

ORDINANCE 2021-4

AN ORDINANCE OF THE TOWNSHIP OF UPPER PITTSBORO, COUNTY OF SALEM, STATE OF NEW JERSEY PROHIBITING THE OPERATION OF ALL CLASS 1, 2, 3, 4, 5, AND 6 LICENSED CANNABIS BUSINESSES WITHIN THE GEOGRAPHICAL BOUNDARIES OF THE TOWNSHIP OF UPPER PITTSBORO

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 purchases 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, the governing body of the Township of Upper Pittsgrove 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 Township of Upper Pittsgrove in particular, it is at this time necessary and appropriate, and in the best interest of the health, safety and welfare of Township of Upper Pittsgrove's residents and members of the public who visit, travel, or conduct business in Township of Upper Pittsgrove, to amend the Township of Upper Pittsgrove's zoning regulations to prohibit any marijuana-related land use and development of Class 1, Class 2, Class 3, Class 4, Class 5 and Class 6 licensed businesses within the geographic boundaries of the Township of Upper Pittsgrove;

NOW THEREFORE, BE IT ORDAINED, by the governing body of the Township of Upper Pittsgrove, in the County of Salem and 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 Class 1, Class 2, Class 3, Class 4, Class 5 and Class 6 cannabis cultivators, cannabis establishments, cannabis distributors or cannabis delivery services are hereby prohibited from operating anywhere in Township of Upper Pittsgrove.

2. Article X, Section 10.1(C) of the Township of Upper Pittsgrove Land Development Regulations Ordinance of the Township of Upper Pittsgrove is hereby amended by adding to the list of prohibited uses, the following: "Class 1, Class 2, Class 3, Class 4, Class 5 and Class 6 of cannabis cultivators, cannabis establishments or cannabis distributors or cannabis delivery services as said terms are defined in section 3 of P.L. 2021, c. 16."

3. Any article, section, paragraph, subsection, clause, or other provision of the Ordinance of the Township of Upper Pittsgrove inconsistent with the provisions of this ordinance is hereby repealed to the extent of such inconsistency.

4. 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.

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

Dated: April 13, 2021

TOWNSHIP OF UPPER PITTS GROVE
EDWARD J. MESCHI, MAYOR

Attest: LINDA R. STEPHENS, CLERK

NOTICE

The Ordinance published herein was introduced and passed upon first reading at a meeting of the Mayor and Committee of the Township of Upper Pittsgrove, in the County of Salem and State of New Jersey, held on April 13, 2021. It will be further considered for final passage, after public hearing hereon, at a meeting of said Mayor and Committee to be held in the Township Municipal Building on May 11, 2021, at 7:00 P.M. During the week prior and up to and including the date of such meeting, copies of said Ordinance will be made available at the Clerk's office at the said Municipal Building, Pole Tavern, 431 Route 77, Elmer, New Jersey, 08318-2756, to the members of the general public who shall request the same.

LINDA R. STEPHENS, CLERK