

**BOROUGH OF ANDOVER
COUNTY OF SUSSEX
ORDINANCE NO. 2024-08**

AN ORDINANCE TO AMEND CHAPTER 95, ENTITLED “MUNICIPAL CANNABIS PERMIT” OF THE CODE OF THE BOROUGH OF ANDOVER, COUNTY OF SUSSEX AND STATE OF NEW JERSEY.

BE IT ORDAINED by the Borough Council of the Borough of Andover, in the County of Sussex and State of New Jersey, as follows:

SECTION 1. Chapter 95, entitled “Municipal Cannabis Permit”, of the Code of the Borough of Andover, County of Sussex, State of New Jersey, is hereby renamed “Cannabis”.

SECTION 2. A new Article I, to be entitled “Definitions”, shall be added to Chapter 95, which shall include Section 95-1, entitled “Definitions” which is revised to read as follows:

§ 95-1. Definitions:

With regard to Chapter 95, and all sections therein, the following definitions shall apply:

The definitions set forth in § 134-66.4 are incorporated by reference herein.

CANNABIS

Means the same as that term is defined in Section 3 of P.L. 2021, c. 16 (N.J.S.A. 24:6I-33).

CONSUMER

Means the same as that term is defined in Section 3 of P.L. 2021, c. 16 (N.J.S.A. 24:6I-33).

USABLE CANNABIS

Means the same as that term is defined in Section 3 of P.L. 2021, c. 16 (N.J.S.A. 24:6I-33).

SECTION 3. A new Article II, to be entitled “Municipal Cannabis Permit” shall be added to Chapter 95, and shall be comprised of existing Sections 95-2 through 95-13.

SECTION 4. Paragraphs A and F of Section 95-10, entitled “Investigations; Sanctions; Penalties” and Section 95-13, entitled “Violations and Penalties”, of Chapter 95 are amended to replace the word “chapter” with “article” wherever the word “chapter” appears.

SECTION 5. A new Article III, entitled “Unauthorized Retail Sale and Gainful Transfer of Usable Cannabis.” shall be added to Chapter 95, and shall read as follows:

Article III. Unauthorized Retail Sale and Gainful Transfer of Usable Cannabis.

§ 95-14. Prohibition on Retail Sale of Cannabis.

The operation of any Cannabis Retailer and/or the retail sale of cannabis, cannabis items and related supplies by any person or business directly to consumers for recreational consumption, except by those persons or businesses holding a New Jersey Class 5 Cannabis Retailer license and the related local license issued by the Borough, is hereby prohibited.

§ 95-15. Prohibition on Certain Transfers of Usable Cannabis.

The transfer of usable cannabis in any instance where the usable cannabis is not obtained directly from a licensed cannabis retailer, and/or is transferred with remuneration or for promotional and/or business purposes, is hereby prohibited.

§ 95-16. Civil Fines and Penalties.

- A. Any person(s), firm(s), business(es), corporation(s) and/or other organizations, including any licensed medical and/or cannabis establishment, found to be engaged in the retail sale of cannabis in violation of §95-14 or found to be engaged in the transfer of usable cannabis in violation of §95-15 shall, upon conviction, be subject to a civil fine and penalty not exceeding \$2,000. Any person found to be in violation shall, upon conviction, be subject also to imprisonment for a term not exceeding 90 days or to a period of community service not exceeding 90 days as well as such penalties as may otherwise be provided by law.
- B. Each and every day any person(s), firm(s), business(es), corporation(s) and/or other organizations, including any licensed medical and/or cannabis establishment remains in violation of the provisions of this Article after the deadline for compliance set forth in any notice of violation issued by the enforcing officer(s) of the Borough shall, in the discretion of the Court, be considered a continuing violation punishable as a separate and distinct offense and subject to a separate civil fine and penalty for each and every day the violation continues.
- C. The Municipal Court or Superior Court shall have jurisdiction to hear and decide any action(s) brought to enforce the provisions of this Article, the hearing for which shall be conducted in a summary manner if and as authorized by applicable law; and any final order imposing fines and penalties for a violation of this Article shall be enforceable in the Municipal Court or Superior Court and collectible as a lien against the property of the violator in accordance with the Penalty Enforcement Law of 1999, N.J.S.A. 2A:58-10 to – 12.

SECTION 6. If any article, section, subsection, paragraph, 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 7. 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

ordinances of the Borough are hereby ratified and confirmed, except where inconsistent with the terms hereof.

SECTION 8. This Ordinance shall take effect upon final passage and publication in accordance with the laws of the State of New Jersey following the required 20-day period after adoption, as set forth in N.J.S.A. 40:69A-181(b).

NOTICE

NOTICE is hereby given that the above ordinance was introduced and passed upon first reading at a regular meeting of the Mayor and Council of the Borough of Andover, in the County of Sussex, New Jersey, held on the 13th day of May 2024. It was further considered for final passage and adopted after public hearing at a meeting of the Mayor and Council held in the Municipal Building, 137 Main Street, Borough of Andover, on June 10, 2024, at 7:00 P.M., and copies of the ordinance are available at the Clerk's office in the Municipal Building to members of the general public.

Beth Brothman, Andover Borough Clerk