

## **ORDINANCE #15-22**

### **ORDINANCE OF THE BOROUGH OF BROOKLAWN, COUNTY OF CAMDEN AND STATE OF NEW JERSEY AMENDING ORDINANCE NO. 14-21, TO PERMIT THE OPERATION OF CLASS I, CLASS II, AND CLASS 5 CANNABIS BUSINESSES, AND PROHIBITING THE OPERATION OF ALL OTHER CLASSES OF CANNABIS BUSINESSES WITHIN THE BOROUGH OF BROOKLAWN**

**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 Distributor 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 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 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 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 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 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 Borough Council of the Borough of Brooklawn, by Ordinance No. 14-21 dated July 19, 2021, which permitted the operation of Class 5 Cannabis businesses in the Borough of Brooklawn, and prohibited the operation of Class 1, Class 2, Class 3, Class 4 and Class 6 businesses in the Borough of Brooklawn, except for the delivery of cannabis items and related supplies by a delivery service; and

**WHEREAS**, the Borough Council of the Borough of Brooklawn now wish to amend Ordinance No. 14-21, to permit, in addition to Class V Cannabis businesses, the operation of Class 1 and Class 2 Cannabis businesses in the Borough of Brooklawn, while continuing to prohibited the operation of Class 3, Class 4 and Class 6 Cannabis businesses in the Borough of Brooklawn, except for the delivery of cannabis items and related supplies by a delivery service; and

**NOW THEREFORE, BE IT ORDAINED**, by the Borough Council of the Borough of Brooklawn, as follows:

1. Pursuant to Section 31(b) of the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (P .L. 2021, c. 16), cannabis cultivator establishments referred to as Class 1 businesses in the statute, cannabis manufacturer establishments referred to as Class 2 businesses in the statute, in addition to cannabis retail establishments referred to as Class 5 businesses in the statute, subject to the provisions of Chapter 150 of the Code of the Borough of Brooklawn, are permitted to operate in the Borough of Brooklawn; and

2. Pursuant to Section 31(b) of the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (P .L. 2021, c. 16), cannabis establishments, cannabis

distributors or cannabis delivery services referred to as Class 3, Class 4 and Class 6 businesses in the statute, are hereby prohibited from operating anywhere in the Borough of Brooklawn, except for the delivery of cannabis items and related supplies by a delivery service.

3 Chapter 150, Zoning, of the Code of the Borough of Brooklawn is hereby amended by adding to the list of prohibited uses, the following: "All classes of cannabis establishments, cannabis distributors or cannabis delivery services referred to as Class 3, Class 4 and Class 6 businesses in the statute, 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."

4 Any article, section, paragraph, subsection, clause, or other provision of the Code of the Borough of Brooklawn inconsistent with the provisions of this ordinance is hereby repealed to the extent of such inconsistency.

5 If any section, paragraph, subsection, clause, or provision of this ordinance shall be adjudged by a court of competent jurisdiction to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause, or provision so adjudged, and the remainder of this ordinance shall be deemed valid and effective.

6 This ordinance shall take effect upon its passage and publication, and as otherwise provided for by law.

**THE BOROUGH OF BROOKLAWN**

**BY: \_\_\_\_\_**  
**THERESA M. BRANELLA, MAYOR**

**ATTEST:**

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**RYAN GILES, BOROUGH CLERK**

The foregoing Ordinance was introduced by Mayor and Council at the regular meeting held on October 17, 2022. This Ordinance will be considered for adoption on final reading and public hearing to be held on November 21, 2022 at 6:30 p.m. in the Council Meeting Room, Brooklawn Borough Hall, 301 Christiana Street, Brooklawn, New Jersey.

The purpose of this Ordinance is to amend Ordinance No. 14-21 dated July 19, 2021, making certain revisions to Chapter 128, Zoning, in the Code of the Borough of Brooklawn to permit, in addition to Class 5 Cannabis business, the operation of Class 1 and Class 2 Cannabis businesses in the Borough of Brooklawn, while continuing to prohibit the operation of Class 3, Class 4 and Class 6 businesses in the Borough of Brooklawn, except for the delivery of cannabis items and related supplies by a delivery service. A copy of this Ordinance is available at no charge to the general public between the hours of 9:00 AM to 4:30 PM, Monday through Thursday (Legal Holidays excluded), at the Office of the Borough Clerk, Brooklawn Borough Hall, 301 Christiana Street, Brooklawn, New Jersey.