

ORDINANCE NO. 2021-20

**AN ORDINANCE BY THE BOROUGH COUNCIL OF THE BOROUGH OF BELMAR
IN THE COUNTY OF MONMOUTH, STATE OF NEW JERSEY PROHIBITING THE
OPERATION OF ANY CLASS OF RECREATIONAL CANNABIS BUSINESSES
WITHIN ITS GEOGRAPHICAL BOUNDARIES AND AMENDING CHAPTER 40
ARTICLE V (ZONING DISTRICT REGULATIONS) AND AMENDING AND
SUPPLEMENTING CHAPTER 16 (POLICE REGULATIONS)**

PURPOSE: The purpose of this Ordinance is to Regulate the marketplace class of licensed recreational cannabis businesses.

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 on 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 31a of the Act authorizes municipalities by ordinance to adopt regulations and police 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 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 Borough Council of the Borough of Belmar 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 Borough of Belmar in particular, it is at this time necessary and appropriate, and in the best interest of the health, safety and welfare of Belmar's residents and members of the public who visit, travel, or conduct business in Belmar, to amend Belmar's zoning regulations and police regulations to prohibit all manner of marijuana-related land use and development within the geographic boundaries of the Borough of Belmar; 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 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 Mayor and Council of the Borough of Belmar, County of Monmouth, State of New Jersey, 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), all cannabis establishments, cannabis distributors or cannabis delivery services are hereby prohibited from operating anywhere in the Borough of Belmar, except for the delivery of cannabis items and related supplies by a delivery service.

SECTION 2. Section 40-5 of the Land Use Ordinances of Borough of Belmar is hereby amended by adding to the list of prohibited uses, the following:

§ 40-5.3(b)(33) Cannabis Prohibition

A. The following uses shall be prohibited in all zoning districts in the Borough of Belmar:

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.

SECTION 3. Chapter 16 “Police Regulations” of the Borough Code shall be amended and supplemented to include the following:

§ 16-27 Cannabis Prohibition

A. The following uses shall be prohibited in all zoning districts in the Borough of Belmar:

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.

SECTION 4. Any article, section, paragraph, subsection, clause, or other provision of the Borough of Belmar Borough Code inconsistent with the provisions of this ordinance is hereby repealed to the extent of such inconsistency.

SECTION 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.

SECTION 6. A copy of this Ordinance shall be transmitted to the Monmouth Planning Board for filing upon final passage after second reading by the Township Clerk.

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

NOTICE

NOTICE IS HEREBY GIVEN that the foregoing Ordinance was introduced and passed on the first reading by the Council of the Borough of Belmar, County of Monmouth, State of New Jersey on **July ____**, 2021 at **6:00 p.m.**, or as soon thereafter as the matter may be reached and considered, at the Borough of Belmar Municipal Building located at 601 Main Street, Belmar, New Jersey. The Ordinance will be considered for second and final reading at a meeting of the Township Committee on **August ____**, 2021, at **6:00 p.m.**, or as soon thereafter as the matter may be reached and considered, at the Borough of Belmar Municipal Building located at 601 Main Street, Belmar, New Jersey. At that time the public is invited to ask questions, raise objections or provide public comment with regard to the proposed adoption of this Ordinance.

APRIL CLAUDIO, Borough Clerk

CERTIFICATION

I, **APRIL CLAUDIO**, Municipal Clerk of the Borough of Belmar, do hereby certify that the foregoing ordinance was duly adopted on second reading by the Mayor and Borough Council at a meeting held on the ____ day of _____, 2021.

APRIL CLAUDIO, Borough Clerk

ORDINANCE 2021-21

**AN ORDINANCE AMENDING AND SUPPLEMENTING
CHAPTER XIX, TRAFFIC, LOADING ZONES OF THE REVISED GENERAL
ORDINANCES OF THE BOROUGH OF BELMAR, IN THE COUNTY OF
MONMOUTH, NEW JERSEY**

WHEREAS, the Borough of Belmar Mayor and Council wish to amend certain sections of Chapter XIX, Traffic.

NOW, THEREFORE, BE IT ORDAINED by the Borough of Belmar, County of Monmouth, New Jersey, that Chapter XIX, Traffic, of the Borough of Belmar Revised General Ordinances are hereby amended and supplemented as follows:

SECTION I. 19-38 LOADING ZONES

The following additional locations described are hereby designated as Loading Zones. No person shall park a vehicle in these locations during the times indicated other than for the loading or unloading of goods and materials.

<i>Name of Street</i>	<i>Time</i>	<i>Side(s)</i>	<i>Location</i>
Ocean Avenue	15 minutes	West	West side of Ocean Avenue south of the 10 th Avenue curb line in front of 1000 Ocean Avenue

SECTION II. If any section, paragraph, subdivision, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudicated and the remainder of the Ordinance shall be deemed valid and effective.

SECTION III. All Ordinances or parts of ordinances inconsistent with or in conflict with the ordinance are hereby repealed to the extent of such inconsistency

ORDINANCE 2021-22

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER XVII, STREET EXCAVATIONS, SIDEWALKS AND CURBS, OF THE GENERAL ORDINANCES OF THE BOROUGH OF BELMAR

WHEREAS, the Borough of Belmar desires to amend its ordinance pertaining to street openings.

NOW, THEREFORE BE IT ORDAINED by the Borough of Belmar, County of Monmouth, New Jersey that Chapter XVII, Street Excavations, Sidewalks, and Curbs of the Borough of Belmar, Revised General Ordinance is amended and supplemented as follows:

SECTION I. Chapter XVII, Section 27-1.4 Street Excavations, Sidewalks and Curbs

- a. No permit shall be issued for any excavation in a street or sidewalk which has been newly paved or resurfaced by or on behalf of the Borough for a period of three years from the date of the acceptance by the Borough of the paving or resurfacing work, except under the following conditions:
 - b. A permit may be issued for a utility tap opening of no more than nine square feet in area in a street or sidewalk which was newly paved or resurfaced during this three-year period, pursuant to subsection 27-1.2, subject to the following conditions:
 1. The purpose of the excavation is for a tap to provide original utility service to a home or other structure being newly constructed or repairs to an existing utility service.
 2. The issuance of the permit shall be conditioned upon the posting by the applicant of a cash deposit to guarantee restoration in the amount of \$500.
 3. The area of a street excavated shall be restored with stabilized base course level and shall be made flush with the existing pavement.
 4. After the passage of 60 days and prior to the expiration of 90 days from the date of the completion of the work, the patched area of the street shall be heated with an infrared heater to an area two feet outside of the edge of the original cut, and bituminous concrete surface course shall be installed over the extended area.
 5. When an excavation is made to a sidewalk, the area must be restored to its original condition with pavers where applicable, or in the alternative, cement.
 6. The Borough Engineer or Department of Public Works shall inspect the restoration work. If the restoration work is properly and timely completed, the Borough Clerk shall return the restoration deposit to the applicant. Should the Borough Engineer or Department of Public Works determine that the restoration work has not been properly completed, or if the restoration work is not completed within 90 days, the restoration deposit shall be forfeited to the Borough.
 7. The applicant shall also deposit with the Borough a maintenance guarantee in the amount of \$1,000, which may be posted in the form of cash or bond. The maintenance guarantee shall be held by the Borough for a period of five years and shall be utilized if necessary for the repair, resurfacing, restoration or paving of the area excavated, pursuant to the permit. Should such work not be necessary during the five-year period, the maintenance guarantee shall be returned to the applicant.

SECTION II. If any section, paragraph, subdivision, clause or provision of this ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudged and the remainder of the Ordinance shall be deemed valid and effective.

SECTION III. All Ordinances or parts of ordinances inconsistent with or in conflict with the ordinance are hereby repealed to the extent of such inconsistency.

SECTION IV. This Ordinance shall take effect 20 days after final passage, adoption and publication according to law.

ORDINANCE NO. 2021-23

**ORDINANCE OF THE MAYOR AND BOROUGH COUNCIL OF THE
BOROUGH OF BELMAR, COUNTY OF MONMOUTH, STATE OF
NEW JERSEY, AMENDING AND SUPPLEMENTING CHAPTER 20
ENTITLED LICENSES--GENERAL.**

BE IT ORDAINED, by the Mayor and Council of the Borough of Belmar, County of Monmouth, State of New Jersey, that Chapter 20 of the Borough Code is hereby amended to include the following:

SECTION I. Section 20-3 entitled “Peddlers and Solicitors” subsection 20-3.3 entitled “Regulations” is hereby by amended and supplemented to read as follows:

- A. All licenses and licensees under this section are subject to the provisions and regulations of this Chapter and each licensee shall in addition be required to carry at all times and display to any person upon request his license and identification. Further, it shall be the duty of the Chief of Police, the Borough License Officer and any Police Officer of the Borough to require any person seen peddling, soliciting, canvassing or distributing, as defined in this Chapter, who is not known by such officer to be duly licensed, to produce his/her peddler's, solicitor's, canvasser's or distributor's license, as the case may be.
- B. No individual or organization shall be permitted to obtain a license in accordance with this section upon a third or subsequent conviction for uninvited soliciting as defined by Borough Ordinance 16-24.2 for a period of one year from the date of conviction.

SECTION II. To avoid confusion Section 20-3.3 of the Borough Code is hereby deleted in its entirety and replaced with the provisions set forth herein.

SECTION III. If any section, paragraph, subdivision, clause or provision of this ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision,

clause or provision so adjudged and the remainder of the Ordinance shall be deemed valid and effective.

SECTION IV. All ordinances or parts of ordinances inconsistent with or in conflict with the Ordinance are hereby repealed to the extent of such inconsistency.

SECTION V. This Ordinance shall take effect 20 days after final passage, adoption and publication according to law.

ORDINANCE NO. 2021-24

**ORDINANCE OF THE MAYOR AND BOROUGH COUNCIL OF THE
BOROUGH OF BELMAR, COUNTY OF MONMOUTH, STATE OF
NEW JERSEY, AMENDING AND SUPPLEMENTING CHAPTER XVI
ENTITLED POLICE REGULATIONS.**

BE IT ORDAINED, by the Mayor and Council of the Borough of Belmar, County of Monmouth, State of New Jersey, that Chapter 16 and Chapter 20 of the Borough Code is hereby amended to include the following:

SECTION I. Section 16-24.2 entitled “Prohibition of Soliciting, Canvassing; Registration and Regulations” is hereby by amended and supplemented to read as follows:

A. Soliciting.

1. No person shall solicit on behalf of a charitable organization or for a charitable purpose, as defined in subsection 16-24.1, without registering with the Borough as set forth herein. This section and the requirements herein do not relieve persons or organizations from the licensing requirements of the Borough of Belmar Revised General Ordinances, if applicable, for other activities not defined or addressed herein.

B. Canvassing.

1. Persons or organizations are permitted to canvass, as defined in subsection 16-24.1, without registering with the Borough. This section and the requirements herein do not relieve persons or organizations from the licensing requirements of the Borough of Belmar Revised General Ordinances, if applicable, for other activities not defined or addressed herein.

C. No Knock Registry.

1. The Borough Clerk shall maintain a list of names and addresses of residents who have determined that solicitors, peddlers and/or hawkers shall not be invited to their respective residence. Any resident shall be included on such list if they complete a form to be so included. The form shall be available at Borough Hall and online. The list shall be distributed to applicants seeking a license for the purposes mentioned herein. The licensee shall not solicit, peddle or hawk at any residence on the list. Any solicitor, peddler or hawker who goes upon any premises or rings a doorbell upon or near any door or creates any sound in any manner calculated to attract the attention of the occupant of such residence, when such residence is on

the list provided shall be considered to be engaging in uninvited soliciting subject and shall be subject to the penalties set forth herein.

D. Exceptions to No Knock Registry.

1. Members of religious groups who appear at the premises for those purposes.
2. Political or political action group persons who appear at the premises for those purposes.
3. Annual fundraising events by bona fide 501C3 organizations.
4. Halloween trick or treaters.

E. License required.

1. Any person or organization wishing to solicit, as defined in subsection 16-24.1, must comply with all licensing requirement set forth in Chapter 20 of the Borough Ordinances and must register with the Borough at least 48 hours prior to the commencement of soliciting, as follows:
 - i. The person or organization must submit a letter to the Borough Clerk, upon the organization's letterhead if applicable, containing at least the following information:
 1. The specific date(s) and times of day the participants will be in Belmar; and
 2. The specific location(s) where the solicitation will occur; and
 3. The name, address, and a legible photocopy of a form of identification for each participant; and
 4. The name, mailing address and telephone number of a person to contact should any questions arise before the person or organization comes to the Borough and the same information for a person to act as a contact while the person or organization is present in Belmar.
 - ii. Upon receipt of this information, the Borough Clerk shall promptly provide copies of the same to the Chief of Police, and the Director of Code Enforcement.
 - iii. No fee or other cost shall be charged to the person or organization in conjunction with the requirements of this section. The Borough will only contact the person or organization if the Borough determines that certain persons or the organization will not be permitted to solicit in the Borough.

Appeals from the Borough's decision in this regard may be taken to any court of competent jurisdiction. The basis for the Borough's determination that certain persons, or the organization, will not be permitted to solicit in the Borough are:

1. Any pending criminal or quasi-criminal claims of fraud, financial wrongdoing, acts of violence, robbery, burglary or other claims involving the person's or the organization's moral turpitude; or
2. A conviction or finding within the past three years against the persons, or the organization, in any criminal, quasicriminal or civil matter involving fraud, financial wrongdoing, acts of violence, robbery, burglary or other claims involving the persons or organization's mortal turpitude.

F. Regulations. Once a person or organization has registered with the Borough, the following regulations apply to their solicitation activities:

1. No solicitation is allowed after 9:00 p.m. or before dawn. The Borough requests, but does not require, that solicitation occur during daylight hours.
2. Persons, organization and its participants must abide by all other rules, regulations, ordinances and laws.
3. Failure to abide by these prerequisites, regulations and conditions may result in legal action and/or criminal process, and the person and/or organization may be ordered to cease all further solicitation until the applicable prerequisites, regulations and conditions have been complied with.

G. Violations and Penalties.

1. A person or organization violating the terms of this article or engages in uninvited soliciting shall be subject to revocation of the Borough-issued license and issued the following penalties:
 - i. First offense: a fine of \$250.00.
 - ii. Second offense: a fine of \$500.00.
 - iii. Third or subsequent offense: a fine of not less than \$1000.00, nor more than \$2000.00.

SECTION II. To avoid confusion Section 16-24.2 of the Borough Code is hereby deleted in its entirety and replaced with the provisions set forth herein.

SECTION III. If any section, paragraph, subdivision, clause or provision of this ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudged and the remainder of the Ordinance shall be deemed valid and effective.

SECTION IV. All ordinances or parts of ordinances inconsistent with or in conflict with the Ordinance are hereby repealed to the extent of such inconsistency.

SECTION V. This Ordinance shall take effect 20 days after final passage, adoption and publication according to law.