

**HARDING TOWNSHIP
ORDINANCE #10-2021**

AN ORDINANCE BY THE TOWNSHIP OF HARDING IN MORRIS COUNTY, NEW JERSEY PROHIBITING THE OPERATION OF ANY CLASS OF RECREATIONAL OR MEDICAL CANNABIS BUSINESSES WITHIN ITS GEOGRAPHICAL BOUNDARIES, AMENDING AND READOPTING §225-116 L (3) AND RESCINDING AND REPLACING §225-116.1 B OF THE CODE OF HARDING TOWNSHIP

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.

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

WHEREAS, officials from two prominent non-profit organizations that have been established for the purpose of advising New Jersey municipalities on legal matters such as have been presented by the Act (those organizations being the New Jersey State League of Municipalities and the New Jersey Institute of Local Government Attorneys) have strongly urged that, due to the complexity and novelty of the Act; the many areas of municipal law that are or may be implicated in decisions as to whether or to what extent cannabis or medical cannabis should be permitted for land use purposes or otherwise regulated in any particular municipality; and the relatively short duration in which the Act would allow such decisions to be made before imposing an automatic authorization of such uses in specified zoning districts subject to unspecified conditions, the most prudent course of action for all municipalities, whether or not generally in favor of cannabis or medical cannabis land development and uses, would be to prohibit all such uses within the Act's 180-day period in order to ensure sufficient time to carefully review all aspects of the Act and its impacts.

NOW THEREFORE, BE IT ORDAINED, by the Township Committee of the Township of Harding, in the County of Morris, State of New Jersey, that §225-116 L (3) be and is hereby amended and readopted and §225-116.1 B of the Code of the Township of Harding is hereby

rescinded and replaced as follows (deleted sections have strikethrough; added sections are bolded and underlined):

SECTION 1. §225.116 **General regulations.**

A-K. *No changes.*

L. Right to farm. Farming or the operation of a commercial farm shall be a permitted use in all zones subject to the conditions and standards set forth in this chapter.

(1)-(2). *No changes.*

(3) **In accordance with §225.116.1 B (i) and (ii), the manufacture, cultivation or farming of marijuana or cannabis for any purpose is prohibited.**

SECTION 2. §225.116.1 **Prohibited uses.**

A. *No changes.*

B. (i) **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, whether for medicinal or recreational purposes, and including those establishments that manufacture, sell or dispense cannabis related paraphernalia, are prohibited from operating anywhere in the Township of Harding, but not the delivery of cannabis items and related supplies by a delivery service that emanates from a delivery service located outside of the municipal boundaries of Harding Township.**

(ii) **Marijuana or cannabis cultivation facilities, marijuana or cannabis production or manufacturing facilities, marijuana or cannabis testing facilities, marijuana or cannabis wholesale or retail stores, marijuana or cannabis dispensaries, marijuana or cannabis delivery services which are related to cannabis or marijuana for medical purposes, and such facilities or stores that manufacture, sell or dispense marijuana or cannabis related paraphernalia for medical purposes, are prohibited from operating anywhere in the Township of Harding, but not the delivery of medical marijuana or medical cannabis related items and related supplies by a delivery service that emanates from a delivery service located outside of the municipal boundaries of Harding Township.**

SECTION 3: At least three copies of said full Ordinance are on file in the Office of the Municipal Clerk for public examination and acquisition. Copies are available for inspection or acquisition

during regular weekday working hours and arrangements have been made for the publication of said proposed Ordinance in pamphlet or other similar form which will be available for purchase from the Township Clerk.

SECTION 4: This Ordinance shall take effect upon final passage and publication according to law.


SECTION 5: The Township Clerk is hereby directed to give notice at least ten days prior to the hearing on the adoption of this Ordinance to the County Planning Board, and to all others entitled thereto pursuant to the provisions of N.J.S.A. 40:55D-15. Upon adoption of this Ordinance, after public hearing thereon, the Municipal Clerk is further directed to publish notice of passage thereof and file a copy of this Ordinance as finally adopted with the County Planning Board as required by N.J.S.A. 40:55D-16 and with the Township Tax Assessor.

SECTION 6: All Ordinance or parts of Ordinances inconsistent herewith are hereby repealed.


SECTION 7: If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions.

ATTEST:

TOWNSHIP OF HARDING



Lisa A. Sharp, RMC
Municipal Clerk



Timothy D. Jones
Mayor

INTRODUCED: May 10, 2021

ADVERTISED: May 13, 2021

PUBLIC HEARING: June 14, 2021

ADOPTED: June 14, 2021

ADVERTISED: June 17, 2021

Vote on Adoption:

	MOTION	FOR APPROVAL	AGAINST APPROVAL	ABSTAIN
Ms. Chipperson		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ms. DiTosto	2nd	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ms. Platt		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Yates	1st	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Jones		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>