

**LAFAYETTE TOWNSHIP
SUSSEX COUNTY, NEW JERSEY**

ORDINANCE 2021-17

**AN ORDINANCE OF THE TOWNSHIP OF LAFAYETTE, IN THE
COUNTY OF SUSSEX, NEW JERSEY ESTABLISHING A LOCAL CANNABIS TAX
BASED UPON THE RECEIPTS OF EACH SALE BY CERTAIN CLASSES OF
CANNABIS LICENSES OPERATING IN THE TOWNSHIP, AND TO SPECIFICALLY
ADOPT A PROCESS ALLOWING FOR THE COLLECTION OF SUCH A TAX BY
THE TOWNSHIP CHIEF OPERATING OFFICER**

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 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 (*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 determined to amend the Township's zoning regulations by adopting Ordinance 2021-12 on May 18, 2021 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

WHEREAS, the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (P.L. 2021, c. 16) allows municipalities to enact by ordinance a local cannabis tax that cannot exceed 2% for cannabis cultivator, manufacturer, and/or retailer; and 1% for wholesalers based on the receipts for each sale; and

WHEREAS, the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (P.L. 2021, c. 16) allows municipalities to enact by ordinance a method by which the local government may collect the local cannabis tax and to whom the local holder of any authorized cannabis license is to pay said tax,

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 the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (P.L. 2021, c. 16), the Township establishes a local cannabis tax of two percent (2%) on sales realized by cannabis cultivators (Class I licensees) and cannabis manufacturers (Class II licensees), and one percent (1%) for cannabis wholesalers (Class III). The tax percentage is based on the receipts for each sale and is paid directly to the municipality in the manner prescribed by the municipality in paragraph two (2) herein.

2. Pursuant to the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (P.L. 2021, c. 16), the Township is authorized to establish a procedure for the collection of a local cannabis tax for certain classes of cannabis licenses and in furtherance of that authority directs holders of State issued cannabis licenses to pay any such tax authorized to be collected under this Ordinance to the Lafayette Chief Financial Officer who will accept said funds as revenue to the Township.

3. Pursuant to the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (P.L. 2021, c. 16), the Township is authorized to impose interest upon any late payment of the local cannabis tax as permitted by N.J.S.A. 54:4-67 and in furtherance of that authority directs the Chief Financial Officer to impose the rate of interest upon any late payment of the cannabis tax in accord with the annual resolution adopted by the governing body fixing the rate of interest to be charged for nonpayment of taxes or assessments subject to any abatement or discount for the late payment of taxes as provided by law.

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 upon the date that the State of New Jersey and/or the New Jersey Cannabis Regulatory Commission authorizes collection of such a tax in any statute or administrative code regulation, and as otherwise provided for by law.

ATTEST:

AnnaRose Fedish, RMC
Municipal Clerk

Gregory J. Corcoran, Mayor

CERTIFICATION

TAKE NOTICE that the above entitled Ordinance was introduced at a regular meeting of the Township Committee of the Township of Lafayette, Sussex County, New Jersey, held on July 6, 2021 and will be considered for final passage after public hearing at a regular meeting of the Township Committee to be held on August 3, 2021 at 7:30pm in the Municipal Building, 33 Morris Farm Road, Lafayette, New Jersey.

ANNAROSE FEDISH, RMC
Municipal Clerk