

**TOWNSHIP OF LEBANON
COUNTY OF HUNTERDON**

ORDINANCE NO. 2021-07

**PROHIBITING THE OPERATION OF
ALL CLASSES OF CANNABIS BUSINESSES
WITHIN ITS GEOGRAPHICAL BOUNDARIES AND AMENDING SECTION
OF LEBANON TOWNSHIP CODE 400-9(A-C)**

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 it was approved by 64% of more than 4,000 votes cast in the Township of Lebanon; 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 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 has examined the potential for allowing Cannabis Retail as a Conditional Use in its B2 Highway Commercial Zone but has determined that the current mixed use of residential and commercial in this Zone would highly constrain potential Cannabis Retail locations; and

WHEREAS, the Mayor and Committee of the Township of Lebanon have 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 the Township of Lebanon in particular, it is at this time necessary and appropriate, and in the best interest of the health, safety and welfare of the Township's residents to amend the Township of Lebanon's zoning regulations to prohibit the following marijuana-related land use and development within the geographic boundaries of the Township: all Classes.

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and Committee of the Township of Lebanon, in the County of Hunterdon, 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 Classes are hereby prohibited from operating anywhere in the Township of Lebanon. It is acknowledged that delivery services located in other municipalities shall be permitted to make deliveries in the Township of Lebanon.

2. Section 400-9(A-C) of the Township of Lebanon's Code "Zoning – Use Regulations" is hereby amended by adding to the list as prohibited uses, the following: "All Classes of

cannabis establishments as said terms are defined in Section 3 of P.L. 2021, c. 16 (but not the delivery of cannabis items and related supplies by a delivery service which is located in another municipality).” This shall apply to all zoning districts.

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clause, or other provision of Lebanon Code “Zoning” inconsistent with the provisions of this ordinance is hereby repealed to the extent of such inconsistency.

4. 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.

5. This ordinance shall take effect upon its passage and publication and filing with the Township of Lebanon Planning Board, and as otherwise provided for by law.

BE IT FURTHER ORDAINED that this Ordinance shall take effect immediately upon final passage and adoption and publication according to law.

Mike Schmidt, Mayor

ATTEST:

Karen J. Sandorse, RMC/CMC/CMR
Township Clerk

Introduction: July 7, 2021

Public Hearing: August 18, 2021

Adoption: August 18, 2021

I certify that the foregoing Ordinance is a true and accurate copy of an Ordinance adopted by the Lebanon Township Committee on August 18, 2021.

Karen J. Sandorse, RMC/CMC/CMR
Township Clerk