

## **ORDINANCE 11-2026**

### **AN ORDINANCE OF THE BOROUGH OF MENDHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY, TO REAFFIRM THE PROHIBITION OF THE OPERATION OF ANY CLASS OF CANNABIS BUSINESS WITHIN THE BOROUGH'S GEOGRAPHICAL BOUNDARIES AS DESCRIBED IN SECTION 215-12.8 OF THE BOROUGH ZONING CODE**

**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"), now codified as N.J.S.A. 24:6I-31 et seq., which legalized the recreational use of marijuana by adults 21 years of age or older, and established a comprehensive regulatory and licensing scheme for commercial recreational (adult use) cannabis operations, use and possession; and

**WHEREAS**, the Act established six marketplace classes of licensed businesses, consisting of Class 1 Cannabis Cultivator license, Class 2 Cannabis Manufacturer license, Class 3 Cannabis Wholesaler license, Class 4 Cannabis Distributor license, Class 5 Cannabis Retailer license, and Class 6 Cannabis Delivery license; and

**WHEREAS**, N.J.S.A. 24:6I-33 defines a "cannabis establishment" as "a cannabis cultivator, a cannabis manufacturer, a cannabis wholesaler, or a cannabis retailer"; and

**WHEREAS**, N.J.S.A. 24:6I-45 of the Act authorizes municipalities to adopt and enforce ordinances prohibiting outright the operation of any one or more classes of (1) cannabis establishments, (2) cannabis distributors and (3) the cannabis delivery services from anywhere within the geographical boundaries of municipality except for the actual delivery of cannabis items and related supplies directly to a consumer by a New Jersey licensed cannabis delivery service operating from a licensed premises located outside the geographic boundaries of the municipality, and delivery is initiated from that licensed premises; and

**WHEREAS**, N.J.S.A. 24:6I-45 also authorizes municipalities to adopt by ordinance regulations permitting, at the discretion of the municipal governing body, the number, location, local licensing endorsement, manner and times of operation of cannabis establishments and cannabis distributors, and the location and manner of cannabis delivery services within the geographic boundaries of the municipality, and to establish and enforce civil penalties for violations of any such regulations; and

**WHEREAS**, N.J.S.A. 24:6I-45 also requires that any municipal regulation prohibiting the operation of one or more classes of cannabis establishment, cannabis distributor or the location of a cannabis delivery service by ordinance must be adopted within 180 days of the effective date of the Act (i.e., by August 21, 2021); and

**WHEREAS**, pursuant to N.J.S.A. 24:6I-45, the failure of a municipality to adopt an ordinance prohibiting one or more cannabis establishment, cannabis distributor, or the principal location of a cannabis delivery service by August 21, 2021, shall automatically result in any class of cannabis establishment, cannabis distributor or cannabis delivery service being permitted to operate as a permitted uses in all industrial zones, and the retail selling of cannabis items to consumers from a retail store by a cannabis retailer shall automatically be a conditional use in all commercial and retail zones; and

**WHEREAS**, N.J.S.A. 24:6I-45 further provides that at the end of the five-year period following the initial failure of a municipality to enact an ordinance prohibiting the operation of one or more classes of cannabis establishment, such a municipality shall again be permitted to prohibit the future operation of any one or more classes of cannabis establishment, cannabis distributors or cannabis delivery services from operating within a municipality; and

**WHEREAS**, in accordance with N.J.S.A. 24:6I-45's August 21, 2021 deadline, the Mayor and Council of the Borough of Mendham timely adopted Ordinance 10-2021 adopted May 24, 2021 to prohibit the operation all classes of cannabis establishments, distributors, or delivery services anywhere in the municipality, except for the delivery of cannabis items and related supplies directly to a consumer by a licensed cannabis delivery service having its licensed premises based outside the geographic boundaries of the municipality, and delivery initiated from that licensed premises, which may not be prohibited my municipalities; and

**WHEREAS**, the Mayor and Council of the Borough of Mendham have determined that, due to the detrimental impacts that permitting one or more classes of cannabis business might have on New Jersey municipalities in general, and on our community in particular, it is at this time necessary and appropriate, and in the best interest of the health, safety and welfare of the Borough's residents and members of the public who visit, travel, or conduct business in the Borough, to affirm the Borough's regulations to prohibit to the fullest extent as permitted by law all manner of cannabis/marijuana-related businesses within the geographic boundaries of the Borough; and

**WHEREAS**, it is unclear from the statutory language whether a municipality that timely prohibited all classes of cannabis operations and desires to continue the prohibition beyond the initial five-year period is required to take formal action to do so; and

**WHEREAS**, in an abundance of caution, the Borough hereby exercises its right to prohibit all classes of cannabis related businesses to the fullest extent permitted by law for an additional FIVE (5) YEARS from the effective date of this ordinance.

**NOW THEREFORE, BE IT ORDAINED**, by the Mayor and Council of the Borough of Mendham, County of Morris, State of New Jersey, as follows:

**SECTION 1.** Chapter 215, Zoning, Article III, General Regulations, Section 215-12.8, Cannabis businesses prohibited, is hereby affirmed to continue read as follows:

## **215-12.8 Cannabis Businesses Prohibited**

### **A. Definitions.**

For the purposes of this Chapter, the following definitions shall apply:

"Cannabis" means all parts of the plant Cannabis sativa L., whether growing or not, the seeds thereof, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds, except those containing resin extracted from the plant, which are cultivated and, when applicable, manufactured in accordance with P.L. 2016, c. 16 for use in cannabis products as set forth in this act, but shall not include the weight of any other ingredient combined with cannabis to prepare topical or oral administrations, food, drink, or other product. "Cannabis" does not include: medical cannabis dispensed to registered

qualifying patients pursuant to the “Jake Honig Compassionate Use Medical Cannabis Act,” P.L.2009, c.307 (C.24:6I-1 et al.) and P.L.2015, c.158 (C.18A:40-12.22 et al.); marijuana as defined in N.J.S.2C:35-2 and applied to any offense set forth in chapters 35, 35A, and 36 of Title 2C of the New Jersey Statutes, or P.L.2001, c.114 (C.2C:35B-1 et seq.), or marihuana as defined in section 2 of P.L.1970, c.226 (C.24:21-2) and applied to any offense set forth in the “New Jersey Controlled Dangerous Substances Act,” P.L.1970, c.226 (C.24:21-1 et al.); or hemp or a hemp product cultivated, handled, processed, transported, or sold pursuant to the “New Jersey Hemp Farming Act,” P.L.2019, c.238 (C.4:28-6 et al.).

“Cannabis cultivator” means 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 delivery service” means any licensed person or entity that provides courier services for consumer purchases of cannabis items and related supplies fulfilled by a cannabis retailer in order to make deliveries of the cannabis items and related supplies to that consumer, and which services include the ability of a consumer to purchase the cannabis items directly through the cannabis delivery service, which after presenting the purchase order to the cannabis retailer for fulfillment, is delivered to that consumer.

“Cannabis distributor” means 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 establishment” means a cannabis cultivator, a cannabis manufacturer, a cannabis wholesaler, or a cannabis retailer.

“Cannabis manufacturer” means 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” means 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. A cannabis retailer shall also accept consumer purchases to be fulfilled from its retail store that are presented by a cannabis delivery service which will be delivered by the cannabis delivery service to that consumer.

“Cannabis wholesaler” means 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.

## **B. Cannabis Marketplace Regulations – Prohibited Use**

- (1) Purpose. The purpose of this section is to prohibit the operation of all cannabis establishments, cannabis distributors or cannabis delivery services within the Borough of Mendham.
- (2) Applicability. All cannabis establishments, cannabis distributors or cannabis delivery services are hereby prohibited from operating anywhere in Mendham Borough, except for the delivery of cannabis items and related supplies directly to a consumer for personal use by a New Jersey licensed cannabis delivery service having its license premises based at a location outside the geographic boundaries of the Borough, and which the delivery of such cannabis items and related supplies is initiated from such licensed location.

**SECTION 2.** Any article, section, paragraph, subsection, clause, or other provision of the Borough of Mendham Code inconsistent with the provisions of this ordinance is hereby repealed to the extent of such inconsistency.

**SECTION 3.** 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.

**SECTION 4.** This ordinance shall take effect upon its passage and publication and filing with the Morris County Planning Board, and as otherwise provided for by law.

INTRODUCED:

ADOPTED:

EFFECTIVE DATE:

BOROUGH OF MENDHAM,  
COUNTY OF MORRIS,  
STATE OF NEW JERSEY

ATTEST:

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Lauren McBride, RMC  
Borough Clerk

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James Kelly, Mayor