



BOROUGH OF HIGHLANDS  
COUNTY OF MONMOUTH

## **ORDINANCE O-21-22**

### **AN ORDINANCE CREATING SECTION 4-18 OF THE BOROUGH CODE REGARDING CANNABIS RETAILER LICENSING REQUIREMENTS**

**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 a municipality may enact ordinances, not in conflict with the provisions of P.L.2021, c.16, governing the number of cannabis establishments, as well as the location, manner, and times of operation of cannabis establishments, and may establish civil penalties for violation of such an ordinance; and

**WHEREAS**, the governing body of the Borough of Highlands wishes to establish licensing requirements to allow for the operation of a single cannabis retailer within either the Central Business District or Highway Oriented Business zones.

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

#### **SECTION I.**

Borough Code Section 4-18 “Cannabis Retailer License” is hereby created to read as follows:

#### **Chapter 4-18 Cannabis Retailer License.**

##### **§ 4-18.1 Definitions.**

As used in this section, these terms shall have the following meanings:

#### **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 CULTIVATOR**

Shall mean 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 ESTABLISHMENT**

Shall mean a cannabis cultivator, a cannabis manufacturer, a cannabis wholesaler, or a cannabis retailer.

#### **CANNABIS MANUFACTURER**

Shall mean 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**

Shall mean 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**

Shall mean 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.

#### **§ 4-18.2 License Required.**

No person or entity shall operate directly or indirectly as a Cannabis Retailer without first applying for and receiving a license from the Borough Administrator of the Borough of Highlands. The issuance of a license under this section is in addition to, and not in derogation of, any law of the State of New Jersey or ordinance of the Borough regulating the business so licensed. A licensed Cannabis Retailer shall not allow the consumption of cannabis on the licensed premises.

#### **§ 4-18.3 Application for and Issuance of License.**

- a. Any person or entity seeking to operate as a Cannabis Retailer under the provisions of this section shall submit an application to the Borough accompanied by the required fee. The application shall be on a form provided by the Borough Clerk.
- b. The applicant shall provide sufficient documentation as necessary to confirm compliance with the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act as well as any applicable regulations promulgated by the New Jersey Cannabis Regulatory Commission.
- c. Licenses shall be issued by the Borough Administrator after review.
- d. The applicant shall provide a certification that the applicant's business will not violate the zoning ordinance of the borough or alternatively provide either a certification of compliance or

resolution of approval from the Land Use Board allowing for the proposed use as a Cannabis Retailer.

#### **§ 4-18.4 License Fee.**

The fee for a Cannabis Retailer license shall be \$1,500 dollars. The annual renewal fee for a Cannabis Retailer license shall be \$750 dollars.

#### **§ 4-18.5 Appeals.**

a. Any person aggrieved by a decision of the Borough denying or revoking a license may appeal to the Borough Council. A written notice of appeal setting forth the reasons for the appeal shall be filed within 10 days of said decision.

b. The Borough Council shall set the matter down for a hearing within 30 days of the filing of the notice of appeal. The decision of the Borough shall be in the form of a resolution at the first regularly scheduled public meeting, after the hearing of the appeal. The appellant may agree in writing to a later date for the decision.

#### **§ 4-18.6 Display of License; Inspections.**

The approved license or a true copy thereof shall be maintained on the licensed premises. The applicant shall permit the Police Department, the Fire Marshal or other Borough inspectors to inspect the site and equipment to be used.

#### **§ 4-18.7 Hours of Operation.**

A licensed Cannabis Retailer shall be permitted to conduct business between the hours of 10:00 am to 7:00 pm on Monday through Saturday, and 10:00am to 5pm on Sunday.

#### **§ 4-18.8 Number of Licenses; Transfer of License.**

Only one Cannabis Retailer license shall be issued in the Borough of Highlands. A Cannabis Retailer license may not be transferred without application to and express written permission of the Borough Administrator.

#### **§ 4-18.9 Local Cannabis Transfer Tax and User Tax.**

a. Pursuant to N.J.S.A. 40:48I-1, a transfer tax on the sale of cannabis or cannabis items by a licensed Cannabis Retailer is hereby established in the Borough of Highlands. The transfer tax rate shall be two percent (2%) of the receipts from each sale by a licensed Cannabis Retailer. The transfer tax shall apply to any receipts from the sale of cannabis items from a licensed Cannabis Retailer to any other cannabis establishment, and shall further apply to any receipts from the retail sales of cannabis items by a licensed Cannabis Retailer to retail consumers who are 21 years of age or older.

b. Pursuant to N.J.S.A. 40:48I-1, a user tax is hereby established on any concurrent license holder, as permitted by section 33 of P.L. 2021, c. 16, operating more than one cannabis establishment. The user tax rate shall be two percent (2%) on the value of each transfer or use of cannabis or cannabis items not otherwise subject to the transfer tax imposed pursuant to subsection (a), above, from the licensed Cannabis Retailer's establishment that is located in the Borough of Highlands to any of the licensed Cannabis Retailer's other establishments, whether located in the municipality or another municipality.

c. The transfer tax and user tax imposed pursuant to this Section shall be in addition to any other tax imposed by law. The transfer tax or user tax shall be stated, charged, and shown separately on any sales slip, invoice, receipt, or other statement or memorandum of the price paid or payable, or equivalent value of the transfer, for the cannabis or cannabis item.

d. The transfer tax and user tax shall be remitted to the Borough's Chief Financial Officer quarterly, on February 1st, May 1st, August 1st, and November 1st. The Chief Financial Officer shall allow a ten (10) day grace period for such payments, after which time interest shall be charged

at a rate of 8% per annum on the first \$1,500 of the delinquency and 18% per annum on any amount in excess of \$1,500, to be calculated from the date the tax was payable until the date that actual payment to the Chief Financial Officer is made. Any transfer tax or user tax not paid within that time, along with any interest accruing thereon, shall be a lien on the parcel of real property comprising the licensed Cannabis Retailer's premises in the same manner as all other unpaid municipal taxes, fees, or other charges. The lien shall be enforced as a municipal lien in the same manner as all other municipal liens are enforced.

**§ 4-18.10 Violations and Penalties.**

Any person violating this section or these rules and regulations, upon conviction thereof, shall be punished by a fine not exceeding \$1,000 per day or by imprisonment in the county jail for a term not exceeding 90 days, or both. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

**SECTION II. SEVERABILITY.** 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 III. REPEALER.** All ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

**SECTION IV. EFFECTIVE DATE.** This ordinance shall take effect immediately upon its passage and publication in accordance with law.

	INTRODUCED	SECOND	AYE	NAY	ABSTAIN	ABSENT
MARTIN		X	X			
MAZZOLA				X		
MELNYK			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

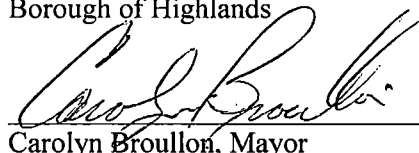
	INTRODUCED	SECOND	AYE	NAY	ABSTAIN	ABSENT
MARTIN			X			
MAZZOLA				X		
MELNYK		X	X			
OLSZEWSKI			X			
BROULLON	X		X			

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

DATE OF VOTE: July 14, 2021



Michelle Hutchinson Acting Municipal Clerk  
Borough of Highlands



Carolyn Broullon, Mayor