of Administrator, Mayor and Council Members

Councilwoman Lichtenberg – West Milford competed in the Senior Olympics today in Sparta and the winning streak of five years has come to an end, as they came in second place this year. West Milford will host next year’s event. Friends of Wallisch Homestead had their second annual music festival on Saturday, September 18.and the event was well attended and the vendors were pleased. Thank you to the High school Football team for helping to deliver books to the Wallisch Barn for the Friends of the Library book sale which will be taking place September 24, 25 and 26. There were twice as many books this year. Long Pond Iron Works will be hosting a living history Civil War weekend. October 2 at 8:00 p.m. there will be a candle lantern tour. There will be a Halloween party for Senior Citizens, Thursday October 14, at Camp Hope. The cost is \$20 per person. For Senior 55 and older, those interested call Lauren Walker 973-728-8167.

Councilman Goodsir – Friday night the ELKs Club will be having a sliced steak dinner and on October 10th they will be having a clam bake. The cost is \$55 a ticket. The Trout Derby is October 16 at the Westbrook Teen Center. He is not sure how many spots are still available but after 11 a.m. it will be opened to the public.

Councilman Gross – Is still working on the trail maps and parking.

Councilman Marsden – Is working on CERT training and anyone interested should get in touch.

Councilwoman Erik – Hanna’s Dance Studio Opened up recently, it is a new business and there will be another one opening up this weekend.

Councilman Chazukow – Thanked the Mayor for honoring Bill Francis and also for allowing him to speak at the 9/11 Memorial. It was his honor to do so. The Heritage Committee will be hosting 300 Years of

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Music in West Milford on Saturday the 25th from 2-3 p.m. and the rain date is Sunday. The Enslow's will be performing. The Museum is open every Saturday from 1-4 p.m. He thanked the DPW for helping to clean up Brown's Point Park after a damaging microburst storm.

Administrator Senande – No report.

Mr. Pasternak – No report.

Mayor Dale – Reminded everyone that Macopin Fire Company and other fire companies would be conducting a drill from 8:00 a.m. to noon and there will be some road closures. At the next meeting there will be a Proclamation for Vascular Ehlers-Danlos Syndrome (VEDS) but there is going to be a dinner at the Awosting Club house this Saturday. Tickets are available on the Mayor's social media page. The dinner is a research fundraiser. Tickets are \$50 per person.

Agenda No. XVI

Appointments and Resignations

~ Resolution 2021 – 366 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC AND STATE OF NEW JERSEY ACCEPTING RESIGNATION TENDERED

BE IT RESOLVED, by the Township Council of the Township of West Milford that they do hereby accept the following resignation tendered to the Community Services & Recreation Committee:

Name	Position	Date Tendered
William Cytowicz	Community Services & Recreation Committee Citizen Member Term expires 12/31/21	August 27, 2021

Adopted: September 22, 2021

Moved: Erik Seconded: Lichtenberg
Voted Aye: Erik, Chazukow, Lichtenberg, Goodsir, Gross, Marsden
Voted Nay: None
Motion carried:

Councilwoman Lichtenberg nominated Jean von der Heyde for the Community Services & Recreation Advisory Committee. Second by Councilwoman Erik. All were in favor.

Agenda No. XVII

Adjournment

There being no further business to come before the Council, the Governing Body adjourned the meeting at 7:47 p.m.

Moved: Erik Seconded: Lichtenberg
Voted Aye: Unanimous voice vote
Voted Nay: None
Motion carried.

Approved:

Respectfully submitted:

Deidre Ellis, Keyboarding Clerk II

MICHELE DALE, MAYOR

WILLIAM SENANDE, TOWNSHIP CLERK