

WEST DEPTFORD TOWNSHIP

ORDINANCE 2021-13

ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 166 – ZONING, ARTICLE VI – MANUFACTURING DISTRICTS OF THE TOWNSHIP CODE OF THE TOWNSHIP OF WEST DEPTFORD TO CREATE A CANNABIS BUSINESS (CB) OVERLAY ZONE TO PERMIT CERTAIN MARKETPLACE CLASSES OF LICENSED CANNABIS BUSINESSES AND TO REGULATE THE LOCATION OF LEGAL CANNABIS BUSINESS WITHIN THE TOWNSHIP OF WEST DEPTFORD

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”) (P.L. 2021, c.16), 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 Distributor 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 (or by August 22, 2021); and

WHEREAS, the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.) delegates to municipalities the power to zone and regulate development and that statute is amended from time to time by the State legislature; and

WHEREAS, the Township Committee of the Township of West Deptford requested that the Township General Ordinances be amended so as to provide for regulation of the expansion of the legalization of the cultivation, processing, manufacturing and wholesale distribution of medical cannabis and recreational cannabis when approved by the State Legislature in the State of New Jersey; and

WHEREAS, the Township has determined that the cultivation, processing, manufacturing and wholesale distribution of cannabis presents special concerns and should be regulated specifically to permit the uses where appropriate in the Township; and

WHEREAS, the Township has determined that such facilities should be permitted in appropriate locations as delineated herein.

NOW THEREFORE BE IT RESOLVED THAT the General Ordinances of the Township of West Deptford shall be amended and supplemented to add Section 166-30 entitled "Cannabis Business (CB) Overlay Zone" within Article VI – Manufacturing Districts in Chapter 166 – Zoning, as follows:

§166-30 Cannabis Business (CB) Overlay Zone.

- A. **Intent.** It is the purpose of this overlay zone to provide areas to permit certain marketplace classes of licensed cannabis businesses as a conditionally permitted use. The Cannabis Business (CB) Overlay Zone shall include the following Blocks and Lots, as shown on the Tax Map of West Deptford Township, only:

Block 346.01	Lot 1	Route 295
	Lot 2	Grandview Avenue
	Lot 2.01	1771 Imperial Way
	Lot 2.02	1757 Imperial Way
	Lot 2.03	1751 Imperial Way
	Lot 4	1401 Imperial Way
	Lot 9.02	1707 Imperial Way
	Lot 10	1480 Grandview Avenue
	Lot 15	1460 Grandview Avenue
	Lot 17	1570 Grandview Avenue
	Lot 18	1400 Grandview Avenue
Block 346.04	Lot 4	1571 Grandview Avenue
	Lot 5	1501 Grandview Avenue

	Lot 6	1425 Grandview Avenue
	Lot 7	150 Mid Atlantic Parkway
	Lot 8	1400-1480 Imperial Way
Block 346.10	Lot 1	1225 Forest Parkway
	Lot 2	1245 Forest Parkway
	Lot 3	Mantua Grove Road
	Lot 4	Mantua Grove Road
Block 346.11	Lot 2	1222-24-26 Forest Parkway
	Lot 3	1210 Forest Parkway
	Lot 4	1228 Forest Parkway
	Lot 5	1230 Forest Parkway
Block 347.01	Lot 2	Connecting Road
Block 347.02	Lot 1	550 Grove Road
	Lot 2	1250 Metropolitan Avenue
Block 347.04	Lot 7	1395 Imperial Way
	Lot 8	1351 Imperial Way
	Lot 9	1273 Imperial Way
	Lot 10	400 Grove Avenue
Block 347.11	Lot 1	155 Mid Atlantic Parkway
	Lot 2	Friars Lane
	Lot 4	1370 Imperial Way
	Lot 5	Grove Road
	Lot 6	1250 Imperial Way
	Lot 8	200 Grove Road
	Lot 11	1300 Imperial Way
Block 351.28	Lot 2	280 Jessup Road
	Lot 3	201 Grove Road

B. **Definitions.** Unless specifically defined below or otherwise in §166-6.B, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application:

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. This person or entity shall hold a Class 1 Cannabis Cultivator license.

CANNABIS DISTRIBUTION: The transportation of cannabis items to and from licensed cannabis establishments, or home delivery of cannabis items related supplies to a retail consumer.

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. This person or entity shall hold a Class 2 Cannabis Manufacturer license.

LICENSE: A license issued in accordance with the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (P.L. 2021, c.16) is defined a license that is designated as either a:

1. Class 1 Cannabis Cultivator License: for facilities involved in growing and cultivating cannabis;
2. Class 2 Cannabis Manufacturer License: for facilities involved in the manufacturing, preparation, and packaging of cannabis items;
3. Class 3 Cannabis Wholesaler License: for facilities involved in obtaining and selling cannabis items for later resale by other licensees;
4. Class 4 Cannabis Distributor 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;
5. Class 5 Cannabis Retail License: locations at which cannabis items and related supplies are sold to consumers; and
6. 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 term includes a conditional license for a designated class, except when the context of the provisions of relevant State law otherwise intend to only apply for a license and not a conditional license.

MANUFACTURE: The drying, processing, compounding, or conversion of usable cannabis into cannabis products or cannabis resins. "Manufacture" does not include packaging or labeling.

WHOLESALE TRADE: Establishments or places of business primarily engaged in selling merchandise to other businesses, including retailers, industrial, commercial, institutional, or professional business users, other wholesalers, or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

- C. **Permitted Principal Uses.** In the CB Overlay Zone, no lot shall be used and no structure shall be erected, altered, or occupied for any purpose except the following:
1. Any and all principal uses permitted in Light Manufacturing (M-1) Zone per §166-27.A.
- D. **Conditionally Permitted Uses.** In the CB Overlay Zone, the following uses shall be considered conditionally permitted uses and shall meet the relevant required conditions, as noted below:

1. Licensed Cannabis Business Class 1, 2, 3 and 4 shall be permitted as a conditional use in the CB Overlay Zone so long as said licensed businesses meet the following conditions:
 - i. **State License:** All facilities must have a valid license to operate from the State of New Jersey in accordance with the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (P.L. 2021, c.16).
 - ii. **Buildings:** All facilities shall be located within enclosed heated and air-conditioned buildings and shall not be permitted in greenhouses, hoop houses, Quonset huts, or other similar structures, nor shall facilities be located outdoors.
 - iii. **Hours of Operation:** Hours of public operation shall be limited to 7:00 AM through 11:00 PM daily. No licensed marijuana business shall be open to the public between the hours of 11:01 PM and 6:59 AM on any day.
 - iv. **Odor Control:** All facilities shall provide an air treatment system with sufficient odor absorbing ventilation and exhaust systems such that any odor generated inside the facility is not detectable by a person of reasonable sensitivity anywhere on adjacent property, within public rights of way, or within any other unit located within the same building as the licensed facility if the use only occupies a portion of a building. Odor from the facility shall be monitored on an annual basis at the discretion of the Township by a licensed, qualified contractor chosen by the Township at a cost that shall be paid for by the licensed business.
 - v. **Noise:** For any licensed cultivation, processing, manufacturing, or similar operation, the facility shall provide for noise mitigation features designed to minimize disturbance from machinery, processing and/or packaging operations, loading, and other noise-generating equipment or machinery. All licensed facilities must operate within applicable State decibel limitations.
 - vi. **Security:** To the extent not already required by the entity's State license, all sites must be equipped with security cameras covering all exterior parking and loading areas, points of entry, and interior spaces which are either open to the public or used for the storage or processing of marijuana products. Footage must be maintained for the duration required under State law or as required by the Cannabis Regulatory Commission. All licensed facilities must provide the West Deptford Township Police Department with access to security footage immediately upon request by the Department.
 - vii. **Fencing:** All facilities shall be enclosed by a security fence with a height of eight (8') feet and shall be at least 50% transparent. Fifty percent (50%) transparent fence design may include, but are not limited to, picket, chain link or extruded aluminum fences.
 - viii. **Off-Street Parking:** Off-street parking shall be provided in accordance with the West Deptford Township Zoning Ordinance, as deemed sufficient by the members and professionals of the Township's Planning Board.
 - ix. **Signage:** Signage shall otherwise comply with the requirements outlined in §166-43 – Signs of the West Deptford Township Zoning Ordinance.
 - x. **Site Plan Approval:** Site Plan Approval is required as per §166-48 – Site Plan and Building Review, addressing items above and as required by Ordinance.
- E. **Permitted Accessory Uses.** Any of the following uses and structures may be permitted, when used in conjunction with a principal use and conforming to the applicable subsection:

1. All accessory uses permitted in Light Manufacturing (M-1) Zone per §166-27.A except that no outdoor storage shall be permitted as an accessory use to any conditionally permitted principal use.
- F. Prohibited Uses.** The following uses shall be prohibited in the CB Overlay Zone:
1. Licensed Cannabis Business Class 5 (Cannabis Retail) and Class 6 (Cannabis Delivery).
 2. Drive-thru facilities.
 3. On-site consumption of cannabis by patrons, employees or other persons.
- G. Bulk Requirements.** All permitted and conditionally permitted principal uses and structures shall meet the bulk requirements of the Light Manufacturing (M-1) Zone.
- H. Additional Requirements.** In addition to §166-30.D, the following requirements shall apply:
1. All licensed facilities shall be subject to a local transfer tax, as authorized by the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (P.L. 2021, c. 16), whereby the rates of the local transfer tax shall apply to the following license class:
 - i. 2% of the receipts from each sale by a Class 1 Cannabis Cultivator;
 - ii. 2% of the receipts from each sale by a Class 2 Cannabis Manufacturer; and/or
 - iii. 1% of the receipts from each sale by a Class 3 Cannabis Wholesaler.
 2. Any other reasonable conditions imposed by the Planning Board or as required by Township Ordinances.

NOW THEREFORE, BE IT ORDAINED, by the Mayor and Township Committee of the Township of West Deptford, in the County of Gloucester, State of New Jersey, as follows:

1. Chapter 166 – Zoning, Article IV – Manufacturing Districts shall be amended to create Section 166-30 – Cannabis Business (CB) Overlay Zone, as described above.
2. The Official Zoning Map of the Township of West Deptford is hereby revised to establish the Cannabis Business (CB) Overlay Zone, which shall apply to Block 346.01, Lots 1, 2, 2.01, 2.02, 2.03, 4, 9.02, 10, 15, 17 & 18, Block 346.04, Lots 4, 5, 6, 7 & 8, Block 346.10, Lots 1, 2, 3 & 4, Block 346.11, Lots 2, 3, 4 & 5, Block 347.01, Lot 2, Block 347.02, Lots 1 & 2, Block 347.04, Lots 7, 8, 9 & 10, Block 347.11, Lots 1, 2, 4, 5, 6, 8 & 11, and Block 351.28, Lots 2 & 3, as shown on the official Tax Map of the Township of West Deptford.
3. Pursuant to section 31b of the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (P.L. 2021, c. 16), Class 5 and Class 6 licensed cannabis businesses are hereby prohibited from operating anywhere in the Township of West Deptford, except for the delivery of cannabis items and related supplies by a delivery service and as such, Section 166-32 – Prohibited Uses of the Township's Zoning Ordinance is hereby amended by adding to the list of prohibited uses, the following: "Licensed Cannabis Business Class 5 (Cannabis Retail) and Class 6 (Cannabis Delivery) shall be prohibited in all zoning districts, as said terms are defined in section 3 of P.L. 2021, c. 16, but not the delivery of cannabis items and related supplies by a delivery service. Additionally, except where conditionally permitted in the Cannabis Business (CB) Overlay Zone per §166-30, Class 1 (Cannabis Cultivator), Class 2 (Cannabis Manufacturer), Class 3 (Cannabis Wholesaler) and Class 4

(Cannabis Distributor) shall be prohibited in all other zoning districts located within the Township.

4. The Township Clerk is hereby directed to give notice at least ten (10) days prior to a hearing on the adoption of this Ordinance to the Gloucester County Planning Board and all other persons or entities entitled thereto pursuant to N.J.S.A. 40:55D-15, including to the Clerks of adjoining municipalities. The Township Clerk shall execute Affidavits of Proof of Service of the notices required by this Section and shall keep the Affidavits on file along with the Proof of Publication of the notice of the required public hearing on the proposed change.


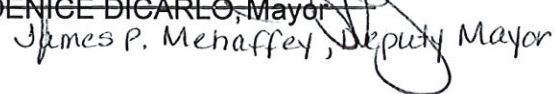
5. After introduction, the Township Clerk is hereby directed to submit a copy of this Ordinance to the Planning Board of the Township of West Deptford for its review in accordance with N.J.S.A. 40:55D-26 and N.J.S.A. 40:55D-64. The Planning Board is directed to make and transmit to the Township Committee, within thirty-five (35) days after referral, a report including identification of any provisions in this proposed Ordinance which are inconsistent with the Township's Master Plan and recommendations concerning any inconsistencies and any other matters as the Board may deem appropriate.

6. Any article, section, paragraph, subsection, clause, or other provision of the Township's Zoning Ordinance (Chapter 166 of the General Code) inconsistent with the provisions of this ordinance is hereby repealed to the extent of such inconsistency.

7. 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.

8. This ordinance shall take effect immediately upon: (i) adoption; (ii) publication in accordance with the laws of the State of New Jersey; and (iii) filing the final form of adopted Ordinance with the Gloucester County Planning Board pursuant to N.J.S.A. 40:55D-16, and as otherwise provided for by law.

TOWNSHIP OF WEST DEPTFORD


DENISE DICARLO, Mayor

James P. Mehaffey, Deputy Mayor

ATTEST:


LEE ANN DEHART, Registered Municipal Clerk

INTRODUCED at a meeting of the Township Committee of the Township of West Deptford, held on May 19, 2021.

ROLL CALL VOTE				
	AYES	NAYS	ABSTAIN	ABSENT
Denice DiCarlo				/
Megan Kerr	/			
James Mehaffey	/			
Adam Reid	/			
James Robinson	/			
TALLY:	4			/

ADOPTED at a meeting of the Township Committee of the Township of West Deptford, held on July 21, 2021.

ROLL CALL VOTE				
	AYES	NAYS	ABSTAIN	ABSENT
Denice DiCarlo				/
Megan Kerr	/			
James Mehaffey	/			
Adam Reid	/			
James Robinson	/			
TALLY:	4			/