

Introduced: 05/11/2021
Public Hearing: 06/15/2021
Adopted: 06/15/2021

**TOWNSHIP OF TEWKSBURY
HUNTERDON COUNTY, NEW JERSEY
ORDINANCE NO. 04-2021**

AN ORDINANCE AMENDING AND SUPPLEMENTING ARTICLE III, DEFINITIONS, SECTION 301, WORDS AND TERMS DEFINED, AND ARTICLE VII, ZONING PROVISIONS, SECTION 725, PROHIBITED USES, OF THE DEVELOPMENT REGULATIONS ORDINANCE OF THE TOWNSHIP OF TEWKSBURY.

WHEREAS, on February 22, 2020, the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act, P.L. 2021, c. 16 (the “Act”) was signed into law; and

WHEREAS, the Act legalizes the recreational use of marijuana by adults twenty-one 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 permits municipalities to enact ordinances regulating or prohibiting the operation of any one or more classes of cannabis establishment, or cannabis distributors or cannabis delivery services, as those terms are defined therein; and

WHEREAS, municipalities are not permitted to regulate the delivery of cannabis items and related supplies by a delivery service, within the jurisdiction of the municipality under the Act; and

WHEREAS, the Act requires 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 the Act, the failure to enact such municipal regulation or prohibition by the stated deadline 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

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WHEREAS, the Township Committee of the Township of Tewksbury (the “Township”) finds and declares 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 the Township in particular, it is necessary and appropriate at this time, and in the best interest of the health, safety and welfare of the Township and its residents to amend the Township Development Regulations Ordinance to prohibit the development and operation of cannabis establishments, cannabis distributors and cannabis delivery services within the Township, except for the delivery of cannabis and cannabis items by cannabis delivery services located outside the Township.

NOW THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Tewksbury, Hunterdon County, New Jersey, as follows:

SECTION 1. Article III, Definitions, Section 301, Words and Terms Defined, of the Development Regulations Ordinance of the Township of Tewksbury is hereby supplemented with the following definitions:

Cannabis. All parts of the plant *Cannabis sativa* L., whether growing or not, the seeds thereof, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds, except those containing resin extracted from the plant, which are cultivated and, when applicable, manufactured in accordance with P.L.2021, c.16 (N.J.S.A. 24:6I-31 et al.) for use in cannabis products as set forth in this act, but shall not include the weight of any other ingredient combined with cannabis to prepare topical or oral administrations, food, drink, or other product.

Cannabis Cultivator. Any licensed person or entity that holds a Class 1 Cannabis Cultivator license or grows, cultivates, or produces cannabis in this State, and sells, and may transport, this cannabis to other cannabis cultivators, or usable cannabis to cannabis manufacturers, cannabis wholesalers, or cannabis retailers, but not to consumers.

Cannabis Delivery Service. Any licensed person or entity that holds a Class 6 Cannabis Delivery license or provides courier services for consumer purchases of cannabis items and related supplies fulfilled by a cannabis retailer in order to make deliveries of the cannabis items and related supplies to that consumer, and which services include the ability of a consumer to purchase the cannabis items directly through the cannabis delivery service, which after presenting the purchase order to the cannabis retailer for fulfillment, is delivered to that consumer.

Cannabis Distributor. Any licensed person or entity that holds a Class 4 Cannabis Distributor license or transports cannabis in bulk intrastate from one licensed cannabis cultivator to another

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licensed cannabis cultivator, or transports cannabis items in bulk intrastate from any one class of licensed cannabis establishment to another class of licensed cannabis establishment, and may engage in the temporary storage of cannabis or cannabis items as necessary to carry out transportation activities.

Cannabis Establishment. A cannabis cultivator, a cannabis manufacturer, a cannabis wholesaler, or a cannabis retailer.

Cannabis Item. Any usable cannabis, cannabis product, cannabis extract, and any other cannabis resin.

Cannabis Manufacturer. Any licensed person or entity that holds a Class 2 Cannabis Manufacturer license or processes cannabis items in this State by purchasing or otherwise obtaining usable cannabis, manufacturing, preparing, and packaging cannabis items, and selling, and optionally transporting, these items to other cannabis manufacturers, cannabis wholesalers, or cannabis retailers, but not to consumers.

Cannabis Product. A product containing usable cannabis, cannabis extract, or any other cannabis resin and other ingredients intended for human consumption or use, including a product intended to be applied to the skin or hair, edible cannabis products, ointments, and tinctures. “Cannabis product” does not include: (1) usable cannabis by itself; or (2) cannabis extract by itself; or (3) any other cannabis resin by itself.

Cannabis Retailer. Any licensed person or entity that holds a Class 5 Cannabis Retailer license or purchases or otherwise obtains usable cannabis from cannabis cultivators and cannabis items from cannabis manufacturers or cannabis wholesalers, and sells these to consumers from a retail store, and may use a cannabis delivery service or a certified cannabis handler for the off-premises delivery of cannabis items and related supplies to consumers.

Cannabis Wholesaler. Any licensed person or entity that holds a Class 3 Cannabis Wholesaler license or purchases or otherwise obtains, stores, sells or otherwise transfers, and may transport, cannabis items for the purpose of resale or other transfer to either another cannabis wholesaler or to a cannabis retailer, but not to consumers.

SECTION 2, Article VII, Zoning Provisions, Section 725, Prohibited Uses, of the Development Regulations Ordinance of the Township of Tewksbury is hereby amended and supplemented as follows:

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- A. Solar or photovoltaic energy systems that are designed for off-site electric power consumption.
- B. Cannabis establishments, including any cannabis cultivator, cannabis manufacturer, cannabis wholesaler or cannabis retailer.
- C. Cannabis distributors.
- D. Cannabis delivery services.
- E. All uses not expressly permitted in this Ordinance are prohibited.

SECTION 3. All actions of the Township taken prior to the date of adoption hereof contemplated by this Ordinance are hereby ratified and approved.

SECTION 4. If any section, paragraph, subsection, clause or provision of this Ordinance shall be declared invalid by a court of competent jurisdiction, such decision shall not affect the validity of this Ordinance as a whole or any remaining part thereof.

SECTION 5. All Ordinances or parts of Ordinances of the Township of Tewksbury heretofore adopted that are inconsistent with any of the terms and provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION 6. This Ordinance shall take effect upon its final passage, approval and publication as provided by law.

I HEREBY CERTIFY the above to be a true copy of an Ordinance introduced by the Township Committee of the Township of Tewksbury at a duly convened meeting held on May 11, 2021 and adopted on June 15, 2021.

Jennifer Ader
Registered Municipal Clerk