

ORDINANCE NO. 395

**AN ORDINANCE AMENDING THE TOWN OF  
OCEAN VIEW CODE RELATING TO LICENSES  
AS SET OUT IN CHAPTER 93**

**WHEREAS**, pursuant to Section 2.313 of the Ocean View Charter, the Town Council of the Town of Ocean View has all powers which, under the Constitution of the State, it would be competent for the General Assembly to grant by specific enumeration, and which are not denied by statute; and

**WHEREAS**, the Town Council has the power to adopt ordinances for the protection and promotion of the health, safety, and welfare of the residents of the Town; and

**WHEREAS**, the Town Council deems it appropriate, necessary and proper for the health, safety and welfare of the residents of the Town of Ocean View to adopt an ordinance pertaining to the cultivation, manufacturing, testing and retail of marijuana within the Town of Ocean View; and

**WHEREAS**, the Delaware Marijuana Control Act specifically provides that a municipality may prohibit the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, or retail marijuana stores through the enactment of ordinance or through an initiated or referred measure; and

**WHEREAS**, the Town Council desires to amend certain sections of the Code of the Town of Ocean View (the "Code") related to licenses as set out in Chapter 93, Licenses, to prohibit the issuance of licenses for certain marijuana related business.

**NOW, THEREFORE, BE IT ORDAINED AND ENACTED BY THE TOWN  
COUNCIL OF THE TOWN OF OCEAN VIEW:**

**Section 1.** Amend § 93-2 of Chapter 93, Licenses, of the Code by adding thereto those matters underlined as follows:

E. No license shall be issued by the Town of Ocean View for the operation of a marijuana cultivation facility, a marijuana product manufacturing facility, a marijuana testing facility, a retail marijuana store, each as defined in Title 4, Section 1302 of the Delaware Code, or a marijuana smoking lounge within the municipal limits of the Town of Ocean View.

**Section 2.** This ordinance is subject to the Pending Ordinance Doctrine. Upon its introduction at the July 11, 2023 meeting of the Town Council, the Town shall thereafter reject any applications inconsistent with the amendments to Chapter 93 provided in the ordinance until such time as the Mayor and Town Council take action on the ordinance to either approve or reject, with our without amendments.

**Section 3.** If any provision of this ordinance shall be deemed or held to be invalid or unenforceable for any reason whatsoever, then such invalidity or unenforceability shall not affect any other provision of this ordinance which may be given effect without such valid or unenforceable provision, and to this end, the provisions of this ordinance are hereby declared to be severable.

**Section 4.** This ordinance shall become effective upon its adoption by a majority of all members elected to the Town Council.

### Synopsis

The purpose of this ordinance is to prohibit the issuance of licenses to operate various marijuana related businesses in the Town of Ocean View. The Delaware Marijuana Control Act specifically provides that a Municipality may prohibit marijuana cultivations facilities, marijuana product manufacturing facilities, marijuana testing facilities, or retail marijuana stores through the enactment of an ordinance or through an initiated or referred measure.

TOWN OF OCEAN VIEW

By:  \_\_\_\_\_  
Mayor

Attest:  \_\_\_\_\_  
Town Clerk

First Reading: 9.12.2023

Second Reading: 10.10.2023

Adopted: 10.10.2023