

**BOROUGH OF OGDENSBURG  
COUNTY OF SUSSEX  
ORDINANCE NO. 07-2021**

**AN ORDINANCE PROHIBITING THE OPERATION OF ANY CLASS OF  
CANNABIS BUSINESSES WITHIN THE GEOGRAPHICAL  
BOUNDARIES OF THE BOROUGH OF OGDENSBURG AND  
AMENDING SECTION 30-105 (PROHIBITED USES) OF THE LAND  
DEVELOPMENT REGULATIONS OF THE BOROUGH**

**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**, section 31a 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 31b 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 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 (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 a 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 business already operating within the municipality; and

**WHEREAS**, the Borough of Ogdensburg Mayor and Council have determined that, due to present uncertainties regarding the potential future impacts that allowing one or more classes of cannabis business might have on New Jersey municipalities in general, and on the Borough of Ogdensburg in particular, it is at this time necessary and appropriate, and in the best interest of the health, safety, and welfare of the Borough of Ogdensburg's residents and members of the public who visit, travel, or conduct business in the Borough of Ogdensburg, to amend the Land Development Regulations of the Borough of Ogdensburg to prohibit all manner of marijuana-related land use and development within the geographic boundaries of the Borough of Ogdensburg; and

**WHEREAS**, 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; and

**WHEREAS**, due to the desire to ensure uniformity throughout the Borough regarding the prohibited wholesale or retail sale of cannabis products and related activities in the Borough, the Borough desires to enact the instant legislation; and

**WHEREAS**, prior to the hearing on the adoption of this Ordinance, the governing body shall refer this Ordinance to the Planning Board as required by N.J.S.A. 40:55D-64 and N.J.S.A. 40:55D-26 of the Municipal Land Use Law; and

**WHEREAS**, the Borough Clerk shall provide notice of the date, time, and place of the hearing on the adoption of this Ordinance to the Sussex County Planning Board pursuant to N.J.S.A. 40:55D-15 of the Municipal Land Use Law by personal service or certified mail, which notice shall also state the effective date of the Ordinance and include a copy of same; and

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

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, or cannabis delivery services are hereby prohibited from operating anywhere in the Borough of Ogdensburg, except for the delivery of cannabis items and related supplies by a licensed delivery service.

2. Chapter 30, Section 30-105 (“Prohibited Uses”) of the Land Development Regulations of the Borough of Ogdensburg is hereby amended and replaced in its entirety as follows:

#### CHAPTER 30. Land Development

##### § 30-105. PROHOIBITED USES.

- A. All uses not expressly permitted in this chapter are prohibited.
- B. No more than one principal building shall be situated on any lot, nor more than one principal use conducted on any lot, unless specifically permitted by this chapter.
- C. All classes of cannabis establishments or cannabis distributors or cannabis delivery services as said terms are defined in section 3 of P.L. 2021, c. 16 are specifically prohibited in all zone districts of the Borough of Ogdensburg, except for the delivery of cannabis items and related supplies by a licensed cannabis delivery service. Prohibited uses shall include: (1) facilities involved in growing, cultivating, and producing cannabis and cannabis items, (2) facilities involved in processing, manufacturing, preparing, and packaging cannabis and cannabis items; (3) facilities involved in obtaining, storing, selling, reselling or otherwise transferring cannabis and cannabis items; (4) businesses involved in transporting cannabis and cannabis items in bulk intrastate from one cannabis cultivator, manufacturer, wholesaler, distributor, or retailer to another; and (5) locations at which cannabis and cannabis items and related supplies are sold or dispensed to customers or consumers such as retail cannabis establishments and stores, cannabis consumption areas, and retail cannabis social clubs. Nothing herein shall be construed to limit any privileges or rights of a qualifying patient, primary caregiver, registered or otherwise, or registered dispensary pursuant to the New Jersey Compassionate Use Medical Marijuana Act, N.J.S.A. 24:61-1 et seq.

3. The Borough Clerk is hereby directed to give notice at least ten (10) days prior to the hearing on the adoption of this Ordinance to the Sussex County Planning Board, the clerk of any adjoining municipality, and to all other persons entitled thereto pursuant to N.J.S.A. 40:55D-


15 and N.J.S.A. 40:55D-63 (if required). Upon adoption of this Ordinance after public hearing thereon, the Borough Clerk is further directed to publish notice of the passage thereof and to file a copy of the Ordinance as finally adopted with the Sussex County Planning Board as required by N.J.S.A. 40:55D-16. The Clerk shall also forthwith transit a copy of this Ordinance after final passage to the Borough Tax Assessor as required by N.J.S.A. 40:49-2.1.


4. Any article, section, paragraph, subsection, clause, or other provision of the Code of the Borough of Ogdensburg 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 filing with the Sussex County Planning Board, and as otherwise provided for by law.

Attest:

  
 \_\_\_\_\_  
 Robin Hough, Borough Clerk

  
 \_\_\_\_\_  
 George P. Hutnick, Mayor

**NOTICE**

**TAKE NOTICE** that the above-entitled ordinance was introduced at a regular meeting of the Borough Council of the Borough of Ogdensburg on June 15, 2021 and will be considered for final passage after public hearing at a regular meeting of the Borough Council of the Borough of Ogdensburg to be held on July 12, 2021 at 7:00 PM in the Municipal Building, 14 Highland Ave., Ogdensburg, New Jersey, and shall take effect according to law.

  
 \_\_\_\_\_  
 Robin Hough, RMC

Roll call vote for introduction:

RECORD OF COUNCIL VOTES				
COUNCIL MEMBER	AYES	NAYES	ABSTAIN	ABSENT
Councilman Alvarez				x
Councilwoman Cowdrick	x			
Councilman DeMeo				x
Councilman Nardini	x			
Councilman Nasisi				x
Councilwoman Slater	x			
Mayor Hutnick (Tie Only)				


Roll call vote for adoption:

RECORD OF COUNCIL VOTES				
COUNCIL MEMBER	AYES	NAYES	ABSTAIN	ABSENT
Councilman Alvarez	✓			
Councilwoman Cowdrick	✓			
Councilman DeMeo				✓
Councilman Nardini	✓			
Councilman Nasisi	✓			
Councilwoman Slater	✓			
Mayor Hutnick (Tie Only)				

**BOROUGH OF OGDENSBURG  
LEGAL NOTICE  
ORDINANCE 07-2021**

**AN ORDINANCE PROHIBITING THE OPERATION OF ANY CLASS OF CANNABIS  
BUSINESS WITHIN THE GEOGRAPHICAL BOUNDARIES OF THE BOROUGH OF  
OGDENSBURG AND AMENDING SECTION 30-105 (PROHIBITED USES) OF THE  
LAND DEVELOPMENT REGULATIONS OF THE BOROUGH**

NOTICE is hereby given that the above Ordinance was introduced and passed on first reading at a meeting of the Borough Council of the Borough of Ogdensburg, in the County of Sussex, State of New Jersey, held in the Municipal Building on the 15<sup>TH</sup> day of June, 2021, and the same came up for final passage at a meeting of the said Borough Council on the 12<sup>th</sup> day of July, 2021, at which time, after persons interested were given an opportunity to be heard concerning said ordinance, the same was passed and will be in full force in the borough according to law by order to the Borough Council of the Borough of Ogdensburg, County of Sussex and State of New Jersey.

  
\_\_\_\_\_  
Robin Hough, RMC/CMR