

**BOROUGH OF WEST WILDWOOD
COUNTY OF CAPE MAY, NEW JERSEY**

ORDINANCE 591 (2021)

**PROHIBITING THE OPERATION OF
ALL CLASSES OF CANNABIS BUSINESSES
WITHIN ITS GEOGRAPHICAL BOUNDARIES AND AMENDING SECTION III, 1-19
OF THE WEST WILDWOOD LAND USE ORDINANCE**

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 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 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 Commissioners of Borough of West Wildwood have 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 West Wildwood in particular, it is at this time necessary and appropriate, and in the best interest of the health, safety and welfare of the Borough of West Wildwood's residents to amend the Borough of West Wildwood's zoning regulations to prohibit the following marijuana-related land use and development within the geographic boundaries of Borough of West Wildwood: all Classes.

NOW, THEREFORE, BE IT ORDAINED, by the Board of Commissioners of the Borough of West Wildwood, in the County of Cape May, New Jersey, the Governing Body of the Borough of West Wildwood, 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 Classes are hereby prohibited from operating anywhere in the Borough of West Wildwood. It is acknowledged that delivery services located in other municipalities shall be permitted to make deliveries in the Borough of West Wildwood.

2. Section III, 1-19 of the West Wildwood Land Use Ordinance is hereby amended by adding to the list of prohibited uses, the following: "All Classes of cannabis establishments 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 which is located in another municipality)."

3. Any article, section, paragraph, subsection, clause, or other provision of the West Wildwood Land Use Ordinance inconsistent with the provisions of this ordinance is hereby repealed to the extent of such inconsistency.

4. 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.

5. This ordinance shall take effect upon its passage and publication and filing with the Borough of West Wildwood Planning Board, and as otherwise provided for by law.

COMMISSIONERS:



MAYOR MATTHEW J. KSIAZEK



COMMISSIONER JOHN J. BANNING



COMMISSIONER JOSEPH D. SEGREST

First Reading/Introduction: 2021 04-01
 Publication: 2021 04-08

	Motion	Second	Yes	No	Abstain	Absent
Mayor Matthew J. Ksiazek			X			
Commissioner John J. Banning	X		X			
Commissioner Joseph D. Segrest		X	X			

I, **Donna L. Frederick, RMC, Municipal Clerk** of the Borough of West Wildwood, Cape May County, do hereby certify the forgoing to be a true and correct copy of an ordinance introduced and passed on the first reading at the April 1, 2021 Regular Meeting held via online access through Zoom.us, and will be considered for final passage after a public hearing to be held on May 7, 2021 at 7:00pm prevailing time, via online access through Zoom.us



Donna L. Frederick, RMC
Municipal Clerk

COMMISSIONERS:


MAYOR MATTHEW J. KSIAZEK


COMMISSIONER JOHN J. BANNING


COMMISSIONER JOSEPH D. SEGREST

Second Reading/Public Hearing: 2021 05-07
Publication: 2021 05-13

	Motion	Second	Yes	No	Abstain	Absent
Mayor Matthew J. Ksiazek			X			
Commissioner John J. Banning	X		X			
Commissioner Joseph D. Segrest		X	X			

I, **Donna L. Frederick, RMC, Municipal Clerk** for the Borough of West Wildwood in the County of Cape May and State of New Jersey, do hereby certify that the foregoing is a correct and true copy of an Ordinance finally adopted by the Board of Commissioners of the Borough of West Wildwood, New Jersey after a public hearing held via online access through Zoom.us at a Regular Meeting held via online access through Zoom.us on May 7, 2021.


Donna L. Frederick, RMC
Municipal Clerk