

ORDINANCE 13-2021

**BOROUGH OF WOODBURY HEIGHTS
GLOUCESTER COUNTY, NEW JERSEY**

AN ORDINANCE OF THE BOROUGH OF WOODBURY HEIGHTS, GLOUCESTER COUNTY, PROHIBITING THE OPERATION OF ANY CLASS OF CANNABIS BUSINESSES WITHIN ITS GEOGRAPHICAL BOUNDARIES AND AMENDING THE CODE OF THE BOROUGH OF WOODBURY HEIGHTS BY ADDING CHAPTER 66

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” (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: Facilities involved in growing and cultivating cannabis;
- Class 2 Cannabis Manufacturer license: Facilities involved in manufacturing, preparation, and packaging of cannabis items;
- Class 3 Cannabis Wholesaler license: Facilities involved in obtaining and selling cannabis items for later resale by other licensees;
- Class 4 Cannabis Distributer License: Businesses involved in transporting cannabis plants in bulk from a 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: Locations at which cannabis items and related supplies are sold to consumers; and
- Class 6 Cannabis Delivery License: Businesses providing courier services for consumer purchases that are fulfilled by a licensed cannabis retailer in order to make deliveries of purchased 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 31a of the Act authorizes municipalities by ordinance to adopt regulations governing the number of cannabis establishments (defined in section 3 of the Act as “cannabis cultivator, a cannabis manufacturer, a cannabis wholesaler, or a cannabis retailer”), cannabis distributors or cannabis delivery services allowed to operate within their boundaries, as well as the location manner and times of operation of such establishments, distributors or delivery services, and establishing civil penalties for the violation of any such regulations; and

WHEREAS, Section 31b of the Act authorizes municipalities by ordinance to prohibit the operation of any one or more classes of cannabis establishments, distributors, or delivery services anywhere in the municipality; and

WHEREAS, Section 31b 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 31b of the Act, the failure to adopt an ordinance, so shall result for a period of five years thereafter, that 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 Borough Council of the Borough of Woodbury Heights has determined that, due to present uncertainties regarding the potential future impacts that allowing one or more

classes of cannabis business might have on New Jersey municipalities in general, and on the Borough of Woodbury Heights in particular, it is at this time necessary and appropriate, and in the best interest of the health, safety and welfare of the Borough of Woodbury Heights's residents and members of the public who visit, travel, or conduct business in the Borough of Woodbury Heights, to amend the Borough of Woodbury Heights's Land Use Ordinance and general ordinances to prohibit all manner of marijuana-related land use and development within the geographic boundaries of the Borough of Woodbury Heights; and

WHEREAS, officials from two prominent non-profit organizations that have been established for the purpose of advising New Jersey municipalities on legal matters such as have been presented by the Act (those organizations being the New Jersey State League of Municipalities and the New Jersey Institute of Local Government Attorneys) have strongly urged that, due to the complexity and novelty of the Act; the many areas of municipal law that are or may be implicated in decisions as to whether or to what extent cannabis or medical cannabis should be permitted for land use purposes or otherwise regulated in any particular municipality; and the relatively short duration in which the Act would allow such decisions to be made before imposing an automatic authorization of such uses in specified zoning districts subject to unspecified conditions, the most prudent course of action for all municipalities, whether or not generally in favor of cannabis or medical cannabis land development and uses, would be to prohibit all such uses in within the Act's 180 day period in order to ensure sufficient time to carefully review all aspects of the Act and its impact;

NOW, THEREFORE, BE IT ORDAINED AND ENACTED, that the Borough Council of the Borough of Woodbury Heights, County of Gloucester, State of New Jersey, does hereby amend the revised general ordinances of the Borough of Woodbury Heights by adding a new Chapter 66, as follows:

Chapter 66: Cannabis-Marijuana Regulations

Business Operations and Recreational Use of Cannabis-Marijuana within the Geographical Limits of South Harrison Township

Section 66-1:

Pursuant to Section 31b of the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (P.L. 2021, c. 16), all cannabis establishments, cannabis distributors or cannabis delivery services are hereby prohibited from operating anywhere in the Borough of Woodbury Heights, except for the delivery to consumers of cannabis items and related supplies by a delivery service. This prohibition shall also apply in those parts of the Borough of Woodbury Heights under the jurisdiction and authority of any state agency, commission, or authority.

Section 66-2:

All Classes of cannabis establishments or cannabis distributors or cannabis delivery services as said terms are defined in Section 3 of P.L. 2021, c. 16, but not the delivery of cannabis items and related supplies by a delivery service are prohibited within the entirety of the Borough of Woodbury Heights.

Section 66-3:


Any article, section, paragraph, subsection, clause, or other provision of the Borough of Woodbury Heights Code inconsistent with the provisions of this ordinance is hereby repealed to the extent of such inconsistency.

Section 66-4:

If any section, paragraph, subsection, clause, or provision of this ordinance shall be adjudged by a court of competent jurisdiction to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause, or provision so adjudged, and the remainder of this ordinance shall be deemed valid and effective.

BE IT FURTHER ORDAINED AND ENACTED by the Borough Council of the Borough of Woodbury Heights, County of Gloucester, and State of New Jersey that this Ordinance shall take effect immediately upon the adoption and publication of notice of adoption as prescribed by law.

BOUROUGH OF WOODBURY HEIGHTS

By: 
William C. Packer, Mayor

Dated:

ATTEST:



Shannon Elton, Acting Borough Clerk

NOTICE

Notice is hereby given that the foregoing Ordinance was introduced and passed on first reading at the regular meeting of the Borough Council the Borough of Woodbury Heights on the 16th day of June, 2021 and will be considered for final passage at a meeting of the Borough Council the Borough of Woodbury Heights, to be held on the 21st day of July, 2021 at 7:30PM, at which time and place any interested party will be given the opportunity to be heard.



Shannon Elton, Acting Borough Clerk