

TOWNSHIP OF SOUTHAMPTON

ORDINANCE 2021-12

ORDINANCE OF THE TOWNSHIP OF SOUTHAMPTON PROHIBITING THE OPERATION OF ANY CLASS OF CANNABIS BUSINESSES WITHIN ITS GEOGRAPHICAL BOUNDARIES AND AMENDING CHAPTERS 3, 12, AND 19 OF THE TOWNSHIP OF SOUTHAMPTON 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 cannabis 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 Committee of the Township of Southampton has determined that, due to present uncertainties regarding the potential future impacts that allowing one or more classes of cannabis businesses might have on New Jersey municipalities in general, and on the Township of Southampton 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 Southampton’s residents and members of the public who visit, travel, or conduct business in the Township of Southampton, to amend the Township of Southampton’s zoning regulations to prohibit all manner of cannabis-related land use and development within the geographic boundaries of the Township; and

WHEREAS, to ensure that the Township’s interests with respect to the Act are fully protected, both the Township’s general “police power” ordinances and land use ordinances shall be amended;

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

SECTION I.

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 Southampton, except for the delivery of cannabis items and related supplies by a delivery service.

SECTION II.

New Section 3-22 shall be added to the Township of Southampton Code as follows:

Cannabis Establishments Prohibited. 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 shall be prohibited uses in all zones in the municipality, but the delivery of cannabis items and related supplies by a delivery service is permissible.

SECTION III.

New Section 12-4.24 shall be added to the Township of Southampton code as follows:

Cannabis Uses Prohibited. All classes of cannabis establishments or cannabis distributors as said terms are defined in section 3 of P.L. 2021, c. 16 shall be prohibited uses in all zones in the municipality.

SECTION IV.

Section 19-3.2 of the Township of Southampton code shall be amended and supplement to read as follows:

Uses.

- a. Unless a use is specifically allowed within a zoning district, such use is prohibited.
- b. Except as otherwise authorized in this chapter, the extraction or mining of mineral resources other than sand, gravel, clay, and ilmenite is prohibited.
- c. All classes of cannabis establishments or cannabis distributors as said terms are defined in section 3 of P.L. 2021, c. 16 shall be prohibited uses in all zones in the municipality.

Repealer, Severability and Effective Date.

A. **Repealer.** Any and all Ordinances inconsistent with the terms of this Ordinance are hereby repealed to the extent of any such inconsistencies.

B. **Severability.** In the event that any clause, section, paragraph or sentence of this Ordinance is deemed to be invalid or unenforceable for any reason, then the Township Committee hereby declares its intent that the balance of the Ordinance not affected by said invalidity shall remain in full force and effect to the extent that it allows the Township to meet the goals of the Ordinance.

C. This Ordinance shall take effect upon passage and publication according to law.

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ACTION ON INTRODUCTION:

Motion made by: Mikulski
Motion seconded by: Rafferty

VOTE:

Deputy Mayor Heston:	<input checked="" type="radio"/> Yes	No	Abstain	Not Present
Committeeman Rafferty:	<input checked="" type="radio"/> Yes	No	Abstain	Not Present
Committeewoman Rossell:	<input checked="" type="radio"/> Yes	No	Abstain	Not Present
Committeeman Young, Sr.:	<input checked="" type="radio"/> Yes	No	Abstain	Not Present
Mayor Mikulski:	<input checked="" type="radio"/> Yes	No	Abstain	Not Present

ACTION ON ADOPTION (after public hearing)

Motion made by: Young
Motion seconded by: Rossell

VOTE:

Deputy Mayor Heston:	<input checked="" type="radio"/> Yes	No	Abstain	Not Present
Committeeman Rafferty:	<input checked="" type="radio"/> Yes	No	Abstain	Not Present
Committeewoman Rossell:	<input checked="" type="radio"/> Yes	<input checked="" type="radio"/> No	Abstain	Not Present
Committeeman Young, Sr.:	<input checked="" type="radio"/> Yes	No	Abstain	Not Present
Mayor Mikulski:	<input checked="" type="radio"/> Yes	No	Abstain	Not Present

CERTIFICATION

I HEREBY CERTIFY that the foregoing is a true copy of the ordinance that was introduced after first reading at a meeting of the Southampton Township Committee held on June 15, 2021 and adopted after a public hearing at a meeting of the Southampton Township Committee held on July 20, 2021.

Kathleen D. Hoffmann
Kathleen D. Hoffmann, RMC
Township Clerk/Administrator