

**CITY OF SEA ISLE CITY
NEW JERSEY**

ORDINANCE NO. 1630 (2019)

**AN ORDINANCE TO AMEND THE REVISED
GENERAL ORDINANCES OF THE CITY OF SEA ISLE CITY,
CHAPTER 26 ENTITLED “ZONING” AMENDING TO INCLUDE A NEW
SUBSECTION PROHIBITING THE SALE, CULTIVATION, MANUFACTURING AND
TESTING OF MEDICAL AND NONMEDICAL MARIJUANA IN ALL ZONES AND
OVERLAY ZONES WITHIN THE CITY**

WHEREAS, the New Jersey Legislature is considering the legalization and/or decriminalization of distribution, sale and/or consumption of marijuana within the State; and

WHEREAS, the City of Sea Isle City considers the cultivation, manufacturing, testing, sale, or distribution of medicinal and recreational marijuana and/or the paraphernalia that facilitates the use of such marijuana within the City to be detrimental to the public health, safety and welfare and inimical to the current zoning of the City; and

WHEREAS, the City has determined that the cultivation, manufacturing, testing, sale, or distribution of medicinal and recreational marijuana and/or the paraphernalia that facilitates the use of such marijuana presents special concerns of safety, security and general nuisances that arise as the result of the use of drugs and substances that can affect the youth of the City and others; and

WHEREAS, the City of Sea Isle City is of the opinion that the Municipal Zoning Ordinance should be amended in order to clarify and reaffirm that the City has determined that the cultivation, manufacturing, testing, sale, or distribution of medicinal and recreational marijuana and/or the paraphernalia that facilitates the use of such marijuana is prohibited within the City and that such prohibition shall be continued in the future; and

WHEREAS, the City desires to amend the City of Sea Isle City Land Development Code so as to provide a safe environment for all of the citizens of Sea Isle City in response to the State Legislature potentially legalizing the use and sale of marijuana in the State of New Jersey; and

WHEREAS, given the current Master Plan of the City of Sea Isle City and the Development Ordinances implementing that Plan there are no areas where the sale of and distribution of recreational marijuana can be safely established given the overwhelming security and safety concerns; and

WHEREAS, the City of Sea Isle Zoning Ordinance, Chapter 26 of the City of Sea Isle City Code, lists each allowed use permitted in each zoning district within the City and expressly provides that any use which is not specifically or expressly designated as a permitted use or an allowed use is thereby prohibited (26-17.1 Applicability); and

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Sea Isle City, County of Cape May and State of New Jersey as follows:

SECTION I. Chapter 26 Section 18.9 of the Revised General Ordinances of the City of Sea Isle City, entitled “USE OF MARIJUANA” is hereby amended to add the following section in its entirety as follows:

ADDED SECTION:

26-18.9 USE OF MARIJUANA

SECTION II. Chapter 26 Section 18.9.1 of the Revised General Ordinances of the City of Sea Isle City, entitled “FACTUAL DETERMINATIONS AND STATEMENT OF POLICY” is hereby amended to add the following section in its entirety as follows:

ADDED SECTION:

26-18.9.1 FACTUAL DETERMINATIONS AND STATEMENT OF POLICY.

City Council finds and determines that:

- a. The City of Sea Isle City (“City”) has a comprehensive Master Plan and Development Ordinances implementing that Master Plan.
- b. The City Council has determined that businesses and enterprises manufacturing, selling, or distributing medicinal and recreational marijuana, or the growing or cultivation thereof, are not currently a permitted use in any zoning district within the City and, since such businesses and enterprises require special concern for security and location and because of such special concerns for security, the City desires to ensure that any such facilities are not allowed and continue to be prohibited in each of the several zoning districts within the City.
- c. Other states that have legalized the use of medicinal or recreational use of marijuana have experienced very negative results which are detrimental to the public health safety and welfare. Recent studies published in October 2018 show that both police-reported car crashes and accident-related insurance claims jumped in Colorado, Nevada, Oregon and Washington following enactment of legislation legalizing marijuana sales and use compared with their neighboring states if Idaho, Montana, Utah, and Wyoming which still prohibit marijuana. These studies were done by the Insurance Institute of Highway Safety (IIHS) and the Highway Loss Data Institute (HLDI) and found that police-reported car crashes rose 5.2 percent and insurance claims for car accidents rose 6 percent in those four states where the sale and use of marijuana has been legalized.
- d. The clear implication based on the IIHS and HLDI studies indicate that legalizing marijuana for all uses is having a negative impact on the safety of our roads. This is particularly so in light of the fact that there is no currently established legal limit for driving under the influence of marijuana, and there is also no widely accepted roadside test to determine marijuana usage.
- e. After due consideration, City Council is of the opinion that there is no area within the City which can safely house a business or enterprise or other activity engaged in manufacturing, selling, or distributing medicinal or recreational marijuana and/or the paraphernalia that facilitates the use of such marijuana.
- f. City Council is of the further conclusion that the terms “Home Occupations and Professions”, “Retail stores and shops”, “Personal service shops/establishment”, and “Convenience Stores and supermarkets” do not include, and shall not be construed or interpreted in such manner as to be deemed to permit the medicinal or recreational sale of marijuana or its manufacture or distribution.

SECTION III. Chapter 26 Section 18.9.2 of the Revised General Ordinances of the City of Sea Isle City, entitled “Marijuana and Paraphernalia Prohibited in All Districts” is hereby amended to add the following section in its entirety as follows:

ADDED SECTION

26-18.9.2 Marijuana and Paraphernalia Prohibited in All Districts

Any business or enterprise of any nature whatever that is engaged in the manufacture, sale or distribution of medicinal or recreational marijuana, cannabis, or any product containing Tetrahydrocannabinol (THC) or their derivatives including the growing or cultivation, thereof, and/or the paraphernalia that facilitates the use of such marijuana is prohibited in all Zoning Districts.

EXCEPTION: This ordinance is not intended to prohibit or otherwise restrict the dispensing of any pharmaceutical medication or other legal substance by a pharmacy or drug store under the supervision of a licensed pharmacist, which medication or substance is lawful to dispense under the laws of this State or the United States when the medication or substance being dispensed has been prescribed by a licensed physician or other duly licensed and authorized medical provider or health care practitioner; and further provided that such pharmacy or drug store is a permitted use in that zone.

SECTION IV. Chapter 26 Section 18.9.3 of the Revised General Ordinances of the City of Sea Isle City, entitled “Future Action on Marijuana” is hereby amended to add the following section in its entirety as follows:

ADDED SECTION:

26-18.9.3 Future Action on Marijuana

In the event that the State of New Jersey should hereafter legalize the manufacture, sale, or distribution of marijuana, cannabis, or any product containing Tetrahydrocannabinol (THC) or their derivatives for medicinal or recreational purposes, and such legislation grants municipalities the right to deny such sales within municipal boundaries either by “opting-in” or “opting-out” as the case may be, depending on the final version of such legislation should it be approved, it is the intent of the City of Sea Isle City, as expressed in this Ordinance, to prohibit all such manufacture, cultivation, growing, sale or distribution of marijuana, cannabis, or any product containing Tetrahydrocannabinol (THC) or their derivatives for medicinal or recreational purposes within the City of Sea Isle City or within any zoning district thereof subject to the exception for licensed pharmacies set forth in section 26-18.9.2 hereof.

SECTION V. Severability. If for any reason any section of this Ordinance shall be declared illegal by any Court of competent jurisdiction, the remaining section of the Ordinance shall remain in full force and effect, notwithstanding.

SECTION VI. Repealer. Any Ordinance or provision thereof inconsistent with this Ordinance is hereby repealed to the extent of such inconsistency.

SECTION VII. Publication. This Ordinance shall take effect immediately upon the adoption and publication in accordance with the law.

John C. Gibson, Council President

Mayor Leonard C. Desiderio

I HEREBY CERTIFY THAT the foregoing ordinance was duly passed by the City Council of the City of Sea Isle City, New Jersey on first reading at the regular meeting of said Council held on the 26th day of February, 2019 and will be taken up for second reading, public hearing and final passage at the regular meeting of said Council held on the 26 day of March, 2019, in City Hall, 3rd Floor Council Chambers, 233 JFK Blvd., Sea Isle City, New Jersey at 10:00 a.m.

Shannon D. Romano, Municipal Clerk