

**LEGAL NOTICE
ORDINANCE NO. 16
2021
TOWNSHIP OF WAYNE
COUNTY OF PASSAIC
STATE OF NEW JERSEY**

**AN ORDINANCE TO REPEAL AND REPLACE CHAPTER 134
(LAND DEVELOPMENT), § 134-28.1H OF THE CODE OF
THE TOWNSHIP OF WAYNE**

WHEREAS, the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act ("Act") (P.L.2021, c.16, approved February 22, 2021, legalizes personal use cannabis for certain adults, subject to State regulation, decriminalizes small amount marijuana and hashish possession, and removes marijuana as Schedule I drug; and

WHEREAS, Section 31 of the Act provides that a municipality may enact ordinances or regulations, within 180 days after the effective date of the Act, not in conflict with the provisions of P.L.2021, c.16:

1) governing the number of cannabis establishments, distributors, or delivery services, as well as the location, manner, and times of operation of establishments and distributors, but the time of operation of delivery services shall be subject only to regulation by the Cannabis Regulatory Commission established pursuant to section 31 of P.L.2019, c.153 (C.24:61-24); and

(2) establishing civil penalties for violation of an ordinance or regulation governing the number of cannabis establishments, distributors, or delivery services that may operate in such municipality, or their location, manner, or the times of operations; and

WHEREAS, Section 31 of the Act further provides that a municipality may prohibit the operation of any one or more classes of cannabis establishment or cannabis distributors or cannabis delivery services, but not the delivery of cannabis items and related supplies by a delivery service within the jurisdiction of the municipality through the enactment of an ordinance and that only an ordinance to prohibit one or more classes of cannabis establishment or cannabis distributors or cannabis delivery services enacted pursuant to the specific authority to do so by this section shall be valid and enforceable; and

WHEREAS, the failure of a municipality to enact an ordinance prohibiting the operation of one or more classes of cannabis establishment or cannabis distributors or cannabis delivery services within 180 days after the effective date of the Act, shall result in any class of cannabis establishment or a cannabis distributor or cannabis delivery services that is not prohibited from operating within the municipality as being permitted for a five-year period from the date of the Act; and

WHEREAS, any ordinance enacted by a municipality prior to the effective date of this section addressing the issue of prohibiting one or more types of cannabis-related activities within the jurisdiction of the municipality is null and void; and

WHEREAS, pursuant to the Act, Ordinance No. 46 of 2018 amending Chapter 134 (Land Development), Article III (Zoning Regulations), Section 134-28 (Uses prohibited), ¶ 134-28.1H of the Code of the Township of Wayne is now null and void; and

WHEREAS, the Township Council has determined that the sale, manufacture, and/or distribution of cannabis within the Township limits would be detrimental to the public health, safety and welfare of the municipality; and

WHEREAS, pursuant to N.J.S.A. 40:48-2, the governing body of a municipality may make, amend, repeal, and enforce such other ordinances, regulations, rules and by-laws not contrary to the laws of this state or of the United States, as it may deem necessary and proper for the good of government, order and protection of person and property, and for the preservation of the public health, safety and welfare of the municipality and its inhabitants, and as may be necessary to carry into effect the powers and duties conferred and imposed by this subtitle, or by any law; and

WHEREAS, pursuant to N.J.S.A. 40:55D-62 and 40:55D-65, the governing body may adopt or amend a zoning ordinance related to the nature and extent of the uses of land and structures thereon and a zoning ordinance may restrict buildings and structures according to their type and the nature and extent of their use; and

WHEREAS, Chapter 134 (Land Development), Article III (Zoning Regulations), Section 134-28 (Uses prohibited), needs to be amended and supplemented to prohibit businesses engaged in the manufacture, sale, and/or distribution of cannabis and/or paraphernalia associated with cannabis use in all of the Township's zoning districts.

NOW, THEREFORE, BE IT ORDAINED by the Township Council of the Township of Wayne in the County of Passaic, State of New Jersey, as follows:

SECTION 1. Chapter 134 (Land Development), Article III (Zoning Regulations), Section 134-28 (Uses prohibited), subsection 134-28.1H of the Code of the Township of Wayne is hereby repealed in its entirety.

SECTION 2. Pursuant to the specific authority vested in the Township Council of the Township of Wayne by Section 31 of P.L.2021, c.16, Chapter 134 (Land Development), Article III (Zoning Regulations), Section 134-28 (Uses prohibited) of the Code is hereby supplemented to read as follows [additions by **bold**, deletions by ~~strikethrough~~]:

§ 134-28. Uses prohibited.

§ 134-28.1. Uses prohibited in all districts.

All uses not expressly permitted in this article are prohibited, including, but not limited to, the following:

H. All classes (1 through 6) of cannabis establishment or cannabis distributors or cannabis delivery services including cannabis cultivators, manufacturers, wholesalers, retailers, cannabis testing facilities, medical cannabis dispensaries, clinical registrant or cannabis retailer including any alternative treatment centers deemed to hold a medical cannabis dispensary permit pursuant to Section 7 of P.L.2009, c.307 (C.24:61-7) are expressly prohibited within the Township of Wayne.

SECTION 3. As required by N.J.S.A. 40:55D-64, prior to the hearing on adoption of this ordinance, the Township Clerk shall send a copy of this ordinance to the Wayne Planning Board for its review and comment pursuant to N.J.S.A. 40:55D-26. The Township Clerk shall also send a copy of this ordinance upon introduction and adoption to the Passaic County Planning Board pursuant to N.J.S.A. 40:55D-16.

SECTION 4. All other provisions of Chapter 134, Section 134-28 of the Code of the Township of Wayne shall remain unchanged.

SECTION 5: Severability. The provisions of this Ordinance are declared to be severable and if any section, sub-section, sentence, clause, phrase, or any other part of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not affect, impair, or invalidate the validity of the remaining sections, subsections, sentences, clauses, and phrases of this Ordinance, but shall remain in effect; it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

SECTION 6: Repeal of Inconsistent Provisions. All ordinances or parts thereof in conflict or inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency or conflict.

SECTION 7: Codification. This Ordinance shall be a part of the Code of the Township of Wayne as though codified and fully set forth therein. The Township Clerk shall have this ordinance codified and incorporated in the official copies of the Code. The Township Clerk and the Township Attorney are authorized and directed to change any Chapter, Article and/or Section number of the Code of the Township of Wayne in the event that the codification of this Ordinance reveals that there is a conflict between the numbers and the existing Code, and in order to avoid confusion and possible accidental repealers of existing provisions not intended to be repealed.

SECTION 8. This ordinance shall take effect twenty days after final passage, adoption, and publication in the manner prescribed by law.

ATTEST:

PAUL V. MARGIOTTA
TOWNSHIP CLERK

RICHARD JASTERZBSKI
PRESIDENT OF THE COUNCIL

NOTICE

I hereby certify that the aforementioned ordinance was published in the Herald News, a newspaper published in the County of Passaic and circulated in the Township of Wayne, in the issues of March 10, 2021 and April 14, 2021.

PAUL V. MARIOTTA
Township Clerk

This ordinance is hereby
approved this 8th day
of April 2021.

ADOPTED ON: April 7, 2021

CHRISTOPHER P. VERGANO
Mayor