

## **BOROUGH OF MIDLAND PARK**

### **ORDINANCE #19-2023**

#### **AN ORDINANCE TO AMEND ORDINANCE #08-21, “ZONING”, MORE PARTICULARLY TO AMEND SECTION 34-1.4 THEREOF (Cannabis & Vaping)**

**BE IT ORDAINED** by the Mayor and Council of the Borough of Midland Park, in the County of Bergen, and State of New Jersey as follows:

#### **Section 1.**

Chapter 34, Zoning, §34-1.4 of the Code of the Borough of Midland Park, Prohibited Use In All Zones, is hereby repealed in its entirety and the following substituted therefor:

§34-1.4       **PROHIBITED USE IN ALL ZONES.**

§34-1.4.1     **DEFINITIONS.**

#### **CANNABIS**

All parts of the plant *Cannabis sativa* 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, which are cultivated and, when applicable, manufactured in accordance with P.L. 2016, c. 16 for use in cannabis products as set forth in this act, but shall not include the weight of any other ingredient combined with cannabis to prepare topical or oral administrations, food, drink, or other product. “Cannabis” does not include: medical cannabis dispensed to registered qualifying patients pursuant to the “Jake Honig Compassionate Use Medical Cannabis Act,” P.L.2009, c.307 (C.24:6I-1 et al.) and P.L.2015, c.158 (C.18A:40-12.22 et al.); marijuana as defined in N.J.S.2C:35-2 and applied to any offense set forth in chapters 35, 35A, and 36 of Title 2C of the New Jersey Statutes, or P.L.2001, c.114 (C.2C:35B-1 et seq.), or marijuana as defined in section 2 of P.L.1970, c.226 (C.24:21-2) and applied to any offense set forth in the “New Jersey Controlled Dangerous Substances Act,” P.L.1970, c.226 (C.24:21-1 et al.); or hemp or a hemp product cultivated, handled, processed, transported, or sold pursuant to the “New Jersey Hemp Farming Act,” P.L.2019, c.238 (C.4:28-6 et al.).

#### **CANNABIS CULTIVATOR**

Any licensed person or entity that grows, cultivates, or produces cannabis in this State, and sells, and may transport, this cannabis to other cannabis cultivators, or usable cannabis to cannabis manufacturers, cannabis wholesalers, or cannabis retailers, but not to consumers.

#### **CANNABIS DELIVERY SERVICE**

Any licensed person or entity that provides courier services for consumer purchases of cannabis items and related supplies fulfilled by a cannabis retailer in order to make deliveries of the cannabis

items and related supplies to that consumer, and which services include the ability of a consumer to purchase the cannabis items directly through the cannabis delivery service, which after presenting the purchase order to the cannabis retailer for fulfillment, is delivered to that consumer.

### **CANNABIS DISTRIBUTOR**

Any licensed person or entity that transports cannabis in bulk intrastate from one licensed cannabis cultivator to another licensed cannabis cultivator, or transports cannabis items in bulk intrastate from any one class of licensed cannabis establishment to another class of licensed cannabis establishment and may engage in the temporary storage of cannabis or cannabis items as necessary to carry out transportation activities.

### **CANNABIS ESTABLISHMENT**

A cannabis cultivator, a cannabis manufacturer, a cannabis wholesaler, or a cannabis retailer.

### **CANNABIS MANUFACTURER**

Any licensed person or entity that processes cannabis items in this State by purchasing or otherwise obtaining usable cannabis, manufacturing, preparing, and packaging cannabis items, and selling, and optionally transporting, these items to other cannabis manufacturers, cannabis wholesalers, or cannabis retailers, but not to consumers.

### **CANNABIS RETAILER**

Any licensed person or entity that purchases or otherwise obtains usable cannabis from cannabis cultivators and cannabis items from cannabis manufacturers or cannabis wholesalers, and sells these to consumers from a retail store, and may use a cannabis delivery service or a certified cannabis handler for the off-premises delivery of cannabis items and related supplies to consumers. A cannabis retailer shall also accept consumer purchases to be fulfilled from its retail store that are presented by a cannabis delivery service which will be delivered by the cannabis delivery service to that consumer.

### **CANNABIS WHOLESALER**

Any licensed person or entity that purchases or otherwise obtains, stores, sells or otherwise transfers, and may transport, cannabis items for the purpose of resale or other transfer to either another cannabis wholesaler or to a cannabis retailer, but not to consumers.

### **§34-1.4.2 CANNABIS ESTABLISHMENTS, DISTRIBUTORS AND DELIVERY SERVICES PROHIBITED.**

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 Midland Park, except for the delivery of cannabis items and related supplies by a licensed cannabis delivery service based and initiated from a cannabis delivery service licensed location outside of the Borough of Midland Park.

### **§34-1.4.3 PROHIBITION OF VAPING PRODUCTS.**

The sale of vaping products of any kind or nature be and are hereby prohibited in the Borough of Midland Park.

§34-1.4.4 **FINES AND PENALTIES.**

Any person found guilty of violating the provisions of this Ordinance shall be subject to such fines and penalties as set forth in §1-5 of the Borough Code.

**Section 2. Inconsistent Ordinances Repealed.**

Any article, chapter, section, paragraph, subsection, clause, or other provision of the Code inconsistent with the provisions of this Ordinance is hereby repealed to the extent of such inconsistency.

**Section 3. Severability.**

In case, for any reason, any portion or provision of this Ordinance shall be held to be unconstitutional or invalid, the same shall not affect any other portion or provision of this Ordinance, except so far as the portion or provision so declared unconstitutional or invalid shall be severed from the remainder or any portion thereof.

**Section 4. Effective Date.**

This Ordinance shall take effect immediately upon final passage and publication as provided by law.

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**HARRY SHORTWAY, JR., Mayor**

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**WENDY MARTIN, RMC  
Borough Clerk**

**Introduced: July 27, 2023  
Adopted: September 14, 2023**

**BOROUGH OF MIDLAND PARK  
280 GODWIN AVENUE  
MIDLAND PARK, NJ 07432**

**ORDINANCE #19-2023**

**AN ORDINANCE TO AMEND ORDINANCE #08-21, "ZONING", MORE PARTICULARLY TO AMEND SECTION 34-1.4 THEREOF**

**NOTICE IS HEREBY GIVEN**, that the proposed Ordinance was introduced and passed on the first reading at a regular meeting of the Borough Council of the Borough of Midland Park, Bergen County, New Jersey, held on July 27, 2023, and that said Ordinance will be taken up for further consideration and final passage at the Regular meeting of the Borough Council on September 13, 2023 at 8:00 P.M., or as soon thereafter will be given the opportunity to be heard concerning the same.

**TAKE FURTHER NOTICE**, that the Borough Clerk has posted a copy of said Ordinances on the bulletin board in Midland Park Borough Hall and will make copies of the Ordinance available to members of the general public who request the same.

**Wendy Martin, RMC  
Borough Administrator/Clerk**

For August 2, 2023 issue of The Record

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MIDLAND PARK, NJ 07432**

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**NOTICE IS HEREBY GIVEN**, that the foregoing Ordinance was introduced at a regular meeting of the Borough Council of the Borough of Midland Park, Bergen County, held on July 27, 2023, and was passed on final reading and approved at a Regular meeting of the said Borough Council, held on September 14, 2023.

**Wendy Martin, RMC  
Borough Administrator/Clerk**

For September 20, 2023 issue of The Record