

TOWNSHIP COUNCIL OF MOUNT HOLLY TOWNSHIP

BURLINGTON COUNTY, NEW JERSEY

ORDINANCE 2021-10

ORDINANCE OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF MOUNT HOLLY AMENDING CHAPTER 149 (LAND USE) OF THE CODE OF THE TOWNSHIP OF MOUNT HOLLY TO ESTABLISH ZONING FOR THE OPERATION OF SPECIFIED CLASSES OF CANNABIS BUSINESSES AND CREATING CHAPTER 89A FOR THE LICENSING OF CANNABIS BUSINESSES

WHEREAS, in 2020 New Jersey voters approved Public Question No. 1, which amended the New Jersey Constitution to permit the legalization of a controlled form of marijuana called “cannabis” for recreational and personal use by adults 21 years of age and older; 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” (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 six marketplace classes of licensed businesses, including:

- Class 1 Cannabis Cultivator license, for facilities involved in growing and cultivating cannabis;
- Class 2 Cannabis Manufacturer license, for facilities involved in the manufacturing, preparation, and packaging of cannabis items;
- Class 3 Cannabis Wholesaler license, for facilities involved in obtaining and selling cannabis items for later resale by other licensees;
- Class 4 Cannabis Distributor 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;
- Class 5 Cannabis Retailer license for locations at which cannabis items and related supplies are sold to consumers; and

- Class 6 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 purchases items to a consumer, and which service would include the ability of a consumer to make a purchase directly through the cannabis delivery service which would be presented by the delivery service for fulfillment by a retailer and then delivered to a consumer.

WHEREAS, section 31(b) of the Act authorizes municipalities by ordinance to either allow or prohibit the operation of any one or more classes of cannabis licensees anywhere in the municipality; and

WHEREAS, section 31(b) of the Act also stipulates, however, that any municipal regulation or prohibition must be adopted within 180 days of the effective date of the Act (*i.e.*, by August 22, 2021); and

WHEREAS, pursuant to section 31(b) of the Act, the failure to do so shall mean that for a period of five years thereafter, the growing, cultivating, manufacturing, selling and reselling of cannabis and cannabis items shall be permitted uses in all industrial zones, and the retail selling of cannabis items to consumers shall be a conditional use in all commercial and retail zones; and

WHEREAS, at the conclusion of the initial and any subsequent five-year period following a failure to enact local regulations or prohibitions, the municipality shall again have 180 days to adopt an ordinance regulating or prohibiting cannabis businesses, but any such ordinance would be prospective only and would not apply to any cannabis business already operating within the municipality; and

WHEREAS, the Township desires to establish specific zones for specific cannabis uses, and does not desire to entirely “opt out” of the potential for cannabis uses within the Township. Further, the Township does not desire to simply default into the commercial and industrial uses that would occur if no action were taken. The Township desires to enact this Ordinance to specifically govern what cannabis use classes will be permitted in what zones and where cannabis uses will otherwise be prohibited at this time; and

NOW, THEREFORE, BE IT ORDAINED AND ENACTED, by the Council of the Township of Mount Holly, in the County of Burlington and State of New Jersey that Chapter 149 of the Township Code entitled “Land Use” is to be amended and supplemented as follows:

Section One. Section 149-1 of the Township Code entitled “Zoning Definitions” is amended and supplemented to add the following definitions:

CANNABIS – This term shall have the same meaning as provided under N.J.S.A. 24:6I-33.

CANNABIS CULTIVATOR – A facility involved in the growing and cultivating of cannabis, and which has been duly issued a Class 1 Cannabis Cultivator license by the New Jersey

Cannabis Regulatory Commission, or its successor agency

CANNABIS DELIVERY SERVICE -- Any person or entity providing courier services for consumer purchases of cannabis items and related supplies fulfilled by a cannabis retailer, and which has been duly issued a Class 6 Cannabis Delivery license by the New Jersey Cannabis Regulatory Commission, or its successor agency.

CANNABIS DISTRIBUTOR -- Any person or entity engaged in the intrastate transport of bulk cannabis or cannabis items from one licensed cannabis cultivator to another licensed cannabis cultivator, or from any one class of licensed cannabis establishment to another class of licensed cannabis establishment, and which has been duly issued a Class 4 Cannabis Distributor license by the New Jersey Cannabis Regulatory Commission, or its successor agency

CANNABIS MANUFACTURER – A facility involved in the manufacturing, preparation and packaging of cannabis items, and which has been duly issued a Class 2 Cannabis Manufacturer license by the New Jersey Cannabis Regulatory Commission, or its successor agency

CANNABIS RETAILER – Any person or entity that purchases or otherwise obtains cannabis or cannabis items from cannabis cultivators, manufacturers or wholesalers, and sells these to consumers from a retail store, and/or may use a cannabis delivery service or a certified cannabis handler for the off-premises delivery of cannabis items and related supplies to consumers and which has been duly issued a Class 5 Cannabis Retailer license by the New Jersey Cannabis Regulatory Commission, or its successor agency

CANNABIS WHOLESALER – A facility involved in obtaining and selling cannabis items for later resale by other licensees, and which has been duly issued a Class 3 Cannabis Wholesaler license by the New Jersey Cannabis Regulatory Commission, or its successor agency

Section Two. Section 149-110 of the Township Code entitled “Permitted Uses” is hereby amended to allow for licensed cannabis retailers to operate within the B-1 Central Business District as principal permitted uses and to amend paragraph “C” as follows:

- C. “Retail Use” is defined as a business whose sale is made on the premises to the ultimate consumer of the commodities or services or the furnishing thereof for the entire community. Examples include, but are not limited to, restaurants, bar, coffee shops, clothing retail, furniture retail, art galleries, hair and nail salons/barber shops, businesses operating as a Cannabis Retailer licensed under N.J.S.A. 24:6I-31 et. seq., and similar type businesses.

Section Three. Section 149-116 of the Township Code entitled “Permitted Uses” is hereby amended to allow for licensed cannabis retailers to operate within the B-3 Planned Shopping District as principal permitted uses as follows:

- A. This zone district is designed for a building or a group of buildings used exclusively for retail sales and service. Before the issuance of a building or occupancy permit,

the Planning Board shall ascertain that all of the following requirements are complied with.

- B. Any business operating as a Cannabis Retailer licensed under N.J.S.A. 24:6I-31 et. seq. shall be expressly permitted within this zone.

Section Four. Section 149-120 of the Township Code entitled “Permitted Uses” is hereby amended to allow for licensed cannabis retailers to operate within the B-4 Standard Business District as principal permitted uses as follows:

- A. This zone district is limited to the sale on the premises to the ultimate consumer of the commodities or services or the furnishing thereof for the entire community and accessory uses customarily incident to such use.
- B. Any business operating as a Cannabis Retailer licensed under N.J.S.A. 24:6I-31 et. seq. shall be expressly permitted within this zone.

Section Five. Section 149-131 of the Township Code entitled “Permitted and Conditional Uses” is hereby amended to allow for licensed cannabis cultivators, manufacturers, wholesalers, distributors and retailers to operate within the I Limited Industrial District as principal permitted uses and to insert new paragraph D as follows:

- D. Any business operating as a Cannabis Cultivator, Cannabis Manufacturer, Cannabis Wholesaler, Cannabis Distributor, or Cannabis Retailer licensed under N.J.S.A. 24:6I-31 et. seq. shall be expressly permitted within this zone.

Section Six. Section 149-88 of the Township Code entitled “Signs” is hereby amended to provide certain limits on the manner of signage permitted for cannabis related businesses located within the Township and to insert new paragraph Y as follows:

- Y. For cannabis related businesses, signage may contain the name of the entity only and no signage reflecting a cannabis leaf or leaves or other symbol will be permitted. The word “cannabis” may be used, but not “marijuana”, “pot” or any other common terms for cannabis. No advertising signs shall be permitted. No display of pricing shall be permitted.”

Section Seven. Section 89A entitled “Cannabis” is hereby created:

§89A-1 Purpose.

This purpose of this section is to regulate the commercial production, storage, sale and dispensing of regulated cannabis in the Township of Mount Holly in accordance with the “New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act” comprising Chapter 16 of the Laws of 2021, its supplements and amendments, and also comprising N.J.S.A. 24:6I-31 et seq., and any amendments or supplements thereto, and in accordance with the rules and regulations of the Cannabis Regulatory Commission, and to further provide rules governing the local licensure of

cannabis establishments and distributors, as well as, regulations governing the location, manner, and times of operation of such businesses operating within the Township.

§89A-2 Definitions.

CANNABIS – This term shall have the same meaning as provided under N.J.S.A. 24:6I-33.

CANNABIS CULTIVATOR – A facility involved in the growing and cultivating of cannabis, and which has been duly issued a Class 1 Cannabis Cultivator license by the New Jersey Cannabis Regulatory Commission, or its successor agency

CANNABIS DELIVERY SERVICE -- Any person or entity providing courier services for consumer purchases of cannabis items and related supplies fulfilled by a cannabis retailer, and which has been duly issued a Class 6 Cannabis Delivery license by the New Jersey Cannabis Regulatory Commission, or its successor agency.

CANNABIS DISTRIBUTOR -- Any person or entity engaged in the intrastate transport of bulk cannabis or cannabis items from one licensed cannabis cultivator to another licensed cannabis cultivator, or from any one class of licensed cannabis establishment to another class of licensed cannabis establishment, and which has been duly issued a Class 4 Cannabis Distributor license by the New Jersey Cannabis Regulatory Commission, or its successor agency

CANNABIS MANUFACTURER – A facility involved in the manufacturing, preparation and packaging of cannabis items, and which has been duly issued a Class 2 Cannabis Manufacturer license by the New Jersey Cannabis Regulatory Commission, or its successor agency

CANNABIS RETAILER – Any person or entity that purchases or otherwise obtains cannabis or cannabis items from cannabis cultivators, manufacturers or wholesalers, and sells these to consumers from a retail store, and/or may use a cannabis delivery service or a certified cannabis handler for the off-premises delivery of cannabis items and related supplies to consumers and which has been duly issued a Class 5 Cannabis Retailer license by the New Jersey Cannabis Regulatory Commission, or its successor agency

CANNABIS WHOLESALER – A facility involved in obtaining and selling cannabis items for later resale by other licensees, and which has been duly issued a Class 3 Cannabis Wholesaler license by the New Jersey Cannabis Regulatory Commission, or its successor agency

§89A-3 Licenses.

- A. Laws applicable. All applications for licenses, all licenses issued and all proceedings under this article shall be in accordance with the “New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act”, rules and regulations referred to in this section, and all other applicable laws of the State of New Jersey or the United States.

- B. Issuing authority. All licenses required by this article shall be issued by the Township Council, which shall also administer the provisions of this section
- C. License required. No person shall produce, distribute, store, sell or dispense cannabis products within the Township without obtaining a license in accordance with the “New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act” and the provisions of this section.
- D. License fees. The annual fees of licenses for the operation of a licensed cannabis business in the Township shall be as follows:
- (1) Class 1 Cannabis Cultivator: \$10,000 per location
 - (2) Class 2 Cannabis Manufacturer: \$10,000 per location
 - (3) Class 3 Cannabis Wholesaler: \$10,000 per location
 - (4) Class 4 Cannabis Distributor: \$10,000 per location
 - (5) Class 5 Cannabis Retailer: \$5,000 per location
 - (6) Vertically Integrated Cannabis Facility: \$15,000
- E. Local Hiring, Minority Businesses, Set Asides. For all licensed cannabis business operations, the annual licensing fees established within Section 89A-3 of the Township Code shall be reduced by the following amounts for the applicable year if the business entity can demonstrate that it falls within one or more of the following categories:
- (1) Any business that can provide a Minority Business Enterprise Certification from the State of New Jersey shall be entitled to a 25% reduction of the licensure fee, or remaining fee if a reduction has already been applied under this section.
 - (2) Any business that can provide a Women’s Business Enterprise Certification from the State of New Jersey shall be entitled to a 25% reduction of the licensure fee, or remaining fee if a reduction has already been applied under this section.
 - (3) Any business that can provide proof that at least 1/3 of its employees are residents of the Township of Mount Holly shall be entitled to a 25% reduction of the licensure fee, or remaining fee if a reduction has already been applied under this section.
 - a. In order to receive a reduction under this section, the business entity must provide adequate proof of employment and residency, in the form of payroll history (amounts redacted) and proof of residency demonstrating at least nine (9) months of both residency and active employment.
 - b. The Township reserves the right to contact any employees referenced in order to verify employment and residency.

- (4) Any business that can provide proof that at least one (1) ancillary service contract has been awarded to a business located within the Township of Mount Holly shall be entitled to a 25% reduction of the licensure fee, or remaining fee if a reduction has already been applied under this section.
- a. In order to receive a reduction under this section, the business entity must provide proof of an ancillary service contract valued over \$500 for services performed for the business the previous year, and proof of payment.
 - b. The Township of Mount Holly shall confirm that the ancillary service company is a business entity located within the Township of Mount Holly, and possesses a valid business license in good standing.
 - c. Ancillary services shall include, but shall not be limited to, mechanical services, auto repair services, custodial services, office furniture and/or supplies, IT services, and construction and/or repair services.
- (5) If any licensed cannabis business is able to satisfy three (3) of the above four (4) categories, their annual licensing fee shall be waived for that year.

§89A-4 Regulations applicable to Licensees.

A. Retail Hours of Sale.

Any licensed cannabis retailer may sell, dispense or allow, permit or suffer the sale, or dispensing of any cannabis, usable cannabis or cannabis products to consumers in the Township between the hours of 9 a.m. to 10 p.m. Monday through Sunday. The retail hours of sale established herein may be further restricted during such hours as may be authorized or permitted by the State of New Jersey, Cannabis Regulatory Commission, pursuant to N.J.S.A. 24:6I-31 et seq., or any amendments or supplements thereto, and the rules and regulations promulgated thereunder, or any amendments or supplements thereto. Any future restriction or other modification concerning the retail hours of sale of cannabis by the State of New Jersey shall constitute a parallel restriction or modification of the permissible hours of retail sale and dispensing of cannabis within the Township.

B. Certain Sales Prohibited.

No licensee or employee of a licensee shall sell, dispense or deliver, directly or indirectly, any cannabis, usable cannabis or cannabis products to any intoxicated person or any person under the legal age for purchasing cannabis, usable cannabis or cannabis products as a retail consumer pursuant to N.J.S.A. 24:6I-33, nor permit such categories of persons to congregate in or about the licensed premises.

C. On-site Consumption Prohibited.

No licensee shall be permitted to operate or maintain a cannabis consumption area as further described by Section 28 of P.L. 2019, c.153 (C.24:6I-21) on licensed premises

or otherwise allow any person to consume usable cannabis or cannabis products on or within any licensed premises within the Township.

§ 89A-5 Suspension or revocation of license.

A. Grounds for suspension or revocation.

Any license granted or issued pursuant to this chapter may be suspended or revoked by the Township Council after notice and hearing for any of the following causes:

- (1) Any fraud, misrepresentations or false statement contained in the application for a license.
- (2) Any fraud, misrepresentation or false statement made in connection with the selling of the articles of value.
- (3) Any violation of this chapter.
- (4) Any violation of P.L. 2021, c. 16, known as the “New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act”
- (5) Any of the rules or regulations of the Cannabis Regulatory Commission.
- (6) Any conviction of the licensee of any felony or of a misdemeanor involving moral turpitude.
- (7) Conducting the business licensed under this chapter, through the applicant himself or any of his agents, servants or employees, in any unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.

B. Notice of Hearing.

Notice of hearing for suspension or revocation of a license under the preceding section shall be given in writing by the Township Clerk, setting forth the grounds of the complaint and the time and place of the hearing. Such notice shall be mailed, by certified and regular mail, to the licensee at his address indicated on his license application, at least five days prior to the date set forth for the hearing unless the five-day notice would cause a threat to public health and welfare in which case the Township shall take any reasonable action to notify the licensee.

C. Reissuance following suspension or revocation.

The Township Council may issue another license to a person whose license has been revoked, if, after the hearing, it is satisfied by clear and convincing evidence that the acts which led to the revocation will not occur again; otherwise, no person whose license has been revoked, nor any person acting for him, directly or indirectly, shall be issued another license to carry on the same activity for the period of 12 months.

- D. Suspension or revocation of a license shall be in addition to any other penalty which may be imposed for a violation of this chapter.
- E. Proceedings for suspension or revocation of any license authorized under this section shall be in accordance with such rules and regulations that may be adopted by the Cannabis Regulatory Commission to establish procedures for the suspension or revocation of a license or a conditional license, N.J.S.A 24:6I-35(1), or any amendments or supplements thereto.

§ 89A-6 Violations and Penalties.

Any person, firm, corporation, association or legal party whatsoever who shall violate, or authorize or procure a violation, or cause to be violated, any provision of this chapter shall, upon conviction thereof, be punishable as provided under § 1-3 governing general penalty provisions. If the state requires, limits or expands potential minimum or maximum penalties in contradiction to this chapter, state law shall apply

BE IT FURTHER ORDAINED, that if any section, paragraph, subsection, clause, or provision of this Amendment shall be adjudged by the courts to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause, or provisions so adjudicated, and the remainder of the Ordinance shall be deemed valid and effective; and

BE IT FURTHER ORDAINED, that any ordinances or parts thereof in conflict with the provisions of this Ordinance are repealed to the extent of such conflict; and

BE IT FURTHER ORDAINED, that this Ordinance shall take effect upon passage and publication in accordance within applicable law.

First Reading: June 28, 2021

Councilmember	Motion	2nd	Yea	Nay	Recuse	Abstain	Absent
L. Brown	X		X				
J. Codianni		X	X				
K. McCandless							X
C. Banks			X				
J. Jones			X				

Second Reading: July 19, 2022

Councilmember	Motion	2nd	Yea	Nay	Recuse	Abstain	Absent
L. Brown	X		X				
J. Codianni		X	X				
C. Banks			X				
J. Jones			X				

ATTEST:

Sherry L. Marnell
Acting Township Clerk

Jason W. Jones, Mayor

I HEREBY CERTIFY that the foregoing Ordinance was approved for final adoption by Mayor and Township Council of the Township of Mount Holly, County of Burlington, State of New Jersey, at a regular meeting on the 19th day of July, 2021.

Sherry L. Marnell, Acting Township Clerk