

**TOWN OF WESTFIELD
WESTFIELD, NEW JERSEY**

GENERAL ORDINANCE NO. 2218

**AN ORDINANCE OF THE TOWN OF WESTFIELD
PROHIBITING THE OPERATION OF ANY CLASS OF
CANNABIS BUSINESS WITHIN ITS GEOGRAPHICAL
BOUNDARIES AND AMENDING THE LAND USE LAW OF
THE TOWN CODE OF THE TOWN OF WESTFIELD**

WHEREAS, on November 3, 2020, voters in the State of New Jersey 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, 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 31(a) 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 31(b) 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 31(b) of the Act stipulates, however, that any regulation or prohibition must be adopted within 180 days of the effective date of the Act or by August 22, 2021; and

WHEREAS, pursuant to Section 31(b) 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 Town of Westfield, County of Union, and State of New Jersey (the “Town”) has determined that, due to present uncertainties regarding the potential future impacts on New Jersey municipalities in general, and on the Town in particular, it is at this time necessary, and in the best interest of the health, safety, and welfare of the Town’s residents and those who visit, travel, or conduct business in the Town, to prohibit all manner of marijuana-related businesses and all public consumption and underage possession of cannabis items within the Town; and

WHEREAS, 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 should be permitted for land use purposes or otherwise regulated in the Town; 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 the Town 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 RESOLVED:

SECTION I. Article 11, “Zone District Regulations,” of Chapter LUL, “Land Use Regulations,” of the Town Code of the Town of Westfield shall be and is hereby amended and supplemented, as follows:

Sec. 11.02.01 Cannabis Businesses Prohibited

Pursuant to Section 31(b) of the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (P.L. 2021, c. 16), all cannabis establishments, cannabis distributors, or cannabis delivery services, except as to medical cannabis alternative treatment centers, are hereby prohibited from operating anywhere in Town of Westfield, except (as expressly allowed by Section 31(b) of the Act) for the delivery of cannabis items and related supplies by a delivery service.

The operation of Cannabis Cultivators, Cannabis Distributors, Cannabis Manufacturers, Cannabis Wholesalers, and Cannabis Retailers are prohibited uses in all zones within the Town of Westfield.

SECTION II. All ordinances or parts of ordinances in conflict or inconsistent with any part of this Ordinance are hereby repealed to the extent that they are in conflict or inconsistent.

SECTION III. If any section, provision, or part of provision of this Ordinance shall be held to be unenforceable or invalid by any court, such holding shall not affect the validity of this Ordinance, or any part thereof, other than the part so held unenforceable or invalid.

SECTION IV. This Ordinance shall take effect after passage and publication in the manner provided by law.

NOTICE

Notice is hereby given that the foregoing ordinance was approved for final adoption by the Town Council of the Town of Westfield at a Regular Meeting held on June 15, 2021.

Tara Rowley, RMC
Town Clerk