



**BOROUGH OF LEBANON
COUNTY OF HUNTERDON
STATE OF NEW JERSEY
ORDINANCE NO. 2021-03**

AN ORDINANCE OF THE BOROUGH OF LEBANON, COUNTY OF HUNTERDON TO AMEND THE GENERAL CODE OF THE BOROUGH OF LEBANON AND ALL LAND USE AND ZONING REGULATIONS SO AS TO PROHIBIT ALL CLASSES OF CANNABIS AND BUSINESS WITHIN THE BOROUGH

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 twenty-one 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 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 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 one 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 purchased 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 of 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, the Act requires affirmative Municipal action to prohibit various “Cannabis Use Classes” within a Municipality; which concept of zoning is contrary to the traditional requirements of local Ordinances whereby a particular use is prohibited, unless it is specifically permitted by Ordinance. Thus pursuant to section 31b of the Act, the failure of the Borough to prohibit such use would mean that for a period of five years thereafter, the growing, cultivating, manufacturing, selling, and reselling of cannabis and cannabis items would be and 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, the Governing Body has reviewed the Master Plan and re-examination reports of the Planning Board of the Borough of Lebanon, and has taken into consideration the nature and environment of the Lebanon Borough Community, including its elementary school, various religious facilities, civic and volunteer organizations and the overall density and zoning of the Borough in reaching its conclusions as contained in this Ordinance. In addition thereto, the Governing Body has determined that due to present widely acknowledged uncertainties regarding the potential future impacts that allowing one or more of the designated Cannabis business classes might have on Municipalities, and in particular, the Borough of Lebanon, the Governing Body finds that, in the best interest of the health, safety and welfare of the Borough residents and members of the general public who visit, travel, or conduct business in the Borough, it is advisable to amend the Borough’s General Ordinance regulations and all Zoning Regulations, so as to prohibit all manners of marijuana-related land use and business class development within the Borough.

NOW THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Lebanon, County of Hunterdon and State of New Jersey, as follows:

1. **Legislative History.** The foregoing legislative history and preamble to this ordinance are hereby incorporated as if fully restated herein.
2. **Purpose.** The purpose of this chapter is the regulation of the retail sale, cultivation, manufacturing and testing of recreational cannabis within the Borough of Lebanon, County of Hunterdon, in accordance with the provisions of the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (P.L. 2021, c 16.)
3. **Cannabis businesses prohibited.** Pursuant to section 31b of the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (P.L. 2021, c. 16) (the “Act”), all classes of cannabis establishments, cannabis distributors or cannabis delivery services as said terms are defined in section 3 of the Act are hereby prohibited from operating anywhere in the Borough of Lebanon, except for the delivery of cannabis items and related supplies within the Borough by a licensed delivery service located outside of the Borough. All sections of all provisions of the Ordinances of the Borough of Lebanon, and specifically all Zoning and Development regulations, shall be amended to add the above enumerated classes and uses to the list of prohibited uses.
4. **Smoke Free.** The smoking of a cannabis product shall be prohibited in any and all areas, places, and zones, which are presently established as smoke free areas, by Municipal, County and/or State regulations.
5. **Violations and Penalties.** Any person(s) who shall violate any of the provisions of this Ordinance shall be subject to the penalties as set forth in the General Penalty Provision of the Lebanon Borough Ordinances (Ord. #2010-4); that is:

A fine not exceeding \$2,000.00; and/or a period of community service not exceeding ninety (90) days; and/or imprisonment in the County Jail or in any other place provided by the Municipality for the retention of prisoners for a term not exceeding ninety (90) days, as determined by the Court. (N.J.S. 40:49-5)

With regard to housing or zoning code violations, the maximum penalty for each violation shall be a fine not to exceed \$1,250.00.

Each day that a violation continues shall be deemed and treated as a separate and distinct violation for purposes of penalties to be imposed.
6. **Repealer.** All ordinances and resolutions or parts thereof inconsistent with this ordinance are repealed.

7. **Severability.** In event that any clause, section, paragraph, or sentence of this Ordinance is deemed to be invalid or unenforceable for any reason; it shall be deemed severable, and the Borough Council hereby declares its intent that the balance of the Ordinance shall not be affected by the said invalidity, and the remainder shall remain in full force and effect.

8. **Effective Date.**

This Ordinance shall take effect upon final adoption and publication in accordance with the law and filing of same with the Hunterdon County Planning Board.

Vote after public hearing and upon final adoption:

Burton 1
Berger 1
Baldinger 1
Cortese 1
Lance 1
Logan 0

Ordinance approved by the Governing
Body and presented to the Mayor on
_____, 2021

Veto in Whole or Part:

Approved:

James Pittinger, Mayor
Date:

{or}

James Pittinger, Mayor
Date:

Returned to Borough Clerk with statement attached on _____, 2021

NOTICE

TAKE NOTICE that the above ordinance was introduced at a regular meeting of the Borough Council of the Borough of Lebanon on May 19, 2021, and will be considered for final passage after public hearing at a regular meeting of the Borough Council of the Borough of Lebanon to be held on June 16, 2021, at 7:30 p.m. in the Municipal Building, located at 6 High Street, Lebanon, New Jersey

Karen M. Romano,
Borough Administrator/Clerk

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NOTICE is hereby given that the above Ordinance was introduced and passed on first reading at a meeting of the Borough Council of the Borough of Lebanon, in the County of Hunterdon, State of New Jersey, held in the Municipal Building on the 19th day of May 2021, and the same came up for final passage at a meeting of the said Borough Council on the 16th day of June, 2021 at which time, after persons interested were given an opportunity to be heard concerning said ordinance, the same was passed and will be in full force in the Borough according to law by order of the Borough Council of the Borough of Lebanon, County of Hunterdon and State of New Jersey.

Karen M. Romano, RMC
Borough Administrator/ Clerk

INTRODUCED: May 19, 2021
ADOPTED: June 16, 2021