

BOROUGH OF BRADLEY BEACH, MONMOUTH COUNTY

ORDINANCE 2021-13

AN ORDINANCE AMENDING CHAPTER 450: "ZONING" OF THE BOROUGH'S REVISED GENERAL ORDINANCES TO PROVIDE THAT ALL MEDICAL CANNABIS AND/OR RECREATIONAL CANNABIS BUSINESSES ARE DEEMED PROHIBITED USES WITHIN THE BOROUGH

Mayor Fox offered the following Ordinance and moved its introduction:

WHEREAS, in March 2020, the Borough of Bradley Beach, County of Monmouth, and State of New Jersey (the "Borough") adopted Ordinance No. 2020-05 to prohibit all cannabis businesses within the limits of the Borough under its Zoning Ordinance; and

WHEREAS, in November 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 cannabis operations, use and possession; and

WHEREAS, pursuant to Section 31(b) of the Act, "[o]nly an ordinance to prohibit one or more classes of cannabis establishment or cannabis distributors enacted pursuant to the specific authority to do so by this section shall be valid and enforceable"; and

WHEREAS, the Borough's Mayor and Council are concerned about the health and safety problems posed by the legalization of cannabis products, the potential for abuse, and especially, any use by minors; and

WHEREAS, pursuant to the authority granted to the Borough under the Act, the Mayor and Council believe that prohibiting all possible classes of cannabis uses within the Borough will help address these concerns and be in the best interest of the citizens of the Borough;

NOW, THEREFORE BE IT ORDAINED by the Mayor and Council of the Borough of Bradley Beach, County of Monmouth, and State of New Jersey as follows:

SECTION 1. Section 4 entitled "Definitions" of Chapter 450 entitled "Zoning" of the Revised General Ordinances of the Borough of Bradley Beach is hereby amended as follows (stricken text deleted; underlined text added):

~~**MEDICINAL CANNABIS RETAIL ESTABLISHMENT**—an entity licensed pursuant to the New Jersey Compassionate Use Medical Marijuana Act (P.L. 2009, c. 307) to lawfully purchase or receive medical cannabis and to sell medical cannabis and medical cannabis products to consumers from a retail store, with a full time pharmacist on site during operational hours, which shall also be known as a medical cannabis dispensary or medical marijuana dispensary.~~

~~**MARIJUANA CULTIVATION FACILITIES**—A facility licensed to grow and cultivate marijuana and/or cannabis and to sell marijuana and/or cannabis to cultivation facilities but not to consumers.~~

~~**MARIJUANA PRODUCT MANUFACTURING FACILITIES**—An entity licensed to purchase marijuana and/or cannabis; manufacture, prepare and package marijuana and/or cannabis items; and sell items to other marijuana and/or cannabis product manufacturing facilities and to marijuana and/or cannabis retailers, but not to consumers.~~

~~**MARIJUANA TESTING FACILITIES**—An independent, third party entity meeting accreditation requirements and is licensed to analyze and certify the safety and potency of marijuana and/or cannabis products and/or items.~~

~~**RECREATIONAL MARIJUANA RETAIL ESTABLISHMENTS**—an entity licensed to purchase recreational marijuana and/or cannabis from Marijuana Cultivation Facilities and recreational marijuana and/or cannabis items from Marijuana Product Manufacturing Facilities or recreational marijuana and/or cannabis wholesalers, and to sell recreational marijuana and/or cannabis and recreational marijuana and/or cannabis products to consumers from a retail store, which shall also be known as a dispensary.~~

CANNABIS CULTIVATOR - Any licensed person or entity that 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 DISTRIBUTOR - Any licensed person or entity that transports cannabis in bulk intrastate from one licensed cannabis cultivator to another 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 MANUFACTURER – Any licensed person or entity that 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 RETAILER – Any licensed person or entity that 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 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.

MEDICAL CANNABIS ALTERNATIVE TREATMENT CENTER - An organization issued a permit, including a conditional permit, by the State to operate as a medical cannabis cultivator, medical cannabis manufacturer, medical cannabis dispensary, or clinical registrant.

MEDICAL CANNABIS CULTIVATOR - An organization holding a permit issued by the State that authorizes the organization to: possess and cultivate cannabis and deliver, transfer, transport, distribute, supply, and sell medical cannabis and related supplies to other medical cannabis cultivators and to medical cannabis manufacturers, clinical registrants, and medical cannabis dispensaries, as well as to plant, cultivate, grow, and harvest medical cannabis for research purposes.

MEDICAL CANNABIS DISPENSARY - An organization issued a permit by the State that authorizes the organization to: purchase or obtain medical cannabis and related supplies from medical cannabis cultivators; purchase or obtain medical cannabis products and related supplies from medical cannabis manufacturers; purchase or obtain medical cannabis, medical cannabis products, and related supplies and paraphernalia from other medical cannabis dispensaries and from clinical registrants; deliver, transfer, transport, distribute, supply, and sell medical cannabis and medical cannabis products to other medical cannabis dispensaries; furnish medical cannabis, including medical cannabis products, to a medical cannabis handler for delivery to a registered qualifying patient, designated caregiver, or institutional caregiver; and possess, display, deliver, transfer, transport, distribute, supply, sell, and dispense medical cannabis, medical cannabis products, paraphernalia, and related supplies to qualifying patients, designated caregivers, and institutional caregivers.

MEDICAL CANNABIS MANUFACTURER - An organization issued a permit by the State that authorizes the organization to: purchase or obtain medical cannabis and related supplies from a medical cannabis cultivator or a clinical registrant; purchase or obtain medical cannabis products from another medical cannabis manufacturer or a clinical registrant; produce, manufacture, or otherwise create medical cannabis products; and possess, deliver, transfer, transport, distribute, supply, and sell medical cannabis products and related supplies to medical cannabis manufacturers and to medical cannabis dispensaries and clinical registrants.

SECTION 2. Section 10 entitled “Prohibited Uses In All Zones” of Chapter 450 entitled “Zoning” of the Revised General Ordinances of the Borough of Bradley Beach is hereby amended as follows (~~stricken~~ text deleted; underlined text added):

- (39) The operation of ~~Medical Cannabis Retail Establishments, Recreational Marijuana Retail Establishments, Marijuana Cultivation Facilities, Marijuana Production Facilities and Marijuana Testing Facilities.~~ Cannabis Cultivators, Cannabis Distributers, Cannabis Manufacturers, Cannabis Wholesalers, Cannabis Retailers, Medical Cannabis Alternative Treatment Centers, Medical Cannabis Cultivators, Medical Cannabis Dispensaries, and Medical Cannabis Manufacturers.

SECTION 3. If any article, section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance and they shall remain in full force and effect.

SECTION 4. In the event of any inconsistencies between the provisions of this Ordinance and any prior ordinance of the Borough of Bradley Beach, the provisions hereof shall be determined to govern. All other parts, portions and provisions of The Revised General Ordinances of the Borough of Bradley Beach are hereby ratified and confirmed, except where inconsistent with the terms hereof.


SECTION 5. After introduction, the Borough Clerk is hereby directed to submit a copy of the within Ordinance to the Planning Board of the Borough of Bradley Beach for its review in accordance with N.J.S.A. 40:55D-26 and N.J.S.A. 40:55D-64. The Planning Board is directed to make and transmit to the Borough’s Mayor & Council, within 35 days after referral, a report including identification of any provisions in the proposed ordinance which are inconsistent with the master plan and recommendations concerning any inconsistencies and any other matter as the Board deems appropriate.

SECTION 6. This Ordinance shall take effect upon (1) adoption; (2) publication in accordance with the laws of the State of New Jersey; and (3) filing of the final adopted Ordinance by the Clerk with the Monmouth County Planning Board pursuant to N.J.S.A. 40:55D-16.

SO ORDAINED as aforesaid.



ERICA KOSTYZ
Municipal Clerk



LARRY FOX
Mayor

Introduced: April 27, 2021

Date of Hearing and Adoption: June 9, 2021