

ORDINANCE NO. 1152-2021

AN ORDINANCE AUTHORIZING A LEASE WITH THE CLINTON TOWNSHIP ORGANIC COMMUNITY GARDEN, INC. PERTAINING TO A PORTION OF BLOCK 88, LOT 3.02, ALSO KNOWN AS THE “WHITE CLOUD ORCHIDS” PROPERTY IN THE TOWNSHIP OF CLINTON

WHEREAS, the Township of Clinton is the owner of a 0.5± acre parcel in the Township designated as a portion of Block 88, Lot 3.02 on the Township tax maps, and located off of Red School House Road, commonly referred to as the “White Cloud Orchids” property (the “**Property**”), which has been used for the Clinton Township Organic Community Garden (“**Community Garden**”); and

WHEREAS, the Community Garden has thrived and expanded to benefit the Clinton Township community over the past several years; and

WHEREAS, a group of Township residents filed with the State of New Jersey, Division of Taxation, to form the Clinton Organic Community Garden Inc., a nonprofit corporation (“**COCG Nonprofit**”), whose purpose is to beautify, conserve and provide public access to open space by creating opportunities for residents of Clinton Township and its surrounding areas to engage in organic gardening, in a friendly, welcoming setting that respects the environment; and

WHEREAS, the COCG Nonprofit desires to assume responsibility for and continue operation of the Community Garden on behalf of the residents of Clinton Township and its surrounding areas in substantially the same manner as it has been operated in the past; and

WHEREAS, *N.J.S.A.* 40A:12-14(c) of the Local Lands and Buildings Law authorizes a municipality to lease property to a nonprofit for public purposes and *N.J.S.A.* 40A:12-15(j) specifically authorizes a municipality to enter into a lease with a nonprofit corporation for the purpose of gardening; and

WHEREAS, the Property is subject to the General Provisions of the Green Acres Program regulations (*N.J.A.C.* 7:36 et seq.) and the COCG Nonprofit has agreed to comply with said regulations; and

WHEREAS, the Mayor and Council have determined that it is in the best interests of Clinton Township to enter into a ten-year lease with the COCG Nonprofit to operate the Township’s Community Garden;

NOW THEREFORE, BE IT ORDAINED by the Mayor and Council of the Township of Clinton, in Hunterdon County, New Jersey as follows:

Section 1. Preamble Incorporated. The statements and findings set forth in the preamble above are hereby incorporated as if fully restated herein.

Section 2. Lease of a Portion of Block 88, Lot 3.02. Pursuant to *N.J.S.A.* 40A:12-14 and 40A:12-15, the Municipal Council hereby authorizes the lease of the Property to the COCG Nonprofit for the purpose of operating the Community Garden for the benefit of the citizens of Clinton Township and surrounding areas, as described in Section 1 above, subject to the following conditions:

- A. Term: Initial period of five (5) years with options for renewal.
- B. Consideration: Ten (\$10.00) Dollars.
- C. Compliance with Green Acres Regulations: The COCG Nonprofit shall conduct all activities on the Property in accordance with Green Acres regulations, as more particularly described in *N.J.A.C.* 7:36 et seq.
- D. Insurance: The COCG Nonprofit shall provide the Municipal Clerk with a certificate of insurance for general liability. The COCG Nonprofit insurance shall be primary as to any other insurance.
- E. The COCG Nonprofit shall submit annual reports to the Township addressing operations and a fiscal summary.

Section 3. Municipal Council Responsible for Enforcement of Lease and Renewal. The Municipal Council is hereby designated as the entity responsible for enforcement of the lease and renewal thereof.

Section 4. Authority to Implement Terms of Conveyance. The Mayor, Administrator, Clerk, Township Attorney, and other appropriate staff and officials are hereby authorized and directed to negotiate, prepare, and execute any and all such documents and undertake any and all such acts as may be needed to implement the terms hereof.

Section 5. Repealer. All ordinances and resolutions or parts thereof inconsistent with this ordinance are repealed.

Section 6. Severability. If any paragraph, section, subsection, sentence, sentence clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court or administrative agency of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision of such holding and shall not affect the validity of the remaining paragraphs or sections hereof.

Section 7. Effective Date. This ordinance shall take effect upon its passage and publication and in accordance with all applicable statutory requirements.

ATTEST:

Carla Conner, Township Clerk

Brian Mullay, Mayor

Introduced: April 14, 2021
Adopted: May 12, 2021

TOWNSHIP OF CLINTON

ORDINANCE NO.

**AN ORDINANCE OF THE TOWNSHIP OF CLINTON IN
HUNTERDON COUNTY, NEW JERSEY AMENDING
CLINTON TOWNSHIP'S LAND USE REGULATIONS
TO PROHIBIT ALL CLASSES OF CANNABIS
BUSINESSES WITHIN THE TOWNSHIP**

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 twenty-one 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 twenty-one 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 one 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 purchased 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 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 Mayor and Council of the Township of Clinton 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 Clinton Township in particular, it is at this time necessary and appropriate, and in the best interest of the health, safety and welfare of the Township's residents and members of the public who visit, travel, or conduct business in the Township, to amend the Township's zoning regulations to prohibit all manner of marijuana-related land use and development within the Township; 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 Township of Clinton, County of Hunterdon and State of New Jersey, as follows:

1. Preamble incorporated. The preamble to this ordinance is hereby incorporated as if fully restated herein.

2. Cannabis businesses prohibited. Pursuant to section 31b of the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (*P.L.* 2021, *c.* 16)(the "Act"), all cannabis establishments, cannabis distributors or cannabis delivery services as said

terms are defined in section 3 of the Act and in Chapter 165 of the “Code of the Township of Clinton” (“Township Code”) are hereby prohibited from operating anywhere in the Township of Clinton, except for the delivery of cannabis items and related supplies within the Township by a delivery service located outside of the Township.

3. Section 165-4 of the Township Code amended. Section 165-4, “Definitions” in Chapter 165, “Land Use Regulations” of the Township Code is hereby amended by adding thereto the following new definitions:

CANNABIS CULTIVATOR

Any person or entity holding a Class 1 Cannabis Cultivator license issued by the State of New Jersey that grows, cultivates, or produces cannabis in the State of New Jersey, 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

The transportation of cannabis items and related supplies to a consumer. “Cannabis delivery” also includes the use by a licensed cannabis retailer of any third party technology platform to receive, process, and fulfill orders by consumers, which third party shall not be required to be a licensed cannabis establishment, distributor, or delivery service, provided that any physical acts in connection with fulfilling the order and delivery shall be accomplished by a certified cannabis handler performing work for or on behalf of the licensed cannabis retailer, which includes a certified cannabis handler employed or otherwise working on behalf of a cannabis delivery service making off-premises deliveries of consumer purchases fulfilled by that cannabis retailer.

CANNABIS DELIVERY SERVICE

Any person or entity holding a Class 6 Cannabis Delivery license issued by the State of New Jersey 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 person or entity holding a Class 4 Cannabis Distributor license issued by the State of New Jersey that transports cannabis in bulk intrastate from one licensed cannabis cultivator to another licensed cannabis cultivator, or transports 40 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 person or entity holding a Class 2 Cannabis Manufacturer license issued by the State of New Jersey, 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 person or entity holding a Class 5 Cannabis license issued by the State of New Jersey 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 person or entity holding a Class 3 Cannabis Wholesaler license issued by the State of New Jersey 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.

4. Section 165-93 of the Township Code amended. Section 165-93, “Prohibited uses” in Chapter 165, “Land Use Regulations”, Part 7, “Zoning Regulations,” Article XVI, “General Provisions” of the Township Code is hereby amended to read as follows (new text is underlined thus; deleted text is in brackets [thus]):

§ 165-93 Prohibited uses.

A. Where a use is not specifically permitted in a zone district, it is prohibited.

B. In addition, the following uses are expressly prohibited in all zone districts:

(1) The operation of any and all classes of cannabis establishments or cannabis distributors or cannabis delivery services as said terms are defined in this chapter and in section 3 of P.L. 2021, c. 16, but not the delivery of cannabis items and related supplies within the Township by a cannabis delivery service located outside the Township.

5. Referral to Planning Board. Following introduction and prior to adoption, the Clerk shall cause a copy of this ordinance to be referred to the Clinton Township Planning Board for review pursuant to *N.J.S.A. 40:55D-26*.

6. Repealer. All ordinances and resolutions or parts thereof inconsistent with this ordinance are repealed.

7. Severability. If any section, paragraph, subsection, clause or provision of this ordinance shall be adjudged by the courts 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 valid and enforceable.

8. Effective Date. This ordinance shall take effect twenty days from the date of its adoption and upon filing with the Hunterdon County Planning Board, as required pursuant to *N.J.S.A. 40:69A-181* and *N.J.S.A. 40:55D-16*.

ATTEST:

Carla Conner, Township Clerk

Brian Mullay, Mayor

Introduced:
Referred to Planning Board:
Adopted: