

ORDINANCE NO. 2021 – 15

AN ORDINANCE OF THE TOWNSHIP OF LITTLE EGG HARBOR, COUNTY OF OCEAN, STATE OF NEW JERSEY, ADDING CHAPTER 155 OF THE TOWNSHIP CODE OF THE TOWNSHIP OF LITTLE EGG HARBOR, ENTITLED “CANNABIS” SO AS TO PROHIBIT THE OPERATION OF ANY CLASS OF CANNABIS BUSINESSES WITHIN ITS GEOGRAPHICAL BOUNDARIES

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 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 on 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; 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.

BE IT ORDAINED, by the governing body of the Township of Little Egg Harbor, County of Ocean, State of New Jersey, as follows:

SECTION 1. The Township Code of the Township of Little Egg Harbor is hereby amended and supplemented so as to add Chapter 155, entitled “Cannabis” which shall read entirely as follows:

Chapter 155- Cannabis

§ 155-1 Purpose.

This Chapter is for the purpose of regulating the growing, manufacturing, wholesale purchase, and distribution of Cannabis in the Township of Little Egg Harbor, in the County of Ocean, in accordance with P.L. 2021, c. 16, known as the “New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act” (the “Act”) its supplements and amendments, and in accordance with the rules and regulations issued or to be promulgated by the State.

§ 155-2 General Prohibition; Classes of Licenses Prohibited within the Township.

All cannabis establishments, cannabis distributors or cannabis delivery services are hereby prohibited from operating anywhere in the Township of Little Egg Harbor except for the delivery of cannabis items and related supplies by a delivery service.

Specifically, the following Classes of Licenses, as set forth by P.L. 2021, c. 16, shall not be issued in the Township and are prohibited to operate within the Township:

- A. Class 1 Cannabis Cultivator license, for facilities involved in growing and cultivating cannabis;
- B. Class 2 Cannabis Manufacturer license, for facilities involved in the manufacturing, preparation, and packaging of cannabis items;
- C. Class 3 Cannabis Wholesaler license, for facilities involved in obtaining and selling cannabis items for later resale by other licensees;
- D. Class 4 Cannabis Distributer license, for businesses involved in transporting cannabis plants in bulk from on licensed cultivator to another licensed cultivator, or cannabis items in bulk from any type of licensed cannabis business to another;

E. Class 5 Cannabis Retailer license for locations at which cannabis items and related supplies are sold to consumers.

F. 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. (The delivery of cannabis items and related supplies by a delivery service within the jurisdiction of the Township are specifically exempted from this prohibition).

SECTION 2. All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

SECTION 3. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

SECTION 4. This ordinance shall take effect after second reading and publication as required by law.

NOTICE

NOTICE IS HEREBY GIVEN that the foregoing ordinance was introduced and passed by the Township Committee on first reading at a meeting of the Township Committee of the Township of Little Egg Harbor held on the **8th** day of **July, 2021**, and will be considered for second and final passage at a meeting of the Township Committee to be held on the **12th** day of **August, 2021**, at 7:00 p.m. at the Municipal Building located at 665 Radio Road, Little Egg Harbor, New Jersey, at which time and place any persons desiring to be heard upon the same will be given the opportunity to be so heard.

SUSAN M. FARRELL, RMC
Deputy Township Clerk
Township of Little Egg Harbor

July 8, 2021

Motion to Introduce: Gormley

Second: Crea

Stevens: absent Crea: yes Gormley: yes Scibetta: yes Kehm: yes

August 12, 2021

Motion to Adopt:

Second:

Stevens: _____ Crea: _____ Gormley: _____ Scibetta: _____ Kehm: _____