

HAMPTON TOWNSHIP ORDINANCE #2021-03

AN ORDINANCE TO AMEND CHAPTER 108, ENTITLED “ZONING”, OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF HAMPTON, COUNTY OF SUSSEX, STATE OF NEW JERSEY, TO ADD NEW SECTION 108-11.2, ENTITLED “PROHIBITED USES AND STRUCTURES IN ALL ZONES”

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 Committee of the Township of Hampton, County of Sussex, New Jersey 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 Hampton in particular, it is at this time necessary and appropriate, and in the best interest of the health, safety and welfare of Hampton Township's residents and members of the public who visit, travel, or conduct business in the Township 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; and

WHEREAS, officials from two prominent non-profit organizations that have been established for the purpose of advising New Jersey municipalities on legal matters such as have been presented by the Act (those organizations being the New Jersey State League of Municipalities and the New Jersey Institute of Local Government Attorneys) have strongly urged that, due to the complexity and novelty of the Act; the many areas of municipal law that are or may be implicated in decisions as to whether or to what extent cannabis or medical cannabis should be permitted for land use purposes or otherwise regulated in any particular municipality; and the relatively short duration in which the Act would allow such decisions to be made before imposing an automatic authorization of such uses in specified zoning districts subject to unspecified conditions, the most prudent course of action for all municipalities, whether or not generally in favor of cannabis or medical cannabis land development and uses, would be to prohibit all such uses within the Act's 180-day period in order to ensure sufficient time to carefully review all aspects of the Act and its impacts; and

WHEREAS, the Hampton Township Committee has therefore determined, pursuant to Section 31b of the Act, all cannabis establishments, cannabis distributors or cannabis delivery services shall be prohibited from operating anywhere in the Township of Hampton, except for the delivery of cannabis items and related supplies by a delivery service;

NOW THEREFORE, BE IT ORDAINED, by the Township of Hampton, in the County of Sussex, New Jersey, that Chapter 108, entitled “Zoning”, of the Revised General Ordinances of the Township of Hampton, County of Sussex, State of New Jersey, be and is hereby amended as follows:

SECTION 1: Chapter 108, entitled “Zoning”, is amended to add Section 108-11.2, entitled “Prohibited Uses and Structures in All Zones” which reads as follows:

Section 108-11.2. Prohibited uses and structures in all zones.

The following uses and structures are specifically prohibited in all zoning districts of the Township of Hampton, except as noted:

- A. All classes of cannabis establishments, cannabis distributors and cannabis delivery services as said terms are defined in section 3 of P.L. 2021, c. 16. This prohibition does not prohibit the delivery of cannabis items and related supplies directly to a customer within Hampton Township by a Class 6 licensed business located outside of Hampton Township.

SECTION 2. If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, the remainder of this Ordinance shall not be affected thereby but shall remain in full force and effect.

SECTION 3. All ordinances or parts of ordinances inconsistent with or contrary to the provisions of this Ordinance are hereby repealed to the extent of such inconsistency or contrariness.

SECTION 4. 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.

CERTIFICATION

I hereby certify that Ordinance #2021-03 was adopted by the Hampton Township Committee at their regular meeting held on April 27, 2021 at the Hampton Township Municipal Building, Baleville, Sussex County, New Jersey.

Date: _____

Kathleen Armstrong, RMC
Township Clerk

**HAMPTON TOWNSHIP
NOTICE**

NOTICE IS HEREBY GIVEN that the attached Ordinance #2021-03 was introduced at a regular meeting of the Township Committee of the Township of Hampton, Sussex County, New Jersey, held on the 30th day of March 30, 2021 and passed on first reading, and that such Ordinance will be further considered for final passage and adoption at the regular meeting of the Township Committee to be held on April 27, 2021 at 7:00p.m. at a remote Township Committee Meeting. To attend the meeting use the following link: <https://us02web.zoom.us/j/4919500389> or to attend the meeting by phone, dial 929 205 6099 (Meeting ID: 491 950 0389) Formal action may be taken.

Kathleen Armstrong, RMC
Township Clerk

**HAMPTON TOWNSHIP
NOTICE
ORDINANCE 2021-03**

NOTICE IS HEREBY GIVEN that the foregoing Ordinance #2021-03 was adopted at Final Reading at the regular meeting of the Township Committee of the Township of Hampton, County of Sussex held on Tuesday, April 27, 2021, at the Hampton Township Municipal Building, Baleville, N.J.

Date:

Kathleen Armstrong, RMC
Township Clerk