

ORDINANCE NO. 2022-2

AN ORDINANCE PERMITTING THE OPERATION OF CLASS 3, CLASS 5, AND CLASS 6 CANNABIS BUSINESSES WITHIN THE BOROUGH OF CHESILHURST, REAFFIRMING THE PROHIBITION OF ALL OTHER CLASSES OF CANNABIS BUSINESSES, AND AMENDING SECTION 285 OF THE BOROUGH MUNICIPAL CODE

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;

WHEREAS, in the Borough of Chesilhurst (the "Borough"), sixty-six percent (66%) of registered voters voted in favor of Public Question N

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 (6) 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 31(a) 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 operation of such establishments, distributors or delivery services, and establishing civil penalties for the violation of any such regulations;

WHEREAS, Section 31(b) 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;

WHEREAS, Section 31(b) of the Act also stipulates that any municipal prohibition was required to be adopted within 180 days of the effective date of the Act (i.e., by August 22, 2021);

WHEREAS, on August 5, 2021, the Borough Council adopted Ordinance No. 2021-03, which prohibited the operation of any class of cannabis business within the Borough and amended Section 285 of the Borough Code, “List of Zoning Districts”;

WHEREAS, pursuant to the Act and its statutory authority, the Borough Council may adopt, revise, or amend its Municipal Code and may opt-in and allow any of the prior prohibitions on one or more classes of licensed cannabis businesses;

WHEREAS, subsequent to the adoption of Ordinance No. 2021-03, the Borough Council has carefully reconsidered the benefits and detriments of permitting any one or more classes of cannabis establishments, cannabis distributors, or cannabis delivery services within the Borough and the impact upon the health, safety, and welfare of its residents, as well as the vote of the Borough’s registered voters in response to Public Question No. 1 on November 3, 2020; and

WHEREAS, the Borough Council has determined that it is necessary and appropriate, and in the best interest of the health, safety and welfare of the Borough’s residents and members of the public who visit, travel, or conduct business in the Borough to adopt an ordinance regulating the operation of certain classes of cannabis businesses within the Borough in accordance with the Act.

NOW THEREFORE, BE IT ORDAINED, by the Governing Body of the Borough of Chesilhurst, Camden County, New Jersey, as follows:

1. Pursuant to Section 31(b) of the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (P.L. 2021, c. 16), cannabis businesses referred to as Class 3, Class 5, and Class 6 businesses under the Act, subject to the required amendments and/or adoptions to the Borough Code, the Borough Zoning Regulations, and the Borough Redevelopment Plan, are permitted to operate in the Borough of Chesilhurst.

2. Pursuant to Section 31(b) of the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (P.L. 2021, c. 16), cannabis businesses referred to as Class 1, Class 2, and Class 4 under the Act, shall remain prohibited from operating anywhere in the Borough of Chesilhurst.

3. The following language under Section 285-97 of the Borough Code, “List of Zoning Districts”, is hereby amended as follows:

Class 3, Class 5, and Class 6 of cannabis businesses and establishments shall be permitted to operate within the Borough, subject to all conditions and requirements being satisfied in accordance with the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (the “Act”) and applicable New Jersey law. 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, Class 1, Class 2, and Class 4 cannabis businesses and establishments are hereby prohibited in any of the Zoning Districts contained in this Chapter and within the geographical boundaries of the Borough.

4. Following the adoption of this Ordinance, the Borough Planning/Zoning Board, through consultation with the appropriate professional service providers and consultants, shall provide the Mayor and Borough Council with any required or recommended amendments and/or adoptions to the Borough Code, the Borough Zoning Regulations, and the Borough Redevelopment Plan, as permitted to operate in the Borough of Chesilhurst.

5. Any article, section, paragraph, subsection, clause, or other provision of the Borough of Chesilhurst Municipal Code 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 Borough of Chesilhurst Planning Board and the Camden County Planning Board, and/or as otherwise provided for by law.

ADOPTED:

BOROUGH OF CHESILHURST

Hon. Jamila Odom Garnett, MAYOR

Gloria Rose, BOROUGH CLERK

TABLED