

**CITY COUNCIL****The City of Orange Township, New Jersey**DATE August 4, 2021

14-2021

(Amended)

NUMBER \_\_\_\_\_

**TITLE:**

**AN ORDINANCE TO AMEND THE CODE OF THE CITY OF ORANGE TOWNSHIP, CHAPTER 210, "DEVELOPMENT REGULATIONS", TO PROHIBIT ANY CLASS OF CANNABIS BUSINESSES WITHIN ITS GEOGRAPHICAL BOUNDARIES. (Sponsored by Council Members Tency A. Eason, Kerry J. Coley, Harold J. Johnson, Jr., Weldon M. Montague, III and Clifford R. Ross).**

**WHEREAS**, on November 3, 2020 the citizens of the State of New Jersey approved New Jersey 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 City Council of the City of Orange Township 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 the City of Orange Township in particular, it is at this time necessary and appropriate, and in the best interest of the health, safety and welfare of the City of Orange Township's residents and members of the public who visit, travel, or conduct business in the City of Orange Township, to amend the City of Orange Township's zoning regulations to prohibit all manner of marijuana-related land use and development within the geographic boundaries of the City of Orange 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;

WHEREAS, due to the aforementioned concerns, the City Council of the City of Orange Township has a desire to revisit the issue of legal cannabis sales in the City of Orange Township in the next 3 years once the effects of legalization can be properly assessed.

NOW, THEREFORE BE IT ORDAINED that the City Council of the City of Orange Township that Chapter 210 of the Code is amended and supplemented as follows:

**SECTION 1.**

Chapter 210, Section 210-17.3 of the Code of the City of Orange Township shall be amended to add the following Nonresidential Use:

LEGEND	DISTRICT											
	AA	A-1	A-2	B-1	B-2	C-1	C-1A	C-2	C-3	CD	CDA	TVO
P – Permitted Use												
C – Conditional Use												
A – Permitted Accessory Use												
- - Not Permitted												
USE DESCRIPTIONS												
Non Residential Uses												
<u>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, but not the delivery of cannabis items and related supplies by a delivery service.</u>	--	--	--	--	--	--	--	--	--	--	--	--

**SECTION 2.**

After introduction of this ordinance, the City Clerk shall send a copy of this ordinance to the City of Orange Planning Board for its review and comment. The City shall send a copy of this ordinance upon introduction and adoption to the Essex County Planning Board pursuant to N.J.S.A. 40:55D-16.

**SECTION 3. Severability of Ordinance Provisions**

Each section of this ordinance is an independent section, and the holding of any section or part thereof to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity of constitutionality of any other sections or parts thereof.


**SECTION 4. Conflict of Other Ordinance Provisions**


That all ordinances and parts of ordinances and conflicts that are inconsistent with this ordinance are hereby repealed but only to the extent of such conflict or inconsistency.

**SECTION 5. Effective Date of Ordinance Provisions**

That this ordinance shall take effect upon final passage upon expiration of twenty (20) days following publication unless otherwise provided.

Adopted: August 4, 2021

  
\_\_\_\_\_  
Joyce L. Lanier  
City Clerk

  
\_\_\_\_\_  
Kerry J. Coley  
Council President

\_\_\_\_\_  
Dwayne D. Warren, Esq.  
Mayor

Dated: \_\_\_\_\_

**PURPOSE**

To prohibit the retail sale of legalized cannabis in the City of Orange Township.

**FISCAL IMPACT**

None.

**ORDINANCE NO. 14-2021**

**REGULAR MEETING – March 16, 2021**

**INTRODUCTION-FIRST READING**

**MOTION TO ADOPT: Johnson, Jr.**

**SECOND: Montague, III**

**YEAS: Eason, Johnson, Jr., Ross & Council Pres. Coley**

**NAYS: Summers-Johnson & Wooten**

**ABSTENTIONS: Montague, III**

**ABSENCES: None**

**SECOND READING PUBLIC/FINAL HEARING – April 20, 2021**

**ORDINANCE NO. 14-2021**

**REGULAR MEETING – April 20, 2021**

**MOTION TO TABLE: Ross**

**SECOND: Johnson, Jr.**

**YEAS: Eason, Johnson, Jr., Montague, III, Ross & Council Pres. Coley**

**NAYS: Summers-Johnson & Wooten**

**ABSTENTIONS: None**

**ABSENCES: None**

**MOTION TO RESCIND: Ross**

**SECOND: Johnson, Jr.**

**YEAS: Eason, Johnson, Jr., Ross & Council Pres. Coley**

**NAYS: Summers-Johnson & Wooten**

**ABSTENTIONS: Montague, III**

**ABSENCES: None**

**MOTION TO TABLE: Ross**

**SECOND: Johnson, Jr.**

**YEAS: Eason, Johnson, Jr., Ross & Council Pres. Coley**

**NAYS: Montague, III, Summers-Johnson & Wooten**

**ABSTENTIONS: None**

**ABSENCES: None**

**REGULAR MEETING – May 4, 2021**

**MOTION TO LIFT FROM TABLE: NO MOTION WAS MADE. REMAINED TABLE**

**YEAS: Eason, Johnson, Jr., Ross & Council Pres. Coley**

**NAYS: Summers-Johnson & Wooten**

**ABSTENTIONS: Montague, III**

**ABSENCES: None**

**REGULAR MEETING – May 18, 2021**

**MOTION TO LIFT FROM TABLE: Montague, III**

**SECOND: Ross**

**YEAS: Eason, Johnson, Jr., Montague, III, Ross, Summers-Johnson, Wooten & Council Pres. Coley**

**NAYS: None**

**ABSTENTIONS: None**

**ABSENCES: None**

**REMAINED TABLE**

**REGULAR MEETING-JUNE 1, 2021- REMAIN TABLE**

**REGULAR MEETING – SECOND READING PUBLIC/FINAL HEARING - August 4, 2021**

**MOTION TO LIFT FROM TABLE: Johnson, Jr.**

**SECOND: Ross**

**YEAS: Eason, Johnson, Jr., Montague, III, Ross, Summers-Johnson & Council Pres. Coley**

**NAYS: Wooten**

**ABSTENTIONS: None**

**ABSENCES: None**

**MOTION TO ADOPT AS AMENDED: Johnson, Jr.**

**SECOND: Ross**

**YEAS: Eason, Johnson, Jr., Montague, III, Ross & Council Pres. Coley**

**NAYS: Summers-Johnson and Wooten**

**ABSTENTIONS: None**

**ABSENCES: None**

**VETOED BY THE MAYOR ON AUGUST 14, 2021**