

First Reading: _____
Second Reading: _____
Third Reading: _____
Ord. No: _____

AN ORDINANCE ADOPTING A MORATORIUM ON MARIJUANA ESTABLISHMENTS BEING LOCATED IN THE TOWN OF SMYRNA

WHEREAS, the Town of Smyrna is authorized pursuant to Section 4.2.25 of the Town Charter to “provide for and preserve the health, peace, safety, cleanliness, ornament, good order and public welfare of the Town and its inhabitants”;

WHEREAS, the General Assembly of the State of Delaware adopted the Delaware Marijuana Control Act (“The Act”), legalizing the use of marijuana for individuals 21 years of age or older;

WHEREAS, the General Assembly authorized municipalities to adopt regulations prohibiting the operation of marijuana establishments within the municipality or to adopt regulations “governing the time, place, manner, and number of marijuana establishment operations” within the municipality;

WHEREAS, the Town Council of the Town of Smyrna is actively working to determine whether or not marijuana establishments should be prohibited in the Town of Smyrna or permitted subject to certain approvals, conditions, rules, and/or regulations;

WHEREAS, the State of Delaware will begin accepting applications for certain types of marijuana establishments beginning on September 1, 2024, which applications are required to include a “certificate of compliance” from the appropriate local government affirming that the marijuana establishment will be in compliance with the local government regulations; and

WHEREAS, the Town of Smyrna needs more time to evaluate and adopt marijuana establishment regulations before the Town will be able to consider requests for certificates of compliance from applicants seeking licenses from the State of Delaware to operate marijuana establishments.

NOW THEREFORE, BE IT HEREBY ENACTED by the Town Council of the Town of Smyrna, a majority thereof concurring in Council duly met, as follows:

Section 1. Establishment of a Moratorium

1. For a period of 3 months commencing on the date of the adoption of this Ordinance (“Moratorium Term”), the following marijuana establishments shall be deemed prohibited in the Town of Smyrna (collectively, “Marijuana Establishments”):
 - a. Marijuana cultivation facilities or cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, and retail marijuana stores, as these terms are defined in 13 *Del. C.* § 1302.
2. During the Moratorium Term, if the Town receives any requests for a certificate of compliance or any other documentation intended to demonstrate that a Marijuana Establishment is permitted in the Town, the Town shall issue a letter stating that Marijuana Establishments are currently not permitted in the Town of Smyrna.

3. At such time as the Town Council adopts regulations governing Marijuana Establishments in the Town, this Moratorium shall be deemed repealed in its entirety.
4. Absent any further action of the Town Council, this Moratorium shall automatically expire at the conclusion of the Moratorium Term.

Section 2. Severability. The provisions of this Ordinance shall be severable. If any provisions of this Ordinance are found by any court of competent jurisdiction to be unconstitutional or void, the remaining provisions of this Ordinance shall remain valid, unless the court finds that the valid provisions of this Ordinance are so essentially and inseparably connected with, and so dependent upon, the unconstitutional or void provision that it cannot be presumed that Town Council would have enacted the remaining valid provisions without the unconstitutional or void provision; or unless the court finds that the remaining valid provisions, standing alone, are incomplete and incapable of being executed in accordance with Town Council’s intent.

Section 3. Effective Date. This Ordinance shall become effective immediately upon its adoption by the Town Council.

SYNOPSIS

This ordinance establishes a moratorium of three months, during which time no marijuana cultivation facilities or cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, and retail marijuana stores, as these terms are defined in 13 *Del. C.* § 1302, may be located in the Town of Smyrna. Absent any further action on the part of the Town, this moratorium shall expire three months from the effective date of this Ordinance.

This will certify that this is a true and correct copy of the Ordinance duly adopted by the Town Council of the Town of Smyrna at its regular Council meeting on _____, 2024.

ATTEST:

Council Secretary

Mayor

This shall certify that the title and synopsis of this Ordinance was published in the “Delaware State News” on _____, 2024 and posted at the Town Hall on _____, 2024.

So Certifies:

Town Clerk