

Egg Harbor Township

Ordinance No. 8

2024

An ordinance to amend Chapter 87, entitled “Cannabis” of the Code of the Township of Egg Harbor regarding taxation, licensing, Resolution of local support and other provisions as permitted by the law including the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act” (“the Act”)

WHEREAS, the Township of Egg Harbor has previously declared its acceptance and adopted ordinances to regulate and issue marketplace classes of licenses for medical and adult recreational use businesses to cultivate, manufacture, wholesale, distribute, sell and deliver cannabis and cannabis related products; and

WHEREAS, the governing body of the Township of Egg Harbor has determined it is in the best interests of its citizens to adopt further amendments to regulate, tax, license, and/or approve licensed cannabis businesses as permitted by law.

NOW THEREFORE BE IT ORDAINED, by the Township Committee of the Township of Egg Harbor, in the County of Atlantic, New Jersey as follows:

SECTION 1. Chapter 87-3. “Resolution of local support” of the Code of the Township of Egg Harbor, is hereby amended to add a new subsection, specifically Chapter **87-3. E.**, entitled “Expiration and Extension.” by adding the following:

Expiration and Extension. Resolutions of support shall be issued by the Governing Body. A resolution of support issued by the Governing Body pursuant to N.J.A.C. 17:30-5.1(g)1 to a cannabis business shall expire within eighteen (18) months unless the business has secured at least one of the annual State issued cannabis licenses within the Township. The Governing Body may extend the resolution of support at its discretion for an additional period of six (6) months for good cause, including but not limited to delays in the processing of approvals required from State, county or other local agencies. There shall be a fee of \$2,500 for each extension request. This provision is retroactive and resolutions of support eighteen (18) months or older from the date of issuance are hereby expired.

SECTION 2. Chapter 87-4. entitled “Licenses” of the Code of the Township of Egg Harbor, specifically **Chapter 87-4 D.**, subsections **(3)** and **(4)**, are hereby amended to delete the language “four” and replace it with “six”.

SECTION 3. Chapter 87-4. “Licenses” of the Code of the Township of Egg Harbor, is hereby amended to add a new subsection, specifically Chapter **87-4. F.**, entitled “Transfer” by adding the following:

A Cannabis license may not be transferred without application to and express written permission of the Township Administrator. Transfer of ownership of any local license or

change of location of any license or modification to expand a licensed premises shall also be subject to joint Governing Body and Land Use Board review and approval as well as a new license application and the payment of new application fees.

SECTION 4. Chapter 87-7 Cannabis transfer and user tax of the Code of the Township of Egg Harbor, specifically **Chapter 87-7, Section B.**, entitled “Cannabis user tax” is hereby amended to add the following:

The value of each transfer or use of cannabis or cannabis items for user tax computation shall equal the statewide average retail price of an ounce of usable cannabis for consumer purchase, as determined by the Cannabis Regulatory Commission, less ten percent (10%) or the third-party dispensary wholesale price, whichever is less.

SECTION 5. Chapter 87-7D. entitled “Collection of cannabis transfer and user taxes” of the Code of the Township of Egg Harbor, specifically **Chapter 87-7D(3)**, is hereby amended to add the following:

The Township may determine at any time, in its sole discretion, to retain an outside third-party consultant (the “outside consultant”) to exercise all of duties and responsibilities of the chief financial officer as set forth above, with the exception of the power of enforcement, levying of fines and penalties and entering into agreements with the State of New Jersey. In the event that the Township retains such an outside consultant, the fee schedule for the outside consultant shall be presented, for informational purposes only, to the cannabis business before such audit and other work is undertaken. The cannabis business shall be responsible for reimbursement to the Township of the fees incurred by the Township to the outside consultant for services rendered in its examination of the business’s accounts for the determination of tax to be paid. A copy of the invoice shall be sent to the cannabis business by the municipality after the municipality is billed for the outside consultant’s work. The cannabis business shall reimburse the municipality for the outside consultant’s fees and expenses within sixty (60) days thereafter. Failure to reimburse the municipality in a timely manner shall invoke the provisions of Chapters 87-10 and 11 of the Township Code. Should a cannabis business fail or refuse to provide adequate information to the chief financial officer or the outside consultant to determine the amount of tax due, the chief financial officer or the outside consultant may use information provided from other sources (i.e., the NJ Cannabis Regulatory Commission or NJ Department of Treasury) to determine the amount of tax liability, and the licensee shall be subject to the penalties set forth invoke the provisions of Chapters 87-10 and 11 of the Township Code.

SECTION 6. Chapter 87-7D. entitled “Collection of cannabis transfer and user taxes” of the Code of the Township of Egg Harbor, specifically Chapter **87-7 D.** subsection **(4)**, is hereby amended to delete the language in the last sentence “is a disorderly person” and replace it with ... “shall be subject to all available legal remedies.”

SECTION 7. Chapter 87 of the Code of the Township of Egg Harbor, is hereby amended to add a new section, specifically **Chapter 87-8.**, entitled “Host Community Agreement” by adding the following:

Host Community Agreement. Any applicant for a license to operate a cannabis business within the Township shall be required to enter into a host community agreement with the Township after obtaining all approvals to (i) address on- or off-site impacts reasonably anticipated because of the nature of the business and/or the property on which such business is proposed to be located as a condition of local land use approval, and (ii) memorialize an applicant's commitment to the community and the Township.

SECTION 8. Chapter 87 of the Code of the Township of Egg Harbor, is hereby amended to add a new section, specifically Chapter **87-9**, entitled "Prohibitions" by adding the following:

- A. Public Nuisance Declared. Operation of any prohibited or unpermitted cannabis business operation within the municipality in violation of the provisions of this Chapter is hereby declared a public nuisance and shall be abated pursuant to all available remedies.
- B. Prohibition of Gifting Cannabis. No person shall gift cannabis in the Township as part of a sale of another item or items and shall be enforced pursuant to all available remedies. Gifting is the knowing circumvention of the state's cannabis laws by "gifting" cannabis in exchange for non-cannabis-related purchases such as overpriced cookies, brownies, jars, stickers and any other items.

SECTION 9. Chapter 87 of the Code of the Township of Egg Harbor is hereby amended to renumber **Chapter 87-8**, entitled "Revocation of license" to Chapter **87-10** and Chapter **87-9**, entitled "Violations and penalties" to Chapter 87-11.

SECTION 10. All ordinances and parts of Ordinances inconsistent herewith are hereby repealed.

SECTION 11. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by a Court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

SECTION 12. This Ordinance shall take effect upon final passage, adoption and publication in the manner prescribed by law.

NOTICE IS HEREBY GIVEN THAT THE FOREGOING ORDINANCE WAS INTRODUCED AT A MEETING OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF EGG HARBOR, IN THE COUNTY OF ATLANTIC AND STATE OF NEW JERSEY, HELD MARCH 20, 2024, AND WILL BE FURTHER CONSIDERED FOR FINAL PASSAGE AFTER A PUBLIC HEARING THEREON AT A REGULAR MEETING OF SAID TOWNSHIP COMMITTEE IN THE TOWNSHIP HALL, IN SAID TOWNSHIP ON APRIL 24, 2024, AT 5:30 P.M.

Dated: March 20, 2024

Eileen M. Tedesco, RMC
Township Clerk