

**ORDINANCE NO. 16, 2021**

**AN ORDINANCE BY THE CITY OF LINWOOD IN THE COUNTY OF ATLANTIC, NEW JERSEY PROHIBITING THE OPERATION OF ANY CLASS OF CANNABIS BUSINESSES WITHIN ITS GEOGRAPHICAL BOUNDARIES AND ESTABLISHING A CHAPTER ENTITLED CANNABIS AND AMENDING CHAPTER 228 SMOKING OF THE CODE OF THE CITY OF LINWOOD**

**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 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 Common Council of the the City of Linwood has 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 City of Linwood in particular, it is at this time necessary and appropriate, and in the best interest of the health, safety and welfare of the City of Linwood’s residents and members of the public who visit, travel, or conduct business in the City of Linwood, to amend the City of Linwood’s zoning regulations to prohibit all manner of marijuana-related land use and development within the geographic boundaries of the City of Linwood; 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 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;

**NOW THEREFORE, BE IT ORDAINED**, by the Common Council of the the City of Linwood, in the County of Atlantic, 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 City of Linwood, except for the delivery of cannabis items and related supplies by a delivery service.

2. Section 277-11, Zoning, of the the Code of the City of Linwood is hereby amended by adding to the list of prohibited uses, the following: “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, but not the delivery of cannabis items and related supplies by a delivery service.”

3. A new Chapter of the Code of the City of Linwood shall be established entitled Cannabis.

- a. Purpose. Whereas, the public has voted to approve an amendment to the New Jersey Constitution to allow for the legalization of the recreation use of cannabis for adults at least 21 years of age which has been signed into law, it is the policy and the intent of the City of Linwood to restrict the consumption of cannabis by any means to private residences.
- b. Violations and penalties. Any person who shall violate or fail to comply with the provisions of this chapter shall, upon conviction, be subject to a minimum fine of \$250.00 or a maximum of \$2000 or by imprisonment for a term not exceeding 90 days or by a period of community service not exceeding 90 days as well as such penalties as may otherwise be provided by law.

4. Chapter 228 Smoking of the Code of the City of Linwood shall be amended as follows:

Article II. School Grounds, 228-8 Definitions:

Smoking - The act of inhaling, exhaling, burning, vaping or carrying any lighted cigarette, cigar, pipe, cannabis, plant or other combustible substance in any manner or in any form, including but not limited to tobacco or other similar products.

Article III. Recreational Areas and Parks, 228- 13 Definitions:

Smoking - The act of inhaling, exhaling, burning, vaping or carrying any lighted cigarette, cigar, pipe, cannabis, plant or other combustible substance in any manner or in any form, including but not limited to tobacco or other similar products.

Article III. Recreational Areas and Parks, 228-14 Smoking prohibited:

The City does hereby specifically prohibit any smoking or vaping of all types and of any substance including but not limited to tobacco and cannabis on any recreational field or in any park, including but not limited to the Linwood Bicycle Path, owned by the City.

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

6. 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.

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

<i>FIRST READING:</i>	<i>July 14, 2021</i>
<i>PUBLICATION:</i>	<i>July 19, 2021</i>
<i>PASSAGE:</i>	<i>August 11, 2021</i>

The within Ordinance was introduced at a meeting of the Common Council of the City of Linwood, County of Atlantic and State of New Jersey held on, July 14, 2021 and will be further considered for final passage after a public hearing thereon at a meeting of said Common Council on August 11, 2021.

---

LEIGH ANN NAPOLI, RMC, MUNICIPAL CLERK

---

DARREN MATIK, MAYOR