

ORDINANCE NO. 396

**AN ORDINANCE AMENDING THE TOWN OF
OCEAN VIEW CODE RELATING TO USE REGULATIONS
AS SET OUT IN CHAPTER 140, LAND USE AND DEVELOPMENT**

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 is granted certain authority pursuant to Chapter 3 and Chapter 7 of Title 22 of the Delaware Code; 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;

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;

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.

WHEREAS, the Town Council desires to amend certain sections of the Code of the Town of Ocean View (the "Code") related to Use Regulations as set out in Chapter 140, Land Use and Development.

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

Section 1. Amend § 140-27 of Chapter 140, Land Use and Development, of the Code by adding thereto those matters underlined and deleting therefrom those matters ~~stricken through~~ as follows:

§ 140-27. Prohibited uses.

~~(Reserved)~~

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 shall be prohibited within the municipal boundaries 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 140 provided in the ordinance until such time as the Mayor and Town Council take action on the ordinance to either approve or reject, with or 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.

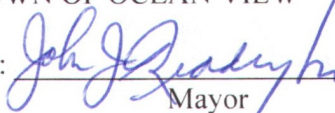
Section 4. This ordinance shall become effective upon its adoption by a majority of all members elected to the Town Council.

Synopsis

The purpose of this ordinance is to prohibit marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, retail marijuana stores or marijuana smoking lounges as a permitted use in any zoning districts within the Town of Ocean View. The Delaware Marijuana Control Act specifically provides that a Municipality may prohibit marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, 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