

TOWNSHIP OF MANALAPAN

ORDINANCE NO. 2021-11

AN ORDINANCE OF THE TOWNSHIP OF MANALAPAN PROHIBITING THE OPERATION OF ANY CLASS OF CANNABIS BUSINESS WITHIN ITS GEOGRAPHICAL BOUNDARIES AND AMENDING CHAPTER 95, "DEVELOPMENT REGULATIONS", OF THE CODE OF THE TOWNSHIP OF MANALAPAN

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, consisting of:

- *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 Distributor 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 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 prohibition must be adopted within 180 days of the effective date of the Act (*i.e.*, by August 21, 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 Township Committee has 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 the Township of Manalapan in particular, it is at this time necessary and appropriate, and in the best interest of the health, safety and welfare of the Township and its residents to amend the Township's zoning regulations to prohibit all manner of marijuana-related land use and development within the geographic boundaries of the Township;

NOW THEREFORE, BE IT ORDAINED, by the Township Committee of the Township of Manalapan, in the County of Monmouth, State of New Jersey, as follows:

SECTION 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 Township of Manalapan, except for the

delivery of cannabis items and related supplies by a delivery service, notwithstanding any State law to the contrary.

SECTION 2. Article II, “Definitions,” of Chapter 95, “Development Regulations,” of the Code of the Township of Manalapan, Section 95-2.4, “Definitions,” is hereby amended and supplemented by the addition thereto of the following definitions:

“Class 1 Cannabis Cultivator. Any licensed person or entity that grows, cultivates, or produces cannabis in this State, and sells, and may transport, this cannabis to other cannabis cultivators, or usable cannabis to cannabis manufacturers, cannabis wholesalers, or cannabis retailers, but not to consumers.”

“Class 2 Cannabis Manufacturer. Any licensed person or entity that processes cannabis items in this State by purchasing or otherwise obtaining usable cannabis, manufacturing, preparing, and packaging cannabis items, and selling, and optionally transporting, these items to other cannabis manufacturers, cannabis wholesalers, or cannabis retailers, but not to consumers.”

“Class 3 Cannabis Wholesaler. Any licensed person or entity that purchases or otherwise obtains, stores, sells or otherwise transfers, and may transport, cannabis items for the purpose of resale or other transfer to either another cannabis wholesaler or to a cannabis retailer, but not to consumers.”

“Class 4 Cannabis Distributor. Any licensed person or entity that transports cannabis in bulk intrastate from one licensed cannabis cultivator to another licensed cannabis cultivator, or transports cannabis items in bulk intrastate from any one class of licensed cannabis establishment to another class of licensed cannabis establishment and may engage in the temporary storage of cannabis or cannabis items as necessary to carry out transportation activities.”

“Class 5 Cannabis Retail Store. The premises at which cannabis items are retailed, which may include purchase orders for off-premises delivery by a certified cannabis handler working for or on behalf of the cannabis retailer, or consumer purchases to be fulfilled from the retail premises that are presented by a cannabis delivery service with a Class 6 Cannabis Delivery Service license and which will be delivered by the cannabis delivery service to that consumer. The sale of anything, except cannabis, as well as the service and sale of food are strictly prohibited.”

“Class 6 Cannabis Delivery. Any licensed person or entity that provides courier services for consumer purchases of cannabis items and related supplies fulfilled by a cannabis retailer in order to make deliveries of the cannabis items and related supplies to that consumer, and which services include the ability of a consumer to purchase the

cannabis items directly through the cannabis delivery service, which after presenting the purchase order to the cannabis retailer for fulfillment, is delivered to that consumer.”

“Consumption Area. A designated location operated by a licensed cannabis retailer, for which both a State and local endorsement has been obtained, that is either: (1) an indoor, structurally enclosed area of the cannabis retailer or permit holder that is separate from the area in which retail sales of cannabis items or the dispensing of medical cannabis occurs; or (2) an exterior structure on the same premises as the cannabis retailer, either separate from or connected to the cannabis retailer, at which cannabis items obtained from the retailer, or brought by a person to the consumption area, may be consumed.”

SECTION 3. Chapter 95, “Development Regulations,” of the Code of the Township of Manalapan, Section 95-5.3, “Permitted and Prohibited Uses,” subsection 95-5.3B, “Prohibited uses shall include, but not be limited to the following”, be and is hereby amended and supplemented to add the following subparagraph:

“(22) All cannabis cultivators; cannabis manufacturers; cannabis wholesalers; cannabis distributors; cannabis retail stores and cannabis delivery services, except for the delivery of cannabis items by a licensed cannabis delivery service located outside of the Township.”

SECTION 4. All Ordinances or parts thereof inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION 5. If any section, paragraph, clause or other portion of this Ordinance is adjudged by a Court of competent jurisdiction to be invalid, such judgment shall not affect or impair the remainder of this Ordinance.

SECTION 6. This Ordinance shall take effect upon its passage and publication according to law and upon filing with the Monmouth County Planning Board.

NOTICE OF PUBLIC HEARING

The Ordinance published herewith was introduced and approved at a meeting of the Township Committee of the Township of Manalapan held on June 16, 2021 and will be further considered for final passage after a Public Hearing thereon before the Township Committee of the Township of Manalapan during a meeting to be held on July 14, 2021

at the Municipal Complex, 120 Route 522 and Taylors Mill Road, Manalapan, New Jersey at 7:30 p.m. or as soon thereafter as the matter may be reached, or at any meeting to which that meeting may be adjourned, at which time any and all persons who may be interested therein will be given an opportunity to be heard.

The proposed Ordinance in its entirety is on file in the Municipal Clerk's Office and copies may be obtained without charge between the hours of 8:30 a.m. and 4:30 p.m. Monday through Friday. A complete copy may also be obtained from the Manalapan Township web-site www.mtnj.org by clicking on the Ordinance title listed on the Agenda posted for the Township Committee meeting of July 14, 2021.

SHARI ROSE, RMC
Municipal Clerk