

**TOWNSHIP OF HILLSIDE
ORDINANCE O-21-05**

**AN ORDINANCE PROHIBITING THE OPERATION OF ANY CLASS OF CANNABIS
BUSINESSES WITHIN ITS GEOGRAPHICAL BOUNDARIES AND AMENDING CHAPTER
188. LAND USE, ARTICLE II. ZONING §188-42 OF THE HILLSIDE TOWNSHIP CODE**

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, 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 Distributer 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 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 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 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 Hillside Township Council of the Township of Hillside 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 Township of Hillside in particular, it is at this time necessary and appropriate, and in the best interest of the health, safety and welfare of Township of Hillside's residents and members of the public who visit, travel, or conduct business in the Township of Hillside, to amend the Township of Hillside's zoning regulations to prohibit all manner of marijuana-related land use and development within the geographic boundaries of the Township of Hillside.

NOW THEREFORE, BE IT ORDAINED, BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF HILLSIDE, IN THE COUNTY OF UNION, STATE OF NEW JERSEY, AS FOLLOWS:

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 Township of Hillside], except for the delivery of cannabis items and related supplies by a delivery service.

2. §188-42 of the Hillside Municipal Code entitled *Prohibited uses* is hereby amended by adding to the list of prohibited uses, the following:

C. The following classes of cannabis licensed facilities are expressly prohibited: 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: specifically, Cannabis Cultivator license; Cannabis Manufacturer license; Cannabis Wholesaler license, Cannabis Distributor license; Cannabis Retailer license and Cannabis Delivery license.

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clause, or other provision of the Hillside Municipal Code inconsistent with the provisions of this ordinance is hereby repealed to the extent of such inconsistency.

4. The Acting Township Clerk is hereby directed to give notice at least 10 days prior to a hearing on the adoption of this Ordinance to the Union County Planning Board and all other persons or entities entitled thereto pursuant to N.J.S.A. 40:55D-15, including Clerks of adjoining municipalities. The Acting Township Clerk shall execute Affidavits and Proof of Service of the notices required by this Section and shall keep the Affidavits on file along with the Proof of Publication of the notice of the required public hearing on the proposed change.

5. After introduction, the Township Clerk is hereby directed to submit a copy of this Ordinance to the Hillside Township Planning Board for its review in accordance with 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 Township Council within thirty-five (5) days after referral, a report including identification of any provisions in this proposed Ordinance that are inconsistent with the Township of Hillside's Master Plan and recommendations concerning any inconsistencies and any other matters that the Board may deem appropriate.

6. 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.

7. This ordinance shall take effect upon its passage and publication and filing with the Union County Planning Board pursuant to N.J.S.A. 40:55D-16 and as otherwise provided for by law.

Introduced: June 8, 2021

First Reading and Introduction: **June 8, 2021**


MOTION	SECOND	NAME	YEAS	NAYS	ABSTAIN	ABSENT	EXCUSED
		DeAugustine	x				
		Epps	x				
	x	Hyatt	x				
x		Mobley	x				
		Mondella	x				
		Cook, VP	x				
		Freedman, CP	x				

PUBLIC HEARING: **July 20, 2021**

MOTION	SECOND	NAME	YEAS	NAYS	ABSTAIN	ABSENT	EXCUSED
	x	DeAugustine	x				
		Epps	x				
		Hyatt	x				
		Mobley	x				
		Mondella	x				
x		Cook, VP	x				
		Freedman, CP	x				

FINAL ADOPTION: **July 20, 2021**

MOTION	SECOND	NAME	YEAS	NAYS	ABSTAIN	ABSENT	EXCUSED
	x	DeAugustine	x				
		Epps	x				
		Hyatt	x				
		Mobley	x				
		Mondella	x				
x		Cook, VP	x				
		Freedman, CP	x				


 Gerald Pateesh Freedman, Council President

ATTEST:


 Beverly Harris, Acting Township Clerk

Approved:

 Dahlia O. Vertreese, Mayor

7-26-2021
 Date

Vetoed: _____

Returned to the Township Clerk with the following statement of objections:

