

**BOROUGH OF HILLSDALE
BERGEN COUNTY, NEW JERSEY
ORDINANCE NO. 18-21
(Adoption)**

**ORDINANCE OF THE BOROUGH OF HILLSDALE, COUNTY OF
BERGEN, STATE OF NEW JERSEY, TO AMEND CHAPTER 310 OF
THE BOROUGH CODE ENTITLED "LAND USE" TO PROHIBIT
MARIJUANA ESTABLISHMENTS**

WHEREAS, the Municipal Land Use law (N.J.S.A. 40:55D-1 et seq.) delegates to municipalities the power to zone and regulate development and that the Statute is amended from time to time by the State Legislature; and

WHEREAS, the Borough of Hillsdale, at its regular meeting on November 8, 2018, has requested that the Borough of Hillsdale Land Development Code be amended so as to provide a safe environment for all of the citizens of Hilldale in response to, and having considered recent debate and proposed legislation by the State of New Jersey, to permit legalizing marijuana for recreational uses, allowing for the distribution and consumption of marijuana within New Jersey; and

WHEREAS, the Borough of Hillsdale has determined that the sale and distribution of marijuana presents special concerns of safety, security and general nuisances that arise as the result of the use of drugs and substances that can affect the youth of the borough and others; and

WHEREAS, in Colorado, where the use of marijuana was legalized, despite Federal Law, in 2012 and the sale of recreational marijuana was legalized in 2014, and a comprehensive analysis undertaken by the Denver Post, and coroners reports, have demonstrated that the number of drivers involved in fatal crashes in Colorado who tested positive for marijuana has risen sharply each year since 2013, more than doubling in that time, which Federal and State data also show; and

WHEREAS, the Denver Post analysis of the data and coroner reports also reveal that increasingly potent levels of marijuana were found in positive-testing drivers who died in vehicle crashes, including nearly a dozen in 2016 who had levels five times the amount allowed by Denver law, and one was at 22 times the limit, whereas levels were not as elevated in earlier years; and

WHEREAS, the Borough of Hillsdale is desirous of banning the sale of marijuana and associated paraphernalia and operations related to the cultivation, testing or manufacturing of such products within the territorial jurisdiction of the Borough of Hillsdale; and

WHEREAS, the Statutory provisions establishing a safety and security obligation were recently amended and supplemented by the New Jersey Legislature, P.L. 2017 c. 312, and the Borough now likewise amends its Land Development Code to comply with the revisions to the Statute.

NOW THEREFORE, BE IT ORDAINED, by the Mayor and Council of the Borough of Hillsdale as follows:

Section 1. Chapter 310-55 of the Borough Code of the Borough of Hillsdale is hereby amended and supplemented by adding a new section I(15) "Certain uses related to marijuana prohibited" as follows:

§310-55(I)(15)Certain Uses Relating To Marijuana Prohibited

- A. The operation of retail marijuana establishments, which includes retail marijuana stores, retail marijuana cultivations facilities, retail marijuana products, manufacturing facilities, and retail marijuana testing facilities, and the operation of retail marijuana social clubs are prohibited within the Borough of Hillsdale and, therefore, all activities related to the above mentioned retail uses such as, but not limited to, cultivation, extraction, manufacturing, processing, storing, laboratory testing, labeling, transporting, delivering, dispensing, transcending and distributing either recreational or medicinal marijuana are expressly prohibited within the Borough of Hillsdale. For purposes of this Section, "hookah lounges" and similar establishments in which a primary use is the use of a shared smoking device shall be considered a retail marijuana establishment regardless of whether marijuana is used or consumed through such smoking device. This shall also prohibit businesses selling, distributing, cultivating, growing and/or facilitating the sale and/or use of marijuana, including any ancillary or related paraphernalia.

- B. To the extent that the State of New Jersey permits a municipality to opt out of any State legislation permitting any use set forth in Section A of this Chapter, the Borough of Hillsdale does hereby so opt out.

Section 2. All other parts, portions and provisions of Chapter 310 of the Borough of Hillsdale Code be, and the same are hereby ratified and conformed, except where inconsistent with the terms hereof. In the event of any such inconsistency, the terms of this Ordinance shall be deemed to govern.

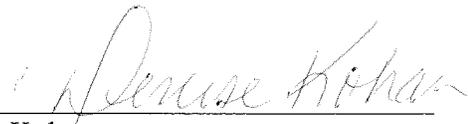
Section 3. If any section, paragraph, sub-section, clause or provision of this ordinance shall be declared invalid by a court of competent jurisdiction, such decision shall not affect the validity of this ordinance as a whole or any part thereof.

Section 4. All ordinances or parts of ordinances of the Borough heretofore adopted that are inconsistent with any of the terms and provisions of this ordinance are hereby repealed to the extent of such inconsistency.

Section 5. This Ordinance shall take effect upon passage and publication as provided by Law.

Council member	Motion	Second	Yes	No	Absent	Abstain	Recuse
DeRosa, Anthony					X		
Horvath, Zoltan			X				
Karcich, Scott	X		X				
Lundy, Abby		X	X				
Pizzella, Frank			X				
Segalas, Steven			X				
Ruocco, John							

Adopted: December 11, 2018

Attest: 
Denise Kohan
Municipal Clerk


John Ruocco
Mayor