

Explanation: This Ordinance amends the Land Development Ordinance of the Township of Branchburg, County of Somerset, State of New Jersey, consistent with the recently adopted and approved Master Plan Reexamination Report and Land Use Element Plan. This Ordinance: (a) modifies existing definitions and adds new definitions; (b) adds to the list of prohibited uses in all zones; and (c) modifies permitted and accessory uses in the Township’s Industrial Zones. More specifically, this Ordinance expressly defines and prohibits in all zones of the Township warehouses, major distribution centers, large fulfillment distribution centers, last-mile fulfillment centers, high cube automated warehouses, cross docking and cold storage.

**ORDINANCE NO. 2023-1445**

**ORDINANCE AMENDING THE LAND DEVELOPMENT ORDINANCE OF THE TOWNSHIP OF BRANCHBURG, COUNTY OF SOMERSET, STATE OF NEW JERSEY, ARTICLE I “GENERAL PROVISIONS”, SECTION 1-2.2 “DEFINITIONS”, TO MODIFY EXISTING DEFINITIONS AND ADD NEW DEFINITIONS; ARTICLE III “ZONING”, SECTION §3-3.3 “PROHIBITED USES”, TO ADD TO THE LIST OF PROHIBITED USES IN ALL ZONES; AND SECTIONS §3-18 “I-1 INDUSTRIAL ZONE”, §3-19 “I-2 INDUSTRIAL ZONE” AND §3-28 “I-3 INDUSTRIAL ZONE” TO MODIFY PERMITTED AND ACCESSORY USES IN THE TOWNSHIP’S INDUSTRIAL ZONES, CONSISTENT WITH THE RECENTLY ADOPTED AND APPROVED MASTER PLAN REEXAMINATION REPORT AND LAND USE ELEMENT PLAN.**

**WHEREAS**, the Township of Branchburg Planning Board recently conducted a reexamination of the Township Master Plan and development regulations in accordance with N.J.S.A. 40:55D-89; and

**WHEREAS**, the adopted and approved Master Plan Reexamination Report and Land Use Element Plan recommends the following land development ordinance revisions: (a) prohibit warehouse, major distribution center, large fulfillment distribution center, last-mile fulfillment center, high cube automated warehouse, cross docking and cold storage from all zoning districts; (b) redefine light manufacturing as the making of goods by hand or by machine through mechanical or chemical transformation of materials or substances into new products, including machining, casting and molding, joining and shearing and forming that are intended to be sold to customers upon completion. Items used in manufacturing may be raw materials or component parts of a larger product. All manufacturing occurs indoors. This term shall apply to any activity described above associated with pharmaceuticals; (c) permit storage of material, substances and products as accessory uses provided that storage use is specifically related to and incidental to the principal use; (d) confirm that extraordinary hazardous substance facilities are categorized as conditional uses in all industrial zoning districts; and (e) create conditions for the expansion of existing stand-alone warehouses and uses that create nuisance impacts to residents and other sensitive receptor uses like religious institutions, schools, passive and active parks; and

**WHEREAS**, the Branchburg Township Committee agrees with the findings set forth in the Master Plan Reexamination Report and Land Use Element Plan that these modifications to the

Land Development Ordinance are necessary to address and preserve the health and public safety of its residents, particularly those related to the siting of warehouses, major distribution centers, large fulfillment distribution centers, last mile fulfillment centers, high cube automated warehouses, cross docking and cold storage which are incompatible with surrounding residential uses and negatively impact the local community at large with, among other things, truck traffic, accidents, deterioration of road surfaces, harmful emissions of air pollutants, excessive noise and the degradation of local habitat, air and water resources; and

**WHEREAS**, the Branchburg Township Committee now wishes to amend the Land Development Ordinance of the Township consistent with the recently adopted and approved Master Plan Reexamination Report and Land Use Element Plan.

**NOW, THEREFORE, BE IT ORDAINED** by the Township Committee of the Township of Branchburg, County of Somerset, State of New Jersey, that the Land Development Ordinance of the Township of Branchburg is hereby amended as follows: **New language is underlined thus and deletions are indicated with strikethroughs ~~thus~~.**

**Section 1.** Article I “General Provisions”, Section LDO1-2.2 “Definitions” is amended to modify existing and add the following definitions to be codified in alphabetic order:

**COLD STORAGE**

Means a structure, building, space or facility where temperature sensitive goods or products, not associated with pharmaceutical or laboratory uses, are stored for extended periods of time.

**CROSS DOCKING**

Means a structure, building, space or facility where the unloading of materials from a manufacturer takes place within this building and these materials are assembled and palletized to be shipped via a mode of transportation directly to the customer with little or no storage time in between.

**HIGH CUBE AUTOMATED WAREHOUSE**

Means a very large shell building commonly constructed using steel framed and/or other concrete tilt-up techniques with a minimum gross floor area of 200,000 square feet, a ceiling height of 32 feet or more and would have a minimum dock-door ratio of 1 door per 10,000 square feet. A high cube automated warehouse is used for the storage and/or consolidation of manufactured goods (and to a lesser extent raw materials) prior to their distribution to retail locations or other warehouses. It has a high level of on-site automation and logistics management which enable highly efficient processing of goods.

## **INDUSTRIAL OPERATION OR USE**

Means any activity conducted in connection with the manufacture, ~~assembly, disassembly,~~ fabrication or processing of materials, products or information, or the storage, distribution or sale of same, all or any part of which is marketed off the premises.

## **LARGE FULFILLMENT DISTRIBUTION CENTER**

Means a large format regional fulfillment facility having a minimum gross floor area from 150,000 to more than 500,000 square feet and may be dedicated to e-commerce supply chains that pick and pack incoming orders (i.e., items/parcels) from shelves for individual delivery in order to “fulfill” individual online orders. They are short-term storage-based (holding a very high range of goods) but also rely on a high level of throughput and receive, pick, pack, kit, label, and deliver products to people’s doorsteps in delivery trucks and vans. The buildings would include cross-docking functions, whereby palletized freight is moved across the distribution center to another truck to complete the rest of its journey. Characterized as having little or no storage function due to the perishable nature of many goods being shipped, such as food (including refrigeration and heated) and includes fabrication functions (e.g., sorting and packaging before final delivery), cold storage and refrigeration functions, break-bulk functions, whereby palletized freight or boxed goods are completely broken down so that a customer can receive a smaller quantity to their exact specifications.

## **LAST-MILE FULFILLMENT CENTER**

Means a fulfillment center/facility or station that primarily serves local markets having a minimum gross floor area from 50,000 to more than 150,000 square feet. Last-mile fulfillment centers also include micro/small fulfillment centers of 3,000 to more than 25,000 square feet. Last-mile fulfillment centers provide the final leg of delivery rather than a literal measurement of distance. They serve either consumers, individual households (for online shopping), or the retail stores they shop at (for traditional retail). Last-mile delivery hubs may be smaller compared to distribution centers, but truck and van trips are high, as are the parking requirements necessary to accommodate hundreds of employees, delivery vans, and trucks, and require a larger parking lot (impervious surface) footprint than other warehouse operations.

## **MAJOR DISTRIBUTION CENTER**

Means a large-scale regional and/or interstate distribution facility having a minimum gross floor area from 500,000 to more than 1.5 million square feet. It is transit hub for large quantities of bulk goods that do not require finishing or individual packing, as they are temporarily stored on pallets before being shipped.

## **MANUFACTURING, LIGHT**

Means the indoor manufacturer, assembly, fabrication, packaging or other processing of finished or partially finished parts or products from previously prepared materials. This term shall include, but shall not be limited to, the above activities involving the following: food, textiles, wood, paper, pharmaceuticals, plastic or metal products. The making of goods by hand or by machine through mechanical or chemical transformation of materials or substances into new products, including machining, casting and molding, joining and shearing and forming that are intended to be sold to customers upon completion. Items used in manufacturing may be raw materials or component parts of a larger product. All manufacturing occurs indoors. This term shall apply to any activity described above associated with pharmaceuticals. This term shall exclude any use which meets the definition of manufacturing, heavy.

## **PROPRIETARY STORAGE**

Means space, action or method of inventorying materials or component parts associated with the final product. Proprietary storage in a light manufacturing process optimizes production by managing the inventory levels, product flows and shipping while streamlining intake, supply chain and distribution channels.

## **STORAGE**

Means the space, action or method of storing something for future use.

## **WAREHOUSE**

Means a building used for storing goods and materials in inventory for extended periods of time and releasing them on demand. Warehouses may also include multitenant facilities that are usually rented through short to medium-term leases. Warehouses may also include facilities that require cold storage of temperature sensitive products not associated with a permitted principal use.

**Section 2.** Article III “Zoning,” Section LDO3-3.3 “Prohibited Uses” is amended to add the following specified prohibited uses in all zones:

- A. All uses not specifically permitted in each zone are prohibited.
- B. Community shopping centers which include more than 60,000 square feet of gross floor area and/or with an anchor tenant occupying 30,000 or more square feet are prohibited in all zones.
- C. Junk yards are prohibited in all zones.
- D. Commercial storage of household or consumer goods, such as "mini-storage," are prohibited in all zones.

E. All classes of cannabis establishments, cannabis distributors or cannabis delivery services as said terms are defined in N.J.S.A. 24:6I-33. Licensed cannabis delivery services situated outside the geographic boundaries of the Township may deliver cannabis items and related supplies within the Township as permitted by the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act, N.J.S.A. 24:6I-31, et. seq., are prohibited in all zones.

F. Warehouses are prohibited in all zones.

G. Major Distribution Centers are prohibited in all zones.

H. Large Fulfillment Distribution Centers are prohibited in all zones.

I. Last-Mile Fulfillment Centers are prohibited in all zones.

J. High Cube Automated Warehouses are prohibited in all zones.

K. Cross Docking is prohibited in all zones.

L. Cold Storage is prohibited in all zones.

**Section 3.** Article III “Zoning”, Section LDO3-18 “I-1 Industrial Zone” is hereby amended as follows:

**§ LDO3-18 I-1 INDUSTRIAL ZONE.**

**§ LDO3-18.1 Purpose.**

The purpose of the I-1 Industrial zone is to provide for a ~~wide~~ variety of industrial and manufacturing uses on three acre or larger lots and to protect the health, safety and welfare of the community by managing the location of extraordinarily hazardous substance facilities.

**§ LDO3-18.2 Permitted Uses.**

A. Principal uses. The uses described in this paragraph are permitted principal uses, provided they are not extraordinarily hazardous substance facilities.

1. Light Manufacturing. ~~Fabrication, manufacture and packaging of metal, plastic, paper, wood, food products, and ceramic goods; electronics manufacture; glass and glass products manufacture; jewelry manufacture, including gem polishing; leather goods manufacturing, except curing, tanning and finishing of hides; pharmaceutical products manufacturing; photo finishing; printing plant; sporting goods manufacture; thread and yarn manufacture.~~

2. Business office buildings for executive, engineering and administrative purposes.

3. Scientific and research laboratories devoted to the research, design, and experimentation and processing and fabricating incidental thereto, provided no materials or finished products shall be

manufactured, processed, or fabricated for retail sales on said premises.

4. Agricultural uses as regulated in Section 4-6.

B. Permitted ~~A~~accessory uses.

1. Accessory uses customarily incidental and ancillary to a permitted use.

2. Private garage space necessary to store any vehicles on the premises.

3. Storage of materials, substances and products accessory to the principal use. ~~Warehousing directly related and accessory to the principal use for the storage of any type of goods, materials, products, supplies or equipment used in connection with the principal permitted use or any products produced in connection with the principal permitted use.~~

C. Conditional uses. Uses that would be principal uses in the zone, except that they are extraordinarily hazardous substance facilities, as regulated in subsection 3-23.7.

**Section 4.** Article III “Zoning”, Section LDO3-19 “I-2 Industrial Zone” is hereby amended as follows:

§ LDO3-19 **I-2 INDUSTRIAL ZONE.**

§ LDO3-19.1 **Purpose.**

The purpose of the I-2 Industrial zone is to provide for a variety of industrial uses on lots of five acres or more and to protect the health, safety and welfare of the community by managing the location of extraordinarily hazardous substance facilities. A range of industrial uses is permitted in the zone, with the exception of manufacturing uses.

§ LDO3-19.2 **Permitted Uses.**

A. Principal uses. The uses described in this paragraph are permitted principal uses, provided they are not extraordinarily hazardous substance facilities.

1. Office buildings for executive, engineering and administrative purposes.

2. Scientific and research laboratories devoted to the research, design and experimentation in processing and fabricating incidental thereto.

3. Light manufacturing. ~~Assembly and fabrication using previously manufactured components.~~

4. Agricultural uses as regulated in Section 4-6.

B. Permitted ~~A~~accessory uses.

1. Accessory uses customarily incidental and ancillary to a permitted use.

2. ~~Storage of materials, substances and products accessory to the principal use. Warehousing directly related and accessory to the principal use for the storage of any type of goods, materials, products, supplies or equipment used in connection with the principal permitted use or any products produced in connection with the principal permitted use.~~

C. Conditional uses.

1. Governmental uses and public utility facilities as regulated in subsection 3-23.1.
2. Uses that would be principal uses in the zone, except that they are extraordinarily hazardous substance facilities, as regulated in subsection 3-23.7.

**Section 5.** Article III “Zoning”, Section LDO3-28 “I-3 Industrial Zone” is hereby amended as follows:

**§ LDO3-28 I-3 INDUSTRIAL ZONE.**

**§ LDO3-28.1 Purpose.**

The purpose of the I-3 Industrial zone is to provide for a variety of business office, research and industrial uses on lots with a minimum required lot size of two acres in order to foster more options for commercial and industrial development, including startup businesses, by providing a wider range of permitted uses and specifically permitting shared or common commercial support facilities. ~~The I-3 industrial zone is intended to protect the health, safety and welfare of the community by prohibiting the location of extraordinarily hazardous substance facilities.~~

**§ LDO3-28.2 Permitted Uses.**

A. Principal uses:

1. ~~Light manufacturing. Fabrication, light manufacturing, assembly finishing, and packaging of products, including metal, plastic, paper, wood, food, ceramics; electronics, glass, jewelry, leather, (excluding curing, tanning, and finishing of hides) pharmaceuticals, and textiles.~~
2. Business offices.
3. Medical Offices.
4. Scientific, research and clinical laboratories, provided that they have no presence or use of biological select agents.
5. Agriculture.

B. Permitted accessory uses.

1. Accessory uses customarily incidental and ancillary to a permitted principal use.

2. Private garage space necessary to store any vehicles on the premises.
3. Storage of materials, substances and products accessory to the principal use. ~~Warehousing directly related and accessory to the principal use for the storage of any type of goods, materials, products, supplies or equipment used in connection with the principal permitted use or any products produced in connection with the principal permitted use.~~
4. ~~Wholesaling.~~
5. ~~Business offices.~~

C. Conditional uses. Uses that would be principal uses in the zone, except that they are extraordinarily hazardous substance facilities, as regulated in subsection 3-23.7.

**Section 6.** This Ordinance shall be construed so as not to conflict with any provision of New Jersey or Federal law. The provisions of this Ordinance shall be cumulative with, and not in substitution for, all other applicable zoning, planning, and land use regulations. All other ordinances or other local requirements that are inconsistent or in conflict with this Ordinance are hereby repealed to the extent of any inconsistency or conflict, and the provisions of this Ordinance shall apply.

**Section 7.** If any provisions of this Ordinance shall be adjudged invalid, such adjudication shall not affect the validity of the remaining provisions which shall be deemed severable therefrom.

**Section 8.** After introduction, the Township Clerk is hereby directed to provide a copy of the within Ordinance to the Planning Board for its review in accordance with N.J.S.A. 40:55D-26 and N.J.S.A.40:55D-64. The Planning Board is directed to make and transmit to the Township Committee within 35 days after referral, a report including identification of any provisions in the proposed Ordinance which are inconsistent with the Master Plan and recommendations concerning any inconsistencies and any other matter as the Board deems appropriate.

**Section 9.** After introduction, the Township Clerk is hereby directed to provide by personal service, certified mail or email with confirmation that the email was delivered, at least 10 days prior to the scheduled hearing, a copy of this Ordinance and a Notice of Hearing in accordance with N.J.S.A. 40:55D-15 to: (1) the clerk of any adjoining municipalities located within 200 feet of the boundaries of the affected properties; and (2) the County Planning Board.

**Section 10.** After introduction, the Township Clerk, in accordance with N.J.S.A. 40:49-2 and N.J.S.A. 40:49-2.1, is hereby directed to publish this Ordinance in its entirety or by title and summary at least once in a newspaper published and circulated in the municipality, if there is one, and if not, in a newspaper printed in the county and circulating in the municipality, together with a notice of the introduction thereof, the time and place when and where it will be further considered for final passage. The publication shall include a clear and concise statement prepared by the Clerk setting forth the purpose of this Ordinance and a time and place when and



where a copy of this Ordinance can be obtained without cost by any member of the general public. The publication shall be at least one week prior to the scheduled hearing.

**Section 11.** If adopted, the Township Clerk, in accordance with N.J.S.A. 40:49-2 and N.J.S.A. 40:49-2.1, is hereby directed to publish this Ordinance, in its entirety or by title and summary, together with a notice of the date of passage or approval, at least once in a newspaper published and circulated in the municipality, if there is one, and if not, in a newspaper printed in the county and circulating in the municipality.

**Section 12.** If adopted, the Township Clerk, in accordance with N.J.S.A. 40:55D-16, shall forward a copy of this Ordinance to the County Planning Board for filing.

**Section 13.** This Ordinance shall take effect immediately upon its adoption, passage and publication according to law.