

**TOWNSHIP OF WYCKOFF
ORDINANCE #1941**

AN ORDINANCE AMENDING CHAPTER 186, “ZONING,” SECTION 186-22, “REGULATIONS APPLYING TO ALL ZONES,” OF THE CODE OF THE TOWNSHIP OF WYCKOFF TO PROHIBIT THE OPERATION OF ANY CLASS OF CANNABIS BUSINESS WITHIN THE TOWNSHIP OF WYCKOFF

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

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 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, the Township Committee previously amended the Township of Wyckoff Land Development Code so as to prohibit the sale of marijuana in response to the State Legislature's potential legalization of the use and sale of marijuana in the State of New Jersey; and

WHEREAS, the previous amendment to the Township of Wyckoff Land Development Code has been voided by the Act; and

WHEREAS, section 31b of the Act authorizes municipalities to prohibit by ordinance the operation of any one or more classes of cannabis establishments, distributors and/or delivery services anywhere within the municipality, with the exception that a local governmental entity may not prohibit the delivery of cannabis items and related supplies by a delivery service based and initiated from outside the township; 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 of the Township of Wyckoff has determined that, due to present uncertainties regarding the potential future impacts that allowing one or more classes of cannabis businesses might have on New Jersey municipalities in general, and on Wyckoff in particular, it is at this time necessary and appropriate, and in the best interest of the health, safety and welfare of Wyckoff's residents and members of the public who visit, travel, or conduct business in Wyckoff, to amend Wyckoff's zoning regulations to prohibit all manner of cannabis and/or marijuana-related land use and development within the geographic boundaries of Wyckoff; 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;

NOW, THEREFORE, BE IT ORDAINED, by the Township Committee of the Township of Wyckoff, County of Bergen, State of New Jersey as follows:

Section 1. Pursuant to section 31b of the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (P.L. 2021, c. 16), all cannabis establishments, cannabis distributors, and/or cannabis delivery services are hereby prohibited from operating anywhere in the Township of Wyckoff, except for the delivery of cannabis items and related supplies by a delivery service based and initiated from outside the Township, notwithstanding any State law to the contrary.

Section 2. That Chapter 186, entitled "Zoning," Section 186-22, "Regulations applying to all zones," shall be amended to repeal and replace subparagraph X., prohibiting the sale of marijuana and marijuana paraphernalia, as follows:

Section 186-22. Regulations applying to all zones.

All classes of cannabis establishments, cannabis distributors and/or cannabis delivery services as said terms are defined in section 3 of P.L. 2021, c. 16, are hereby prohibited in all zoning districts, except for the delivery of cannabis items and related supplies by a cannabis delivery service based and initiated from outside the Township of Wyckoff.

Section 3. Repealer. All ordinances or parts of ordinances inconsistent or in conflict with this ordinance are hereby repealed as to said inconsistencies and conflict.

Section 4. Severability. If any section, part of any section or clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the remaining provisions of this ordinance. The Township Committee of the Township of Wyckoff declares that it would have passed the ordinance and each section thereof, irrespective of the fact that any one or more of the subsections, sentences, clauses or phrases may be declared unconstitutional or invalid.

Section 5. Effective Date. This Ordinance shall take effect immediately upon passage, publication and filing with the Bergen County Planning Board, and as otherwise provided for by law.