

**ORDINANCE #2018-13**  
**AN ORDINANCE AMENDING AND SUPPLEMENTING**  
**THE BOROUGH CODE OF THE BOROUGH OF**  
**ALLENHURST TO PROHIBIT RETAIL SALE OF**  
**MARIJUANA AND MARIJUANA PARAPHERNALIA FOR**  
**RECREATIONAL PURPOSES ANYWHERE IN THE**  
**BOROUGH**

**WHEREAS**, the State of New Jersey has prohibited the manufacture, distribution, and possession of marijuana due to its negative societal consequences and deleterious health effects; and

**WHEREAS**, the public policy of United States is also to criminalize the manufacture, distribution, and possession of recreational marijuana even if related operations are conducted in accordance with State law; and

**WHEREAS**, several bills pending in the New Jersey Legislature would reverse the State's long-standing public policy concerning recreational marijuana, with proposed measures ranging in scope from simple decriminalization to the full-scale regulation of the manufacture, distribution, and possession of marijuana for recreational purposes; and

**WHEREAS**, the Borough Council of the Borough of Allenhurst believes the retail sale of recreational marijuana, an activity rightfully prohibited under federal law, will have significant deleterious consequences to the quality of life, as well as the health, safety, and welfare of Borough residents; and

**WHEREAS**, it is the prerogative Borough Council of the Borough of Allenhurst to declare for itself the public policy of the Borough prior to any change in the State law, and to enforce that policy in a manner best suited to the Borough, not inconsistent with State law.

**WHEREAS**, the Borough Council of the Borough of Allenhurst has determined that it is in the best interests of the community to revise certain portions of its existing Borough Code to prohibit the retail sale of marijuana and marijuana paraphernalia;

**NOW THEREFORE, BE IT ORDAINED** by the Borough of Allenhurst, County of Monmouth, State of New Jersey, that the Borough Code of the Borough of Allenhurst be and is hereby amended to revise subsection 26-4.1 of Chapter XXVI entitled DEVELOPMENT REGULATIONS and supplemented to add subsection 4-5 to Chapter IV entitled LICENSING AND BUSINESS REGULATIONS and as follows:

**CHAPTER 26 DEVELOPMENT REGULATIONS**

26-4.1 Nonconforming Uses, Structures and Lots; Prohibited Uses is hereby amended to include the following provision:

h. The Borough has determined that the sale of marijuana and marijuana paraphernalia shall be expressly prohibited in all geographical locations throughout the Borough in light of the continued prohibition of same under federal law. Nothing herein shall affect a

licensed medical marijuana facility operating pursuant to the "New Jersey Compassionate Use Medical Marijuana Act," N.J.S.A. 24:6I-1 et seq.

## **CHAPTER 4-5 LICENSING AND BUSINESS REGULATIONS**

### **4-5 RECREATIONAL MARIJUANA**

**4-5.1 PURPOSE.** The purpose of this section is to protect and promote the public health by prohibiting the retail sale of marijuana and marijuana paraphernalia.

**4-5.2 DEFINITIONS.** As used in this section, the following terms shall have the meanings indicated:

a. "Marijuana retail facility" means any place in which marijuana is sold for recreational purposes to members of the public.

b. "Marijuana paraphernalia" means any equipment, product or accessory that is used or modified for making, using, smoking or concealing marijuana, typically for recreational purposes.

**4-5.3 PROHIBITION.** Any activity involving the sale of marijuana or marijuana paraphernalia for recreational purposes, including but not limited to the establishment of any marijuana retail facility, is prohibited in the Borough of Alenhurst. Nothing herein shall affect a licensed medical marijuana facility operating pursuant to the "New Jersey Compassionate Use Medical Marijuana Act," N.J.S.A. 24:6I-1 et seq.

**4-5.4 REPEALER.** The remainder of all other sections and subsections of the aforementioned ordinances not specifically amended by this Ordinance shall remain in full force and effect.

**4-5.5 INCONSISTENT ORDINANCES.** All other Ordinances or parts thereof inconsistent with the provisions of this Ordinance are hereby repealed as to such inconsistency.

**4-5.6 SEVERABILITY.** If any section, paragraph, subdivision, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudged and the remainder of this Ordinance shall be deemed valid and effective.

**ORDAINED** that this Ordinance shall take effect twenty (20) days after the first publication thereof after final passage as provided by law.

**APPROVED:** August 28, 2018

**ADOPTED:** September 11, 2018

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Administrator/Clerk