



BOROUGH OF HIGHLANDS
COUNTY OF MONMOUTH

ORDINANCE O-21-21

AN ORDINANCE AMENDING THE LAND USE PROVISIONS OF THE BOROUGH CODE TO ADDRESS PROHIBITED AND CONDITIONAL USES FOR CANNABIS ESTABLISHMENTS

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” (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 provides, in relevant part, that “any ordinance enacted by a municipality prior to the effective date of this section addressing the issue of prohibiting one or more types of cannabis-related activities within the jurisdiction of the municipality is null and void[;]” and

WHEREAS, the Act authorizes municipalities to prohibit by ordinance the operation of any one or more classes of cannabis establishments, distributors, or delivery services anywhere in the municipality, except for the delivery of cannabis items and related supplies by a delivery service based and initiated from outside of the municipality; and

WHEREAS, the governing body wishes to amend its ordinances to provide for the prohibition of cannabis businesses in accordance with the Act, with the exception of allowing one Cannabis Retailer in either the Central Business District or Highway Oriented Business zone as long as certain conditions are met.

NOW, THEREFORE, BE IT ORDAINED, by the governing body of the Borough of Highlands as follows:

SECTION 1. Borough Code Section 21-74.1 “Additional Prohibited Uses” is hereby added as follows:

§ 21-74.1 ADDITIONAL PROHIBITED USES.

A. Definitions.

“Cannabis” means 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 cultivator” means 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” means 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” means 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 manufacturer” means 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” means 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” means 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.

B. Prohibition of Cannabis Uses.

All cannabis cultivators, cannabis delivery services, cannabis distributors, cannabis manufacturers, and cannabis wholesalers are hereby prohibited from operating anywhere in the Borough of Highlands, except for the delivery of cannabis items and related supplies by a licensed cannabis delivery service based and initiated from a cannabis delivery service licensed location outside of the Borough of Highlands. One cannabis retailer shall be authorized as a conditional use as set forth in Section 21-97.

SECTION 2. Borough Code Section 21-97 “Conditional Uses” is hereby amended as follows (additions are shown in ***bold italics with underlines***, deletions are shown in ***bold italics with strikethroughs***):

§ 21-97 CONDITIONAL USES.

[Subsections A through L – NO CHANGE.]

M. Cannabis Retailer. One cannabis retailer as defined in Section 21-74.1(A) may be permitted in either the Central Business District or Highway Oriented Business zones only upon receipt of a conditional use permit, provided that applicable Article XI Design Standards are met together with any other requirements deemed necessary by the Land Use Board, any other applicable requirements of this chapter, and subject to the following conditions:

- 1. The cannabis retailer shall not contain either an indoor or outdoor cannabis consumption area as defined in P.L. 2021, c. 16, known as the “New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act.” No consumption shall be permitted on the premises.**
- 2. The cannabis retailer shall not be located within one thousand (1,000) feet of any school.**

SECTION 3. All ordinances and parts of ordinances inconsistent herewith are hereby repealed.

SECTION 4. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance, which shall otherwise remain in full force and effect.

SECTION 5. This Ordinance shall take effect upon adoption and publication according to law and filing with the Monmouth County Planning Board.

| | INTRODUCED | SECOND | AYE | NAY | ABSTAIN | ABSENT |
|-----------|------------|--------|-----|-----|---------|--------|
| MARTIN | | | X | | | |
| MAZZOLA | | | | X | | |
| MELNYK | | X | X | | | |
| OLSZEWSKI | | | X | | | |
| BROULLON | X | | X | | | |

This is a Certified True copy of the Original Ordinance on file in the Municipal Clerk’s Office.

DATE OF VOTE: May 19, 2021



Michelle Hutchinson Acting Municipal Clerk
Borough of Highlands

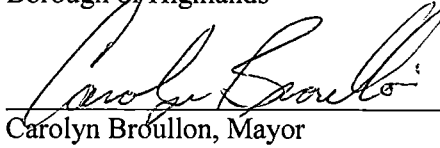
| | INTRODUCED | SECOND | AYE | NAY | ABSTAIN | ABSENT |
|-----------|------------|--------|-----|-----|---------|--------|
| MARTIN | | X | X | | | |
| MAZZOLA | | | | X | | |
| MELNYK | X | | X | | | |
| OLSZEWSKI | | | X | | | |
| BROULLON | | | X | | | |

This is a Certified True copy of the Original Ordinance on file in the Municipal Clerk's Office.

DATE OF VOTE: July 14, 2021



Michelle Hutchinson Acting Municipal Clerk
Borough of Highlands



Carolyn Brouillon, Mayor