

ORDINANCE NO. 34-2023

AN ORDINANCE OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF HANOVER TO AMEND CHAPTER 120, "DRUGS AND DRUG PARAPHERNALIA," ARTICLE III, "CANNABIS," CREATING SECTIONS 120-13, TO PROHIBIT THE ILLEGAL RETAIL SALE OF CANNABIS, 120-14, TO PROHIBIT THE COMMERCIAL PRACTICE OF GIFTING CANNABIS CONTINGENT UPON A SEPARATE RECIPROCAL TRANSACTION FOR GOODS OR SERVICES, AND 120-15, TO ESTABLISH CIVIL FINES AND PENALTIES IN ACCORDANCE WITH SAME

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, section 31a of the Act, N.J.S.A. 24:6I-45a, authorizes municipalities to adopt ordinances and regulations prohibiting outright and/or limiting the number of any class of license "cannabis establishments" (defined in section 33 of the Act, N.J.S.A. 24:6I-33, as "a cannabis cultivator, a cannabis manufacturer, a cannabis wholesaler, or a cannabis retailer"), cannabis distributors and cannabis delivery services allowed to operate within its municipal boundaries; and the location, manner and times of operation of such cannabis establishments, cannabis distributors and cannabis delivery services, except that the time of operations for cannabis delivery services, shall only be subject to the regulation by the Cannabis Regulatory Commission (the "Commission"); and

WHEREAS, section 31a of the Act, N.J.S.A. 24:6I-45a, authorizes municipalities to establish certain civil penalties for violations of any ordinance or regulations governing cannabis establishments, distributors or delivery services that may operate in a municipality; and

WHEREAS, pursuant to N.J.A.C. 17:30-2.1, a consumer may transfer up to one ounce of usable cannabis, or up to the equivalent of one ounce of usable cannabis, as defined by N.J.S.A. 24:6I-33 ('Usable Cannabis'), as a cannabis product in solid, liquid, or concentrate form, where the Usable Cannabis is obtained directly from a licensed cannabis retailer and so long as the transfer is without remuneration for non-promotional, nonbusiness purposes; and

WHEREAS, the Township Committee approved Ordinances No. 30-2018 and No. 11-2021, prohibiting all cannabis establishments, cannabis distributors or cannabis delivery services from operating anywhere in the Township of Hanover, including cannabis establishments engaging in the retail sale of cannabis as defined by N.J.S.A. 24:6I-33 ('Retail Sale'), excepting 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 Township; and

WHEREAS, the Township Committee wishes to reaffirm its prohibition on the Retail Sale of cannabis; and

WHEREAS, the Township Committee wishes prohibit the transfer of Usable Cannabis in any instance where the Usable Cannabis is not obtained directly from a licensed cannabis retailer and/or is transferred with remuneration or for promotional and/or business purposes ('Gainful Transfer'); and

WHEREAS, the Township Committee wishes to establish certain civil penalties for the Retail Sale of cannabis by any business located in the Township and for the Gainful Transfer of Usable Cannabis.

NOW THEREFORE, BE IT ORDAINED, by the Township Committee of the Township of Hanover in the County of Morris and State of New Jersey, as follows:

SECTION 1.

§ 120-13 Prohibition on Retail Sale of Cannabis

Pursuant to N.J.S.A. 24:6I-45b, the operation of any Cannabis Retail Establishment and/or the retail sale of cannabis, cannabis items and related

supplies by any person or business directly to consumers for recreational consumption, including by a licensed Class 5 Cannabis Retailer and/or pre-existing alternative treatment center deemed to concurrently hold a Class 5 Cannabis Retailer license, is hereby prohibited within the geographic boundaries of the Township of Hanover.

§ 120-14 Prohibition on Certain Transfers of Usable Cannabis

Pursuant to N.J.A.C. 17:30-2.1, the transfer of usable cannabis in any instance where the usable cannabis is not obtained directly from a licensed cannabis retailer, and/or is transferred with remuneration or for promotional and/or business purposes, is hereby prohibited within the geographic boundaries of the Township of Hanover.

§ 120-15 Civil Fines and Penalties

A. Any person(s), firm(s), business(es), corporation(s) and/or other organizations, including any licensed medical and/or cannabis establishment, found to be engaged in the retail sale of cannabis in violation of § 120-13 shall be subject to a civil fine and penalty not exceeding \$2,000.

B. Any person(s), firm(s), business(es), corporation(s) and/or other organizations, including any licensed medical and/or cannabis establishment, found to be engaged in the transfer of usable cannabis in violation of § 120-14 shall be subject to a civil fine and penalty not exceeding \$2,000.

C. Each and every day any person(s), firm(s), business(es), corporation(s) and/or other organizations, including any licensed medical and/or cannabis establishment remains in violation of the provisions of this Code after the deadline for compliance set forth in any notice of violation issued by the enforcing officer(s) of the Township shall be considered a continuing violation punishable as a separate and distinct offense and subject to a separate civil fine and penalty for each and every day the violation continues.

D. The Municipal Court or Superior Court shall have jurisdiction to hear and decide any action(s) brought to enforce the provisions of this code, the hearing for which shall be conducted in a summary manner pursuant to N.J.S.A. 2B12-16a, and any final order imposing fines and penalties for a violation of this code shall be enforceable in the Municipal Court or Superior Court and collectible as a lien against the property of the violator in accordance with the Penalty Enforcement Law of 1999, N.J.S.A. 2A:58-10 to -12

§ 120-16 Enforcement

Enforcement of this Ordinance shall be by any officer of the Hanover Township Police Department and/or any municipal official as the Township may, from time to time, designate.

SECTION 2. Severability. If any article, section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance and they shall remain in full force and effect.

SECTION 3. Repealer. All existing ordinances or parts of existing ordinances which are inconsistent with the terms of this ordinance are to the extent of such inconsistency repealed.

SECTION 4. Effect. This Ordinance shall take effect immediately upon final passage, approval and publication as required by law.

TOWNSHIP COMMITTEE
TOWNSHIP OF HANOVER
COUNTY OF MORRIS
STATE OF NEW JERSEY


Thomas "Ace" Gallagher, Mayor

ATTEST:


Krista M. DiGiorgio, Township Clerk

Date of Introduction: November 9, 2023
Date of Adoption: December 14, 2023

CERTIFICATION

I, Krista M. DiGiorgio, Township Clerk of the Township of Hanover in the County of Morris and State of New Jersey, do hereby certify the foregoing to be a true copy of an Ordinance adopted by the Township Committee of said Township on the 14th day of December, 2023, at a meeting duly convened, of said Body.


Krista M. DiGiorgio, Township Clerk