

Ordinance

No. 2-2023

AN ORDINANCE BY THE BOROUGH OF WESTVILLE IN GLOUCESTER COUNTY, NEW JERSEY REPEALING ORDINANCE #9-2021 AND AMENDING CHAPTER 205, LAND USE AND DEVELOPMENT, OF THE BOROUGH CODE BOOK TO PERMIT THE OPERATION OF CERTAIN CLASSES OF LEGAL CANNABIS BUSINESSES WITHIN THE I-4 LIGHT INDUSTRIAL DISTRICT OF THE BOROUGH OF WESTVILLE

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 on 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; 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

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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, the Borough Council of Westville seeks to adopt policies aimed at regulating local land use standards that shall be applicable to any person or entity licensed by the State and engaging in a lawful cannabis business within the municipal boundaries of the Borough; and

WHEREAS, the Borough Council of Westville finds that the adoption of such land use standards is consistent with the Legislature's findings that a controlled system of cannabis manufacturing, distribution, and sales must be designed in a way that enhances public health and minimizes harm to New Jersey communities and families.

NOW THEREFORE, BE IT ORDAINED, by the Council of the Borough of Westville, in the County of Gloucester, State of New Jersey, that the Code Book of the Borough of Westville shall be amended as following:

Section 1. The Borough of Westville that Ordinance #9-2021 Prohibiting the Operation of Any Class of Cannabis Business Within its Geographical Boundaries and Amending Chapter 205, Land Use Development, Section 76, Prohibited Uses adopted on August 3, 2021 is hereby repealed in its entirety.

Section 2. Chapter 205, Land Use and Development, Article I, Authority; Title; Definitions, Definitions, Section §205-3, Definitions and word usage, of the Code Book of the Borough of Westville is hereby amended to add the following definitions:

CANNABIS ESTABLISHMENT. A Cannabis Supplier or Cannabis Retailer. P.L. 2021, c. 16, known as the "New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act" (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;

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- Class 4 Cannabis Distributer license, for businesses involved in transporting cannabis plants in bulk from on 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.

CANNABIS RETAILER. A State-regulated cannabis retailer, medical cannabis alternative treatment center, or clinical registrant, which shall possess prior to commencing operations one of the classes of permit or permit endorsement issued by the State of New Jersey that authorizes the dispensation, sale, or distribution of cannabis or cannabis-derived or infused products and/or related clinical research, provided that such facility shall not cultivate, manufacture, process, or wholesale cannabis or cannabis products from such facility.

CANNABIS SUPPLIER. A State-regulated cannabis grower, also referred to as a cannabis cultivation facility; a cannabis processor, also referred to as a cannabis product manufacturing facility; a medical cannabis alternative treatment center; or a clinical registrant, all of which shall possess prior to commencing operations one of the classes of permit or permit endorsement issued by the State of New Jersey that authorizes such cannabis establishment to cultivate, manufacture, process, wholesale, and/or study or research cannabis or cannabis-derived or infused products, provided that such facility shall not dispense, sell, or distribute cannabis or cannabis products from such facility.

Section 3. Chapter 205, Land Use and Development, Article IX, I-4 Light Industrial District §205-52, Use Regulations, Subsection B, Conditional Uses, of the Code Book of the Borough of Westville is hereby amended to add subsection §205-52(B)(3):

- (3.) Cannabis Establishments of Class 1 and Class 2 are Conditional Uses subject to:
- (a.) Class 1 and Class 2 may be combined on the same site or within the same building.
 - (b.) May not locate within 1,000 feet of the property line of a public, private, or parochial school or day-care center.

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- (c.) Not permitted on any site that abuts a residential district. A minimum fifty-foot planted buffer is required along all other property lines.
- (d.) Area, setback, and coverage requirements:
 - [1] Minimum setback from a tract perimeter: 75 feet.
 - [2] Minimum parking or paved area setback from all property lines: 25 feet.
 - [3] Maximum building coverage shall not exceed 50%.
 - [4] Maximum impervious coverage shall not exceed 80%.
- (e.) Parking, loading, and access requirements shall conform to § 205-77 Off-street parking.
- (g.) May only grow medical marijuana in an indoor, enclosed, and secure building which includes electronic locking systems, electronic surveillance, and other features.
- (h.) Shall be legally registered in the State of New Jersey and possess a current valid medical marijuana permit from the Department of Health.
- (k.) Facilities for cultivation or production must be in indoor, enclosed, and secure buildings, which include electronic locking systems, electronic surveillance and other features required. Cultivation or production facilities shall not be located in a trailer, cargo container, mobile unit, mobile home, recreational vehicle, or other motor vehicle.
- (l.) The maximum floor area for cultivation or production shall be limited to 20,000 square feet, of which sufficient space must be set aside for secure storage of marijuana seeds, related finished product, and marijuana-related materials used in production or for required laboratory testing.
- (m.) There shall be no emission of dust, fumes, vapors, odors, or waste into the environment from any facility where medical marijuana growing, processing, or testing occurs.
- (n.) Facilities that grow, process, or store cannabis shall meet industry best practices for odor control.
- (o.) Byproducts from indoor cultivation or production facilities shall be secured and properly disposed of and shall not be placed within any unsecure exterior refuse containers.
- (q.) Green building design techniques are required to reduce the energy consumption and heat generation associated with cultivation and production facilities, which are using systems such as hydroponics. These techniques may include, but are not limited to, solar screening, green or vegetative roofs, highly reflective and emissive roofing material, greywater or condensate reclamation systems, and light emitting diode (LED) lighting. These techniques shall be designed to the satisfaction of the Planning Board.

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(r.) Cultivation and production facilities are required to use renewable energy sources, such as solar or wind, to offset the substantial energy production requirements of systems such as hydroponics. The renewable energy source does not need to be located on-site.

(t.) All accesses must secure the appropriate highway occupancy permit (state, county and/or Borough).

Section 4. Repealer: All Ordinances or parts of Ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistencies.

Section 5. Severability: Each section of this Ordinance is an independent section, and the holding of any section or part thereof to be unconstitutional, void or ineffective, shall not be deemed to affect the validity or constitutionality of any other sections or parts hereof.

Section 6. This Ordinance shall take effect after final adoption and publication according to law.

Introduced: March 27, 2023

Adopted: May 22, 2023

BOROUGH OF WESTVILLE

**Fritz H. Sims, Jr.
MAYOR**

ATTEST:

**Kathleen Carroll
DEPUTY MUNICIPAL CLERK**