

**LAFAYETTE TOWNSHIP
SUSSEX COUNTY, NEW JERSEY**

ORDINANCE 2021-12

AN ORDINANCE OF THE TOWNSHIP OF LAFAYETTE, IN THE COUNTY OF SUSSEX, NEW JERSEY PROHIBITING THE OPERATION OF CLASS 1 THROUGH CLASS 5 CANNABIS LICENSES IN THE TOWNSHIP, WITH CERTAIN EXCEPTIONS, NAMELY, IN THE LIGHT INDUSTRIAL ZONE DISTRICT WHEREIN ACTIVITIES ASSOCIATED WITH CLASS 1 THROUGH CLASS 4 SHALL BE PERMITTED; ALLOWING CLASS 1 AND 2 LICENSES PREVIOUSLY PERMITTED AS A CONDITIONAL USE IN THE R5 ZONE SUBJECT TO THE REQUIREMENTS OF ORDINANCE 13-14(b)(9) TO CONTINUE TO BE PERMITTED; AND ACTIVITIES ASSOCIATED WITH CLASS 6 LICENSES TO BE PERMITTED WITHIN ALL ZONES IN LINE WITH LIMITATIONS OR RESTRICTIONS SET FORTH IN STATE STATUTES OR ADMINISTRATIVE CODE REGULATIONS TO BE ADOPTED BY THE CANNABIS REGULATORY COMMISSION GOVERNING CLASS 6 LICENSES; AND TO SPECIFICALLY OPT OUT OF ACTIVITIES ASSOCIATED WITH CLASS 5 LICENSE IN THE TOWNSHIP

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 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 Township of Lafayette 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 Lafayette in particular, it is at this time necessary and appropriate, and in the best interest of the health, safety and welfare of the Township of Lafayette's residents and members of the public who visit, travel, or conduct business in the Township of Lafayette, 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 of Lafayette subject to the following exception: Class 1, Class 2, Class 3, and Class 4 licensed establishments shall be permitted in the LI zone; Class 1 and Class 2 licenses previously authorized in the R5 as a conditional use pursuant to Ordinance 13-8.2 (h) subject to the requirements of Ordinance 13-14(b)(9) shall be continued as a permitted conditional use; Class 5 licenses shall be expressly prohibited in all zones; and Class 6 licenses are permitted within all zones in line with New Jersey state statutes or administrative code regulations to be adopted by the Cannabis Regulatory Commission governing that license class; and

NOW THEREFORE, BE IT ORDAINED, by the Township of Lafayette Committee, in the County of Sussex, State of New Jersey, 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 Township of Lafayette, subject to the following exceptions: Class 1, Class 2, Class 3, and Class 4 licensed establishments shall be permitted in the LI zone; Class 1 and Class 2 licenses previously authorized in the R5 zone as a conditional use pursuant to Ordinance 13-8.2 (h) subject to the requirements of Ordinance 13-14(b)(9) shall continue to be permitted; and Class 6 licenses within all zones in line with New Jersey state statutes or administrative code regulations to be adopted by the Cannabis Regulatory Commission governing that license class. Class 5 licenses shall be specifically prohibited in all zones as permitted by the opt out section 31b of the Act authorizing municipalities by ordinance to prohibit the operation of any one or more classes of cannabis establishments, distributors, or delivery services anywhere in the municipality.

2. Lafayette Ordinance 13-6.11 of the General Ordinance of the Township of Lafayette is amended by adding to the list of prohibited uses, the following: provision "h. All classes of cannabis establishments or cannabis distributors or cannabis delivery services as said terms are defined in section 3 of P.L. 2021, c. 16, with the exception of: Class 1, Class 2, Class 3, and Class 4 licensed establishments shall be permitted in the LI zone per Ordinance 13-13.1(j); Class 1 and Class 2 licenses previously authorized in the R5 zone as a conditional use pursuant to Ordinance 13-8.2 (h) subject to the requirements of Ordinance 13-14(b)(9); and Class 6 licenses within all zones in line with New Jersey state statutes or administrative code regulations to be adopted by the Cannabis Regulatory Commission governing that license class.

3. Lafayette Ordinance 13-13.1 of the General Ordinance of the Township of Lafayette is amended by adding to the list of principal uses, the following new provision "13-13.1(j) Class 1, Class 2, Class 3, and Class 4 cannabis license establishments as defined in P.L.

2021, c. 16 known as the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act.

4. Any article, section, paragraph, subsection, clause, or other provision of the Revised General Ordinance of the Township of Lafayette inconsistent with the provisions of this ordinance is hereby repealed to the extent of such inconsistency.

5. 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.

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

ATTEST:

AnnaRose Fedish, Municipal Clerk

Gregory J. Corcoran, Mayor

CERTIFICATION

The above entitled Ordinance was introduced and passed at first reading by the Lafayette Township Committee at a meeting on April 20, 2021 and after publication and a public hearing was finally adopted by the Lafayette Township Committee at a meeting held on May 18, 2021.

Mayor:

Municipal Clerk: