

ORDINANCE NO. 2018-09

ORDINANCE OF THE BOROUGH OF BOROUGH OF HARVEY CEDARS, COUNTY OF OCEAN, STATE OF NEW JERSEY, AMENDING AND SUPPLEMENTING CHAPTER 3 OF THE BOROUGH CODE OF THE BOROUGH OF HARVEY CEDARS ENTITLED “POLICE REGULATIONS” SO AS TO ESTABLISH A PROHIBITION ON THE SALE, DISPENSATION AND CULTIVATION OF MARIJUANA IN THE BOROUGH OF HARVEY CEDARS

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE BOROUGH OF HARVEY CEDARS as follows:

Section 1. Chapter III of the Borough Code of the Borough of Harvey Cedars entitled “Police Regulations” is hereby amended and supplemented to establish Section 3-20 entitled “Prohibition on the Sale, Dispensation, and Cultivation of Marijuana; Penalty” as follows:

3-20 PROHIBITION ON THE SALE, DISPENSATION, AND CULTIVATION OF MARIJUANA; PENALTY.

3-20.1 Definitions. As used in this section, the following terms have the meanings indicated:

Marijuana – means all parts of the plant Genus Cannabis 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; but shall not include the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product.

Marijuana Cultivation Facility – means an entity licensed to cultivate marijuana and sell marijuana to marijuana producers, to marijuana product manufacturing facilities, and to other marijuana cultivation facilities, but not to consumers.

Marijuana Establishment – means a marijuana cultivation facility, a marijuana testing facility, a marijuana product manufacturing facility, or a marijuana retailer.

Marijuana Paraphernalia – means any equipment, products, or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, composing, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, vaporizing, or containing marijuana, or for ingesting, inhaling, or otherwise introducing marijuana into the human body.

Marijuana Product Manufacturing Facility – means an entity licensed to purchase marijuana; manufacture, prepare, and package marijuana items; and sell items to other marijuana product manufacturing facilities and to marijuana retailers, but not to consumers.

Marijuana Retailer – means an entity licensed to purchase marijuana from marijuana cultivation facilities and marijuana items from marijuana product manufacturing facilities or marijuana wholesalers and to sell marijuana and marijuana products to consumers.

Marijuana Testing Facility – means an independent, third-party entity meeting accreditation requirements established by the Division that is licensed to analyze and certify the safety and potency of marijuana items.

3-20.2 Prohibitions.

- A. The sale, resale, purchase, acquisition, distribution, dispensation, and cultivation of marijuana and marijuana paraphernalia are prohibited in the Borough of Harvey Cedars, notwithstanding any non-preemptive federal or state law to the contrary.
- B. Marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, marijuana retailers, and marijuana establishments

are prohibited in the Borough of Harvey Cedars, notwithstanding any non-preemptive state or federal law to the contrary.

3-20.3 Exemptions for Medicinal Marijuana.

The prohibitions imposed pursuant to this section do not apply to the “medical use of marijuana” by qualifying patients pursuant to the New Jersey Compassionate Use Medical Marijuana Act, N.J.S.A. 24:61-1 et seq., and regulations promulgated thereunder.

3-20.4 Enforcement; violations and penalties.

- A. The Police Department, Code Enforcement Officer and the Zoning Officer, as applicable, are charged with enforcing this section.
- B. Any person or entity violating this chapter shall be subject to the maximum fines and penalties established under N.J.S.A. 40:49-5 and any subsequent amendments to the statute.

3-20.5 Severability.

If any provision of this section is invalidated, pre-empted, or superseded by any state or federal law, regulation, or judicial decision, that provision shall be severed and the remainder of the section shall remain in full force and effect.

Section 2. All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

Section 3. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions.

Section 4. This ordinance shall take effect after public reading and publication as required by law.

ADOPTED ON: June 21, 2018