

This Notice is for reference purposes, as per the Open Public Meetings Act Requirements, N.J.S.A. 10:4-8 and N.J.S.A. 10:4-18.

**AGENDA
SPECIAL COUNCIL MEETING
430 WESTFIELD AVE., CLARK, NJ 07066
June 1, 2021, 5:30 pm
Municipal Building, Room 30**

ROLL CALL:

Councilwoman Albanese _____	Councilman O’Connor _____
Councilman Mazzarella _____	Councilman Smith _____
Councilman Minniti _____	Councilman Toal _____
	Council President Hund _____

PLEDGE OF ALLEGIANCE TO THE FLAG: MOMENT OF SILENCE

This meeting is in compliance with the Open Public Meetings Act as adequate notice of this meeting has been provided by sending written advanced notice of at least 48 hours to the Star Ledger, Union County Local Source, and TAP into Clark, by posting such Meeting Agenda on the Bulletin Board in Town Hall reserved for such announcements as well as the Official Website of the Township, and the proper filing of said Notice. Formal action may be taken at this meeting.

ORDINANCES, APPROPRIATIONS AND CLAIMS:

INTRODUCTION OF PROPOSED ORDINANCE:

AN ORDINANCE OF THE TOWNSHIP OF CLARK, COUNTY OF UNION, STATE OF NEW JERSEY PROHIBITING THE OPERATION OF ANY CLASS OF CANNABIS BUSINESS WITHIN ITS GEOGRAPHICAL BOUNDARIES AND AMENDING CHAPTER 195 OF THE TOWNSHIP CODE OF THE TOWNSHIP OF CLARK.

Public Hearing June 21, 2021

PUBLIC COMMENTS:

Each person addressing the Council shall first give his/her name and address to the Clerk. All remarks shall be addressed to the Council as a body and shall not exceed 10 minutes in duration.

MAYOR, COUNCIL AND PROFESSIONAL COMMENTS:

ADJOURNMENT:

TOWNSHIP OF CLARK

Ordinance No. 21-18

Adopted _____

Introduced: June 1, 2021 Public Hearing: June 21, 2021

AN ORDINANCE OF THE TOWNSHIP OF CLARK, COUNTY OF UNION, STATE OF NEW JERSEY PROHIBITING THE OPERATION OF ANY CLASS OF CANNABIS BUSINESS WITHIN ITS GEOGRAPHICAL BOUNDARIES AND AMENDING CHAPTER 195 OF THE TOWNSHIP CODE OF THE TOWNSHIP OF CLARK.

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 twenty-one (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”), N.J.S.A. 24:61-31, et. seq., which legalizes the recreational use of marijuana by adults twenty-one (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 (6) 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 Wholesale License, for facilities involved in the manufacturing, preparation, and packaging of cannabis items for later resale by other licenses;
- Class 4 Cannabis Distributor License, for businesses involved in transporting cannabis plants in bulk from a 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 31b 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 regulation; and

WHEREAS, Section 31b of the Act authorizes municipalities by ordinance to prohibit the operation of one or more classes of cannabis establishments, distributors, or delivery services anywhere in the municipality; and

WHEREAS, Section 31b of the Act stipulates that any municipal regulation or prohibition must be adopted with 180 days of the effective date of the Act (i.e., by August 22, 2021) and any municipal regulation adopted prior to the effective date of the Act is void; and

WHEREAS, pursuant to Section 31b of the Act, the failure to do so shall mean that for a period of five (5) 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 conditional use in all commercial and retail zones; and

WHEREAS, at the conclusion of the initial and any subsequent five (5) 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 businesses already operating within the municipality; and

WHEREAS, the Township Council of the Township of Clark 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 the Township of Clark in particular, it is at this time necessary and appropriate, and in the best interest of the health, safety, and welfare of the Township of Clark’s residents and members of the public who visit, travel, or conduct business in the Township of Clark, to prohibit all manner of marijuana-related land use and development within the geographic boundaries of the Township of Clark; 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 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 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 Council of the Township of Clark 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), N.J.S.A. 24:6I-45b, all classes of cannabis establishments, cannabis distributors, and cannabis delivery services, but not the delivery of Cannabis items and related supplies by a delivery service which is not located within the Township, are hereby prohibited from operating anywhere in the Township of Clark.

SECTION 2. Chapter 195 of the Township Code is hereby amended to establish Chapter 195-116.1 adding Cannabis Establishments, Cannabis Cultivators, Cannabis Distributors, and Cannabis Delivery Services as defined in N.J.S.A. 24:6I-31, *et seq.*, including without limitation, N.J.S.A. 24:6I-45b, as prohibited uses in all zones within the Township of Clark.

SECTION 3. The adopted Chapter 195-116.1 shall read as follows:

Subsection 195-116.1 Cannabis Establishments, Cannabis Distributors, and Cannabis Delivery Services Prohibited.

A. Purpose.

Pursuant to Section 31b of the New Jersey Cannabis Regulatory, Enforcement Assistance and Marketplace Modernization Act (P.L. 2021, c. 16), N.J.S.A. 24:6I-45b, all classes of Cannabis Establishments, including without limitation, a Cannabis Cultivator, a Cannabis Manufacturer, a Cannabis Wholesaler, a Cannabis Retailer, a Cannabis Distributor and Cannabis Delivery Service, but not the delivery of Cannabis items and related supplies by a delivery service which is not located within the Township, are hereby prohibited from operating within the Township of Clark.

B. Definitions.

As used in this chapter, all classes of Cannabis Establishments, including without limitation, a Cannabis Cultivator, a Cannabis Manufacturer, a Cannabis Wholesaler, a Cannabis Retailer, a Cannabis Distributor and a Cannabis Delivery Service, shall have the meanings as defined in Section 3 of P.L. 2021, c. 16, N.J.S.A. 24:6I-33, *et seq.*

C. General Prohibition.

All classes of Cannabis Establishments, including without limitation, a Cannabis Cultivator, a Cannabis Manufacturer, a Cannabis Wholesaler, a Cannabis Retailer, a Cannabis Distributor and a Cannabis Delivery Service, but not the delivery of Cannabis items and related supplies by a delivery service which is not located within the Township, as said items are defined in Section 3 of P.L. 2021, c. 16, N.J.S.A. 24:6I-33, *et seq.*, are hereby declared to be prohibited uses or activities within the Township of Clark.

D. Fines and Penalties.

Upon a finding by a court of competent jurisdiction, including without limitation, the Municipal Court, of a violation or violations of this Ordinance, such court shall impose such fines or penalties as are authorized under Article III, General Penalty, of these Ordinances as, in its discretion, such court deems warranted. The Township also shall be entitled to institute an

action in Superior Court of New Jersey to enjoin and restrain conduct which is found to violate this ordinance. Such remedies shall be cumulative, in addition to, and not in limitation of any and all remedies available to the Township at law or in equity.

SECTION 4. It is the intent of this ordinance to comply with the Act, but also to afford the Township the basis to avail itself of the full scope of regulatory authority thereunder. Therefore, in the event that any provision hereof is found unenforceable or invalid, the unenforceable or invalid provision shall be revised to comport with law and preserve intact as nearly as possible the intent expressed in this ordinance, or if the same is not feasible or permissible, severed so as not to affect the ordinance as a whole and the remaining provisions hereof.

SECTION 5. All ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

SECTION 6. This ordinance shall take effect after second reading and publication as required by law.

Effective Date:

ATTEST:

APPROVED:

EDITH L. MERKEL, RMC
 Township Clerk

STEVEN M. HUND
 Council President

SALVATORE BONACCORSO
 Mayor

Ord21/6-1 21-18 CannabisOperationsProhibited

	Motion to	Second	Motion to	Second				
	Introduce		Adopt		Aye	Nay	Abstain	Absent
Albanese								
Mazzarella								
Minniti								
O'Connor								
Smith								
Toal								
Hund								
Entire Council								
TOTAL								

