

BOROUGH OF BOGOTA PLANNING AND ZONING BOARD

June 8, 2021 – Work Session - 7:30 PM

GOOGLE ZOOM –(login info Attached)

A G E N D A

- I. FLAG SALUTE**
- II. OPEN PUBLIC MEETINGS ACT STATEMENT BY THE CHAIRMAN**
- III. ROLL CALL**

Counc. MaryEllen Murphy
Tom Napolitano
Corrado Mancini
Counc. Daniele Fede
John Mitchell

Ed Reiper
Sgt. Det. Hector Liriano
Frank Miranda
Daniel Schnipp
Jessie Frias -Alternate 1
Jose Chavez – Alternate 2

- IV. PUBLIC COMMENTS**

- V. OLD BUSINESS –**

- VI. NEW BUSINESS –**

-Discussion of Ordinances 1562 and 1563 (Attached) per Mayor and Council request. Planner response below

- Review Responses from Planner and Engineer on 30 Cross Street Application. Reminder for all to pickup drawings. Check for quorum for scheduled hearing

CORRESPONDENCE -

From: Paul Grygiel <PGrygiel@phillipspreiss.com>

Sent: Tuesday, June 1, 2021 12:01 PM

To: Jeanne Cook <clerk@bogotaonline.org>

Subject: RE: zoning ordinance

Jeanne,

I have reviewed the ordinance per your request. I do not have issues with the proposed amendments from a planning perspective, and concur that the ordinance is not inconsistent with the Borough's Master Plan. Thank you.

Paul Grygiel, AICP, PP/ Principal

Phillips Preiss Grygiel Leheny Hughes LLC / Planning & Real Estate Consultants

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Mobile 201.240.6911 / Office 201.420.6262 ext. 16 / www.phillipspreiss.com

Topic: Planning and Zoning Meeting

Time: Feb 9, 2021 07:30 PM Eastern Time (US and Canada)

Every month on the Second Tue, until Jun 8, 2021, 5 occurrence(s)

~~Feb 9, 2021 07:30 PM~~

~~Mar 9, 2021 07:30 PM~~

~~Apr 13, 2021 07:30 PM~~

~~May 11, 2021 07:30 PM~~

Jun 8, 2021 07:30 PM

Join Zoom Meeting

<https://us02web.zoom.us/j/85969453492>

Meeting ID: 859 6945 3492

Passcode: 702886

One tap mobile

+19292056099,,85969453492#,,,,*702886# US (New York)

Dial by your location

+1 929 205 6099 US (New York)

Meeting ID: 859 6945 3492

Passcode: 702886

Find your local number: <https://us02web.zoom.us/j/k5v6XXfXB>

BOROUGH OF BOGOTA

ORDINANCE NO. 1562

AN ORDINANCE TO PROHIBIT THE OPERATION OF ALL CLASSES OF CANNABIS BUSINESSES WITHIN THE BOROUGH OF BOGOTA, AND TO AMEND CHAPTER 21A OF THE BOGOTA ZONING CODE

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, 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 of 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 Borough of Bogota 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 Bogota in particular, it is at this time necessary and appropriate, and in the best interest of the health, safety and welfare of Bogota's residents and members of the public who visit, travel, or conduct business in Bogota, to amend Chapter 21A of Bogota's zoning regulations to prohibit all manner of marijuana-related land use and development within the geographic boundaries of the Borough of Bogota; 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 this have reviewed the Act (those organizations being the New Jersey State League of Municipalities and the New Jersey Institute of Local Government Attorneys) and 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 and 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 Borough of Bogota as follows:

1. Pursuant to Section 31b of the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (P.L. 2021, c. 16), all cannabis establishments, cannabis distributors or cannabis delivery services are hereby prohibited from operating anywhere in the Borough of Bogota, except for the delivery of cannabis items and related supplies by a delivery service.

2. Section 21A-7.5 of the Borough Code is hereby amended by adding to the list of prohibited uses the following: "All classes of cannabis establishments, cannabis distributors and cannabis delivery services, as said terms are defined in section 3 of P.L. 2021, c. 16, but not the delivery of cannabis items and related supplies by a delivery service."

3. Any article, section, paragraph, subsection, clause, or other provision of the Bogota Code that is inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

4. If any section, paragraph, subsection, clause, or provision of this ordinance shall be adjudged by a court of competent jurisdiction 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 deemed valid and effective.

5. Upon adoption of this Ordinance on first reading, it shall be referred to the Bogota Planning Board in accordance with N.J.S.A. 40:55D-64.

6. This ordinance shall take effect upon its passage and publication and filing with the Bergen County Planning Board, and as otherwise provided for by law.

BOROUGH OF BOGOTA

AMENDED ORDINANCE NO. 1563

**AN ORDINANCE TO AMEND CHAPTER 21A OF THE
BOGOTA CODE TO PERMIT MUNICIPAL BUILDINGS
AND FACILITIES IN THE R1 ZONING DISTRICTS OF
THE BOROUGH**

WHEREAS, The Borough of Bogota is a Municipal Corporation of the State of New Jersey, and is responsible for advancing the health, safety and welfare of its residents through the provision of various government services administered from municipal buildings and facilities located throughout the Borough; and,

WHEREAS, Chapter 21A of the Bogota Code sets forth the uses that are permitted and prohibited throughout each of the zoning districts in the Borough; and,

WHEREAS, Schedule 2-1 of Chapter 21A specifically lists the permitted, accessory and conditional uses for each of the eleven zones in the Borough, and currently permits municipal buildings and uses/facilities in only four of those zones; and,

WHEREAS, municipal buildings and uses/facilities are prohibited in the remaining seven zones of the Borough, as stated in Chapter 21A-7.5; and,

WHEREAS, limiting the zones where a municipal facility can be placed is contrary to the Municipal Land Use Law, which does not restrain the power of a municipality to determine where to locate municipal facilities within its borders; and,

WHEREAS, the Bogota Planning/Zoning Board had adopted a Master Plan on January 17, 2003, and a Master Plan Reexamination Report on April 14, 2015; and,

WHEREAS, both the Master Plan and the Reexamination Report list “Promot[ing] adequate community services for all portions of Bogota” as one of the goals and objectives of the Borough; and,

WHEREAS, the current placement limitations set forth in Schedule 2-1 are contrary to the goals and objectives set forth in the Borough's Master Plan and Reexamination report; and,

WHEREAS, it is the desire of the Mayor and Council to adopt an Ordinance to amend Schedule 2-1 of Chapter 21A, so as to promote the goals and objectives of the Borough's Master Plan, Reexamination Report and the Municipal Land Use Law by expanding the number of zones in which Municipal Buildings and Facilities are permitted as a principal use.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Bogota, that Schedule 2-1 of Chapter 21A is hereby amended as follows:

SECTION 1: AMENDMENT TO SCHEDULE 2-1.

Schedule 2-1, entitled "Schedule of District Use Regulations" is hereby amended as follows:

"Municipal Buildings and Facilities" shall be included as a principal permitted use in the R-1 zoning districts of the Borough of Bogota.

SECTION 2: REFERRAL TO THE PLANNING BOARD

Upon adoption of this Ordinance on first reading, it shall be referred to the Bogota Planning Board in accordance with the provisions of N.J.S.A. 40:55D-64.

SECTION 3: INCONSISTENCY.

Any and all ordinances, or parts thereof, in conflict or inconsistent with any of the terms and provisions of this Ordinance are hereby repealed to such extent as they are in conflict or inconsistent.

SECTION 4: SEVERABILITY.

If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court or federal or state agency of competent jurisdiction, such portions shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

SECTION 5: EFFECTIVE DATE.

This ordinance shall take effect twenty (20) days after the first publication thereof after final passage and filing with the Bergen County Planning Board.