

*BOROUGH OF ROOSEVELT
COUNTY OF MONMOUTH
STATE OF NEW JERSEY*

**ORDINANCE 2021-02
INTRODUCTION DATE: 07-19-2021
ADOPTION DATE: 08-16-2021**

AN ORDINANCE TO OPT-OUT OF THE NEW STATE CANNABIS LAW AND TO PROHIBIT ALL CONSUMPTION OF CANNABIS IN PUBLIC PLACES AND ALL UNDERAGE POSSESSION OF CANNABIS ITEMS AND TO DEEM ALL RECREATIONAL CANNABIS BUSINESSES AS PROHIBITED USES UNDER THE LAND USE AND DEVELOPMENT REGULATIONS OF THE BOROUGH

WHEREAS, in November 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, the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (the “Act”) was signed into law, which establishes a regulatory and licensing scheme for cannabis operations, use and possession; and

WHEREAS, the Act states that the State’s new Cannabis Regulatory Commission shall adopt rules and regulations regarding the new cannabis marketplace within New Jersey on or before November 2022; and

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 “a 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 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 stipulates that any regulation or prohibition must be adopted within 180 days of the effective date of the Act; by August 22, 2021; and

WHEREAS, pursuant to section 31b 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 Borough of Roosevelt, County of Monmouth, and State of New Jersey (the “Borough”) has determined that, due to present uncertainties regarding the yet unwritten rules and regulations by the Cannabis Regulatory Commission, the potential future impacts on New Jersey municipalities in general, and on the Borough in particular, it is at this time necessary, and in the best interest of the health, safety and welfare of the Borough’s residents and those who visit, travel, or conduct business in the Borough, to prohibit all manner of marijuana and cannabis businesses and all public consumption and underage possession of cannabis items within the Borough; and

NOW, THEREFORE, BE IT ORDAINED by the Governing Body of the Borough of Roosevelt, County of Monmouth, State of New Jersey, as follows:

SECTION 1. The Revised General Ordinances of the Borough of Roosevelt are hereby supplemented with *new* Chapter 20 entitled “Cannabis” as follows:

CHAPTER 20

CANNABIS

§ 20-1 Cannabis Businesses Prohibited.

- A. Pursuant to section 31(b) 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 Borough of Roosevelt, except for the delivery of cannabis items and related supplies by a delivery service.

- B. Pursuant to Section 4.300 of the Borough Zoning Ordinances, the operation of Cannabis Cultivators, Cannabis Distributors, Cannabis Manufacturers, Cannabis Wholesalers, Cannabis Retailers, Medical Cannabis Alternative Treatment Centers, Medical Cannabis Cultivators, Medical Cannabis Dispensaries, and Medical Cannabis Manufacturers are prohibited uses in all zones within the Borough of Roosevelt.

§ 20-2 Public Consumption of Cannabis Prohibited.

- A. It shall be unlawful for any person to consume a cannabis item available for lawful consumption pursuant to the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act in any public place as defined in said Act, including any public highway, public street, public sidewalk, public parking lot or lot, playground, park or other property owned by, belonging to or over which the Borough has control, other than school property for which unlawful consumption is a disorderly persons offense, or when not prohibited by the owner or person responsible for the operation of that public place.
- B. Any person violating this Section 20-2 shall be subject to a civil penalty of up to \$200.00, which shall be recovered in a civil action by a summary proceeding in the name of the Borough pursuant to the Penalty Enforcement Law of 1999. The Municipal Court and the Superior Court shall have jurisdiction of proceedings for the enforcement of the penalty provided by this section.

§ 20-3 Possession or Consumption by Underaged Persons on Private Property.

- A. It shall be unlawful for any person under the legal age who, without legal authority, knowingly possesses or consumes a cannabis item on private property.
- B. Any person violating this Section 20-3, in the case of an adult under the legal age to purchase cannabis items, shall be punished as follows:
 - (1) If the cannabis item possessed is an amount which may be lawfully possessed by a person of the legal age to purchase cannabis items pursuant to N.J.S.A. 2C:35-10a: for a first offense, a civil penalty of \$100.00; for a second offense, a civil penalty of \$200.00; and for a third or subsequent offense, a fine of \$350.00. The civil penalties provided for in this section shall be recovered in a civil action by a summary proceeding in the name of the municipality pursuant to the Penalty Enforcement Law of 1999. The Municipal Court shall have jurisdiction of proceedings for the enforcement of the penalty provided by this section.
 - (2) If the cannabis item possessed is an amount that exceeds what may be lawfully possessed by a person of the legal age to purchase cannabis items pursuant to N.J.S.A. 2C:35-10a, or if any cannabis item is consumed: for a first offense, a fine of \$250.00; and for a second or subsequent offense, a fine of \$350.00.

SECTION 2. Section 2.100 of Article II: “Definitions” of the Zoning Ordinances of the Borough of Roosevelt are hereby supplemented to include the following *new* definitions:

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 DISTRIBUTOR shall mean 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 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.

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.

MEDICAL CANNABIS ALTERNATIVE TREATMENT CENTER shall mean an organization issued a permit, including a conditional permit, by the State to operate as a medical cannabis cultivator, medical cannabis manufacturer, medical cannabis dispensary, or clinical registrant.

MEDICAL CANNABIS CULTIVATOR shall mean an organization holding a permit issued by the State that authorizes the organization to: possess and cultivate cannabis and deliver, transfer, transport, distribute, supply, and sell medical cannabis and related supplies to other medical cannabis cultivators and to medical cannabis manufacturers, clinical registrants, and medical cannabis dispensaries, as well as to plant, cultivate, grow, and harvest medical cannabis for research purposes.

MEDICAL CANNABIS DISPENSARY shall mean an organization issued a permit by the State that authorizes the organization to: purchase or obtain medical cannabis and related supplies from medical cannabis cultivators; purchase or obtain medical cannabis products and related supplies from medical cannabis manufacturers; purchase or obtain medical cannabis, medical cannabis products, and related supplies and paraphernalia from other medical cannabis dispensaries and from clinical registrants; deliver, transfer, transport, distribute, supply, and sell medical cannabis and medical cannabis products to other medical cannabis dispensaries; furnish medical cannabis, including medical cannabis products, to a medical cannabis handler for delivery to a registered qualifying patient, designated caregiver, or institutional caregiver; and possess, display, deliver, transfer, transport, distribute, supply, sell, and dispense medical cannabis, medical cannabis products, paraphernalia, and related supplies to qualifying patients, designated caregivers, and institutional caregivers.

MEDICAL CANNABIS MANUFACTURER shall mean an organization issued a permit by the State that authorizes the organization to: purchase or obtain medical cannabis and related supplies from a medical cannabis cultivator or a clinical registrant; purchase or obtain medical cannabis products from another medical cannabis manufacturer or a clinical registrant; produce, manufacture, or otherwise create medical cannabis products; and possess, deliver, transfer, transport, distribute, supply, and sell medical cannabis products and related supplies to medical cannabis manufacturers and to medical cannabis dispensaries and clinical registrants.

SECTION 3. Section 4.300: “General Use Restrictions” of Article IV: “District Use and Development Regulation” of the Zoning Ordinances of the Borough of Roosevelt is hereby amended as follows (~~stricken text~~ indicates deletions, underlined text indicates additions):

§ 4.300 General Use Restrictions.

- A. Any use not designated as a principal permitted use, a permitted accessory use, or a conditional use is specifically prohibited from any zoning district in the Borough of Roosevelt. Farming as defined in this ordinance shall be prohibited in all zones other than R-Ag/400.

- B. The operation of Cannabis Cultivators, Cannabis Distributors, Cannabis Manufacturers, Cannabis Wholesalers, Cannabis Retailers, Medical Cannabis Alternative Treatment Centers, Medical Cannabis Cultivators, Medical Cannabis Dispensaries, and Medical Cannabis Manufacturers are prohibited uses in all zones within the Borough of Roosevelt.

SECTION 4. Chapter 3 entitled “Police Regulations” of the Revised General Ordinances of the Borough of Roosevelt is hereby supplemented with *new* Section 3-11 entitled “Consumption of Cannabis Items in Certain Places Prohibited” as follows:

§ 3-11 Consumption of Cannabis Items in Certain Places Prohibited

No person shall consume, serve, allow or permit the consumption of cannabis items in the Borough:

- A. While in or on a public street, lane, sidewalk, public parking lot, public or quasi-public place or in any public conveyance.
- B. In a private motor vehicle while the same is in motion or parked upon any public street, lane, public parking lot, public park or place.
- C. While upon any private property not his own without the express permission of the owner or other person having authority to grant such permission.

SECTION 5. If any article, 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 and they shall remain in full force and effect.

SECTION 6. In the event of any inconsistencies between the provisions of this Ordinance and any prior ordinance of the Borough, the provisions hereof shall be determined to govern. All other parts, portions and provisions of The Revised General Ordinances of the Borough of Allentown are hereby ratified and confirmed, except where inconsistent with the terms hereof.

SECTION 7. After introduction, the Borough Clerk is directed to submit a copy of the within Ordinance to the Planning Board of the Borough for its review under 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 Mayor & Council, 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 8. This Ordinance shall take effect upon (1) adoption; (2) publication in accordance with the laws of the State of New Jersey; and (3) filing of the final adopted Ordinance by the Clerk with the Monmouth County Planning Board pursuant to N.J.S.A. 40:55D-16.

ATTEST:

APPROVED

Kathleen Hart, Borough Clerk

Peggy Malkin, Mayor