

**WEST WINDSOR TOWNSHIP
MERCER COUNTY, NEW JERSEY**

ORDINANCE 2021-11

**ORDINANCE OF THE TOWNSHIP OF WEST WINDSOR PROHIBITING THE
OPERATION OF ANY CLASS OF CANNABIS BUSINESSES WITHIN ITS
GEOGRAPHICAL BOUNDARIES BY ADDING CHAPTER 61-1 CANNABIS
BUSINESSES AND AMENDING CHAPTER 200 TO ADD SECTION 236 CANNABIS
PROHIBITED USES TO THE CODE OF THE TOWNSHIP OF WEST WINDSOR**

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 Council and Mayor of the Township of West Windsor has determined that, due to present uncertainties regarding the potential future impacts that allowing one or more of the six marketplace classes of cannabis businesses might have on New Jersey municipalities in general, and on the Township of West Windsor 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 West Windsor’s residents and members of the public who visit, travel, or conduct business in the Township of West Windsor, to amend the Township of West Windsor’s zoning regulations to prohibit all cannabis-related land use and development within the geographic boundaries of the Township of West Windsor; 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 Council and Mayor of the Township of West Windsor, in Mercer County 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 West Windsor, except for the delivery of cannabis items and related supplies by a licensed delivery service.

SECTION II.

A new chapter, entitled “Cannabis,” shall be added as Chapter 61 to the Township of West Windsor Code.

SECTION III.

New Section 61-1 shall be added to the Township of West Windsor Code as follows:

Cannabis Establishments Prohibited. All marketplace classes of cannabis to include: cultivator, manufacturer, wholesaler, distributor, retailer, and delivery as said terms are defined in section 3 of P.L. 2021, c. 16 shall be prohibited activities throughout the municipality, but the delivery of cannabis items and related supplies by a licensed delivery service is permissible.

SECTION IV.

New Section 200-236 shall be added to the Township of West Windsor Code as follows:

Prohibited uses. All marketplace classes of cannabis to include: cultivator, manufacturer, wholesaler, distributor, retailer, and delivery 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 V. SEVERABILITY.

If any section, subsection, paragraph, sentence or other part of this Ordinance is adjudged unconstitutional or invalid, such judgment shall not affect or invalidate the remainder of this Ordinance, but shall be confined in its effect to the section, subsection, paragraph, sentence or other part of this Ordinance directly involved in the controversy in which said judgment shall have been rendered and all other provisions of this Ordinance shall remain in full force and effect.

SECTION VI. INCONSISTENT ORDINANCES REPEALED.

All Ordinances or parts of Ordinances which are inconsistent with the provisions of this Ordinance are hereby repealed, but only to the extent of such inconsistencies.

SECTION VII. EFFECTIVE DATE.

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