

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 6, 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 Borough Council on **August 3, 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

ORDINANCE NO. 2021-26

**ORDINANCE OF THE MAYOR AND BOROUGH COUNCIL OF THE
BOROUGH OF BELMAR, COUNTY OF MONMOUTH, STATE OF
NEW JERSEY, AMENDING AND SUPPLEMENTING CHAPTER XXVI
ENTITLED HOUSING AND PROPERTY MAINTENANCE IN ORDER
TO PROHIBIT THE PLANTING OR GROWING OF BAMBOO OR
INVASIVE PLANTS**

BE IT ORDAINED, by the Mayor and Council of the Borough of Belmar, County of Monmouth, State of New Jersey, that Chapter 26 of the Borough Code is hereby amended to include the following:

SECTION I. Previously pursuant to Ordinance 2021-18 the Mayor and Council amended and supplemented Chapter XXVI of the Borough Ordinances to prohibit the Planting of Running Bamboo. New Section 26-2.11 entitled “No Planting of Running Bamboo” is hereby adopted.

SECTION II. Section 26-2.11 entitled “No Planting of Running Bamboo” is hereby amended and shall read as “No Planting of Running Bamboo or Invasive Plants.” This new amended section shall read as follows:

- A. The inground planting of Running Bamboo or Invasive Plants is prohibited in the Borough of Belmar.
- B. Invasive Plants shall mean shall mean all native and non-native vines and vegetation that, by their nature: (i) grow beyond the borders of the property of initial planting or cultivation; (ii) are competitive, persistent, and pernicious; and (iii) cause a neighboring property owner or the Borough potential hardship due to the vegetation being overly competitive, poisonous, allergenic, illegal by State statute, or hazardous to the neighboring property’s trees, vegetation, structures and facilities. Examples of Invasive Plants shall include but are not limited to the following plant genera: Bamboo (clumping, spreading or running type), Ragweed (ambrosia), Poison ivy (rhus radicans), Poison oak (toxicodendron vernix), Tree of heaven (Alianthus altissima), Garlic mustard (Alliaria petiolate), Japanese knotweed (Polygonum caspidatum), Mile-a-minute (Polygonum Perfoliatum), Multi flora rose (Rosa multiflora), Kudzu (Pueraria montana), and Porcelain berry (Ampelopsis brevipedunculata), and shall include the plant, and any cutting, flower, seed, root, other plant part, or cultivar therefrom.
- C. Regulation of and Limitations on Existing Invasive Plants.

1. All property owners must control the growth of invasive plants on their property. Failure to control the significant spread of such vegetation beyond the boundaries of any property within the Borough is a violation of this section.
2. All existing plantings must be contained by appropriate physical barriers to prevent growth or spread of existing invasive species beyond the boundaries of a resident's property.
3. Spread is significant when the plant's roots grow beyond the boundaries of a property owner's yard or take over or invade a neighbor's fencing, plants or other landscaping,

D. Removal of Invasive Species.

1. In the event Invasive Species Plant(s) are present on any plot of land, or any other premises or place in the Borough and a complaint is received by the Borough regarding an encroachment of any Invasive Species Plant and the Borough Code Enforcement Inspector, after observation and/or inspection, determines that there is an encroachment or invasion of an Invasive Species Plant on any adjoining/neighborly private or public property or public right-of-way, the Borough shall serve notice to the Invasive Species Plant property owner, in writing, to remove or abate the violation within such time as shall be specified in such notice.
2. The cost of abatement shall be borne by the Invasive Species Plant property owner. If the owner fails to comply with such notice within the time period specified herein, the Borough may remove or otherwise control the invasive plant species and the Borough may thereafter recover the cost of such removal from the property owner and place a lien on the property to recover the cost of said removal.

E. Regulation of and Limitations on Existing Running Bamboo.

1. In the event any species commonly known as "Running Bamboo" is located upon any property within the Borough of Belmar, prior to the effective date of this prohibition, the owner and occupant of said property shall jointly and severally be required to confine such species to prevent encroachment, spread, invasion or intrusion of same onto any other private or public property or public right-of-way. In lieu of confining the species, the property owner or occupant may elect to totally remove the bamboo from the property. Failure to properly confine such bamboo shall require removal as set forth below. The cost of said removal shall be at the bamboo property owner's expense.

F. Removal of Running Bamboo

1. Whenever running bamboo, as defined by this Chapter, is found on any plot of land, lot or any other premises or place, as is found to lack appropriate physical barriers to prevent the spread or growth of the species, or is found to have spread beyond the boundaries of a property, violations shall be given to the owner of the property from which the invasive species have spread, in writing, to remove or abate the same within thirty days. The cost of all remedies, including the removal of plantings of invasive plants, shall be borne by the property owner.

G. Penalty.

1. Any person violating the provisions of this Chapter shall, upon conviction, be punished by a fine or not more than \$2,000.00, or community service, as determined by the Municipal Court of the Borough of Belmar. A continuation of such violation for each successive day shall constitute a separate offense and the person or persons allowing or permitting the continuation of such violation will be punished as provided above for each separate offense.

SECTION III. To avoid confusion, the previous section 26-2.11 entitled “No Planting of Running Bamboo” is hereby deleted and replaced in its entirety with the amendment stated herein.

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

SECTION VI. This Ordinance shall take effect 20 days after final passage, adoption and publication according to 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 6, 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 3, 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.

ORDINANCE NO. 2021-27

**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” subsection F entitled “Regulations” is hereby by amended and supplemented to read as follows:

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 6:00 p.m. or before 9:00 a.m. 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.

SECTION II. To avoid confusion subsection F entitled regulations of 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.

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 **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. 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