

ORDINANCE 2-2023

ORDINANCE OF THE BOROUGH OF MADISON REPEALING ORDINANCE NO. 18-2022 TO REINSTATE THE FORMER ZONING OF THE CC COMMUNITY COMMERCIAL ZONE AND THE GATEWAY ZONE PROHIBITING MEDICINAL CANNABIS DISPENSARIES

WHEREAS, pursuant to N.J.S.A. 24:6I-45, the Borough of Madison (the “Borough”) initially enacted Ordinance No. 30-2021, prohibiting all classes of cannabis establishments in all zoning districts within the Borough, except for the delivery of cannabis items and related supplies by a delivery service from outside the Borough; and

WHEREAS, pursuant to N.J.A.C. 17:30-5.1(a), the Borough enacted Ordinance No. 18-2022, which permitted medicinal cannabis dispensaries in the CC Community Commercial Zone and the Gateway Zone, established a numerical limit on the number of medicinal cannabis businesses permitted in those zones, and established operating requirements for such establishments; and

WHEREAS, the Borough no longer wishes to permit medicinal cannabis dispensaries within the Borough; and

WHEREAS, pursuant to N.J.A.C. 17:30-5.1(b), the Borough Council may enact and amend an ordinance or regulation to prohibit the operation of any one or more classes of cannabis business within the Borough, which shall apply throughout the municipality; and

WHEREAS, pursuant to N.J.S.A. 40:48-2, the Borough Council may make, amend, repeal and enforce ordinance, regulations, rules and by-laws not contrary to the laws of the State of New Jersey or the United States, as the Borough Council deems necessary and proper for the good government, order and protection of persons and property, and for the preservation of the public health, safety and welfare of the Borough and its inhabitants, and as may be necessary to carry into effect the powers and duties conferred and imposed by this subtitle, or by any law; and

WHEREAS, the Borough Council deems it in the public interest to repeal Ordinance No. 18-2022 and reinstate the prior zoning of the CC Community Commercial Zone and the Gateway Zone to prohibit medicinal cannabis dispensaries.

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Madison, County of Morris, State of New Jersey, as follows:

Section 1. Ordinance No. 18-2022 is hereby repealed and shall be of no force and effect whatsoever.

Section 2. All sections of the Borough Code not amended hereunder shall remain in full force and effect.

Section 3. The Borough Clerk is directed to give notice at least ten (10) days prior to a hearing on the adoption of this Ordinance to the Borough of Madison Planning Board and to all other persons or entities entitled thereto pursuant to N.J.S.A. 40:55D-26 and N.J.S.A. 40:55D-64. The Planning Board is directed to make and transmit to the Borough Council, within thirty-five (35) days after referral, a report including identification of any provisions in the proposed Ordinance that are inconsistent with the Borough Master Plan and recommendations concerning any inconsistencies and any other matter as deemed appropriate.

Section 4. In the event any section, part or provision of this Ordinance shall be held unconstitutional or invalid by any Court, such holding shall not affect the validity of this Ordinance or any remaining part of this Ordinance other than the part held unconstitutional or invalid.

Section 5. All ordinances or parts thereof that are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of their inconsistencies.

Section 6. This Ordinance shall take effect immediately upon its final passage and publication as required by law.

Introduced:

Adopted:

ADOPTED AND APPROVED

ROBERT H. CONLEY, Mayor

Attest:

ELIZABETH OSBORNE, Borough Clerk