

# City of Somers Point

SOLICITOR FLEISHMAN  
ENGINEER SCHNEIDER

DEPARTMENT OF PLANNING & ZONING

CHAIRMAN

P. STRIEFSKY  
J. GLASSER  
D. SHARP  
M. SWEENEY  
B. COTTON  
H. DILL

ALTERNATES: J. SHIELDS  
F. FERRERI

A regular meeting of the City of Somers Point Planning Board will be held June 16, 2021 by remote access only by video and audio means. The meeting will begin at 7:00 p.m. At the time of the meeting, anyone from the public wishing to attend may do so remotely by accessing the video and audio of the meeting on the internet at <https://us02web.zoom.us/j/81658250175> on a supportable desktop computer, laptop computer, tablet or other supportable device. You may be required to download the "Zoom" meeting application at or prior to the time of the meeting. Anyone from the public may also attend the meeting by accessing only the audio of the meeting by telephone by calling 1- 301-715-8592 and entering meeting ID. 816 5825 0175. Additional local call in numbers can be found at <https://us02web.zoom.us/j/81658250175>

The agenda of the meeting, and copies of any application before the Board, and any maps and documents relating to any application before the Board, may be found on the internet at [http://www.somerspointgov.org/mainpages/planning\\_board.asp](http://www.somerspointgov.org/mainpages/planning_board.asp) under the "Planning Board Meeting Dates and Board Documents" section. The agenda will additionally be posted as required by law. Copies of any application before the Board, and any maps and documents relating to any application before the Board, may also be inspected by the public on weekdays (except holidays) during regular business hours at City Hall, 1 W. New Jersey Avenue, Somers Point, NJ.

For additional information, you may contact Jayne Meischker, Board Secretary, at the City of Somers Point Planning and Zoning Office, at (609) 927-9088 x 142, or by email at [jmeischker@spgov.org](mailto:jmeischker@spgov.org).

## PLANNING BOARD AGENDA JUNE 16 2021 REMOTELY REGULAR MEETING 7:00 PM

1. Flag Salute
2. Open Public Meetings Act
3. Mayor Glasser to swear in Gerald Max Slusher
4. Roll Call
5. Approval of minutes from May meeting
6. Applications: None
7. Board to discuss City of Somers Point Resolution No. 110 of 2021 requesting that the Planning Board review a proposed Ordinance prohibiting all classes of cannabis establishments or distributors or delivery services in the City
8. Public session
9. Other business

*Jayne Meischker*

Jayne Meischker, Board Secretary



"Small Town Charm On The Bay"

# ***City of Somers Point***

## **Resolution**

**No. 110 of 2021**

**Subject: Requesting that the Planning Board Review a Proposed Ordinance Prohibiting All Classes of Cannabis Establishments or Distributors or Delivery Services in the City**

**Introduced By: Council President Janice Johnston**

**WHEREAS**, the Governing Body of the City of Somers Point seeks to encourage responsible and smart development within the City; and

**WHEREAS**, in 2020 New Jersey voters approved Public Question No. 1, which amended the New Jersey Constitution to allow for the legalization of a controlled form of marijuana called “cannabis” for adults at least 21 years of age; and

**WHEREAS**, on February 22, 2021, Governor Murphy signed into law P.L. 2021, c. 16, known as the “New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act” (the “Act”), which legalizes the recreational use of marijuana by adults 21 years of age or older, and establishes a comprehensive regulatory and licensing scheme for commercial recreational (adult use) cannabis operations, use and possession; and

**WHEREAS**, the Act establishes six marketplace classes of licensed businesses, including:

- Class 1 Cannabis Cultivator license, for facilities involved in growing and cultivating cannabis;
- Class 2 Cannabis Manufacturer license, for facilities involved in the manufacturing, preparation, and packaging of cannabis items;
- Class 3 Cannabis Wholesaler license, for facilities involved in obtaining and selling cannabis items for later resale by other licensees;
- Class 4 Cannabis Distributer license, for businesses involved in transporting cannabis plants in bulk from on licensed cultivator to another licensed cultivator, or cannabis items in bulk from any type of licensed cannabis business to another;
- Class 5 Cannabis Retailer license for locations at which cannabis items and related supplies are sold to consumers; and
- Class 6 Cannabis Delivery license, for businesses providing courier services for consumer purchases that are fulfilled by a licensed cannabis retailer in order to make deliveries of the purchased items to a consumer, and which service would include the ability of a consumer to make a purchase directly through the cannabis delivery service which would be presented by the delivery service for fulfillment by a retailer and then delivered to a consumer.

**WHEREAS**, section 31a of the Act authorizes municipalities by ordinance to adopt regulations governing the number of cannabis establishments (defined in section 3 of the Act as “a cannabis cultivator, a cannabis manufacturer, a cannabis wholesaler, or a cannabis retailer”), cannabis distributors or cannabis delivery services allowed to operate within their boundaries, as well as the location manner and times operation of such establishments, distributors or delivery services, and establishing civil penalties for the violation of any such regulations; and

**WHEREAS**, section 31b of the Act authorizes municipalities by ordinance to prohibit the operation of any one or more classes of cannabis establishments, distributors, or delivery services anywhere in the municipality; and

**WHEREAS**, section 31b of the Act also stipulates, however, that any municipal regulation or prohibition must be adopted within 180 days of the effective date of the Act (*i.e.*, by August 22, 2021; and

**WHEREAS**, pursuant to section 31b of the Act, the failure to do so shall mean that for a period of five years thereafter, the growing, cultivating, manufacturing, selling and reselling of cannabis and cannabis items shall be permitted uses in all

industrial zones, and the retail selling of cannabis items to consumers shall be a conditional use in all commercial and retail zones; and

**WHEREAS**, at the conclusion of the initial and any subsequent five-year period following a failure to enact local regulations or prohibitions, the municipality shall again have 180 days to adopt an ordinance regulating or prohibiting cannabis businesses, but any such ordinance would be prospective only and would not apply to any cannabis business already operating within the municipality; and

**WHEREAS**, the City Council of the City of Somers Point has determined that, due to present uncertainties regarding the potential future impacts that allowing one or more classes of cannabis business might have on New Jersey municipalities in general, and on the City of Somers Point in particular, it is at this time necessary and appropriate, and in the best interest of the health, safety and welfare of the City of Somers Point’s residents and members of the public who visit, travel, or conduct business in the City of Somers Point, to amend the City of Somers Point’s zoning regulations to prohibit all manner of marijuana-related land use and development within the geographic boundaries of the City of Somers Point; and

**WHEREAS**, pursuant to N.J.S.A. 40:55D-89 the Somers Point Planning Board undertook reexamination of its Master Plan commencing in August of 2014 through March of 2015, to determine the major problems and objectives relating to land development within the City; and

**WHEREAS**, the Planning Board’s Master Plan Reexamination identified the need to provide and create the appropriate land use controls relative to the development of Somers Point as a vibrant, waterfront community, the preservation of its historic district and neighborhoods, as well as developing better access throughout the City to its businesses within the community; and

**WHEREAS**, an ordinance has been prepared on behalf of the City Council of Somers Point which repeals current Section 114-119(A)16 of Chapter 114 of Article XX, entitled “Prohibited Uses,” of the City of Somers Point Code and hereby amends same by replacing it with the following language: “All classes of cannabis establishments or cannabis distributors or cannabis delivery services as said terms are defined in section 3 of P.L. 2021, c. 16, but not the delivery of cannabis items and related supplies by a delivery service or the sale of paraphernalia associated with the use of recreational cannabis,” a copy of which is hereby attached to this resolution.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Somers Point that the Common Council, pursuant to N.J.S.A. 40:55D-64 and N.J.S.A. 40:55D-26, hereby requests the Somers Point Planning Board review the attached, proposed ordinance to determine the consistency of this ordinance with the Master Plan.

	MOTION	SECOND	YES	NO	ABSTAIN	ABSENT	RECUSE
Bruno			X				
Dill			X				
Ferreri			X				
McCarrie	X		X				
McGuigan			X				
Owen		X	X				
Johnston			X				
Consent Agenda							

I, Lucy R. Samuelson, City Clerk of the City of Somers Point, New Jersey, hereby certify that the foregoing Resolution is a true copy, duly adopted by the City Council of said City at a Regular meeting held on the 27th day of May 2021. In witness whereof, I have hereunto set my hand and seal of the Office on the 27<sup>th</sup> day of May 2021

  
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 Lucy R. Samuelson, RMC, City Clerk

# ***City of Somers Point*** **Ordinance**

## **ORDINANCE NO. 8 of 2021**

### **AN ORDINANCE REPEALING AND REPLACING §114-119(A)16 OF CHAPTER 114, ARTICLE XX OF THE CITY CODE ENTITLED “PROHIBITED USES” SO AS TO PROHIBIT THE OPERATION OF ANY CLASS OF CANNABIS BUSINESSES WITHIN THE MUNICIPAL BOUNDARIES OF SOMERS POINT**

**WHEREAS**, in 2020 New Jersey voters approved Public Question No. 1, which amended the New Jersey Constitution to allow for the legalization of a controlled form of marijuana called “cannabis” for adults at least 21 years of age; and

**WHEREAS**, on February 22, 2021, Governor Murphy signed into law P.L. 2021, c. 16, known as the “New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act” (the “Act”), which legalizes the recreational use of marijuana by adults 21 years of age or older, and establishes a comprehensive regulatory and licensing scheme for commercial recreational (adult use) cannabis operations, use and possession; and

**WHEREAS**, the Act establishes six marketplace classes of licensed businesses, including:

- Class 1 Cannabis Cultivator license, for facilities involved in growing and cultivating cannabis;
- Class 2 Cannabis Manufacturer license, for facilities involved in the manufacturing, preparation, and packaging of cannabis items;
- Class 3 Cannabis Wholesaler license, for facilities involved in obtaining and selling cannabis items for later resale by other licensees;
- Class 4 Cannabis Distributer license, for businesses involved in transporting cannabis plants in bulk from on licensed cultivator to another licensed cultivator, or cannabis items in bulk from any type of licensed cannabis business to another;
- Class 5 Cannabis Retailer license for locations at which cannabis items and related supplies are sold to consumers; and
- Class 6 Cannabis Delivery license, for businesses providing courier services for consumer purchases that are fulfilled by a licensed cannabis retailer in order to make deliveries of the purchased items to a consumer, and which service would include the ability of a consumer to make a purchase directly through the cannabis delivery service which would be presented by the delivery service for fulfillment by a retailer and then delivered to a consumer.

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**WHEREAS**, section 31a of the Act authorizes municipalities by ordinance to adopt regulations governing the number of cannabis establishments (defined in section 3 of the Act as “a cannabis cultivator, a cannabis manufacturer, a cannabis wholesaler, or a cannabis retailer”), cannabis

distributors or cannabis delivery services allowed to operate within their boundaries, as well as the location manner and times operation of such establishments, distributors or delivery services, and establishing civil penalties for the violation of any such regulations; and

**WHEREAS**, section 31b of the Act authorizes municipalities by ordinance to prohibit the operation of any one or more classes of cannabis establishments, distributors, or delivery services anywhere in the municipality; and

**WHEREAS**, section 31b of the Act also stipulates, however, that any municipal regulation or prohibition must be adopted within 180 days of the effective date of the Act (*i.e.*, by August 22, 2021);and

**WHEREAS**, pursuant to section 31b of the Act, the failure to do so shall mean that for a period of five years thereafter, the growing, cultivating, manufacturing, selling and reselling of cannabis and cannabis items shall be permitted uses in all industrial zones, and the retail selling of cannabis items to consumers shall be a conditional use in all commercial and retail zones; and

**WHEREAS**, at the conclusion of the initial and any subsequent five-year period following a failure to enact local regulations or prohibitions, the municipality shall again have 180 days to adopt an ordinance regulating or prohibiting cannabis businesses, but any such ordinance would be prospective only and would not apply to any cannabis business already operating within the municipality; and

**WHEREAS**, the City Council of the City of Somers Point has determined that, due to present uncertainties regarding the potential future impacts that allowing one or more classes of cannabis business might have on New Jersey municipalities in general, and on the City of Somers Point in particular, it is at this time necessary and appropriate, and in the best interest of the health, safety and welfare of the City of Somers Point’s residents and members of the public who visit, travel, or conduct business in the City of Somers Point, to amend the City of Somers Point’s zoning regulations to prohibit all manner of marijuana-related land use and development within the geographic boundaries of the City of Somers Point; and

**WHEREAS**, officials from two prominent non-profit organizations that have been established for the purpose of advising New Jersey municipalities on legal matters such as have been presented by the Act (those organizations being the New Jersey State League of Municipalities and the New Jersey Institute of Local Government Attorneys) have strongly urged that due to the complexity and novelty of the Act; the many areas of municipal law that are or may be implicated in decisions as to whether or to what extent cannabis or medical cannabis should be permitted for land use purposes or otherwise regulated in any particular municipality; and the relatively short duration in which the Act would allow such decisions to be made before imposing an automatic authorization of such uses in specified zoning districts subject to unspecified conditions, the most prudent course

## ***City of Somers Point*** **Ordinance**

of action for all municipalities, whether or not generally in favor of cannabis or medical cannabis land development and uses, would be to prohibit all such uses within the Act's 180-day period in order to ensure sufficient time to carefully review all aspects of the Act and its impacts;

**WHEREAS**, pursuant to N.J.S.A. 40:55D-89 the Somers Point Planning Board undertook reexamination of its Master Plan commencing in August of 2014 through March of 2015, to determine the major problems and objectives relating to land development within the City; and

**WHEREAS**, the Planning Board's Master Plan Reexamination identified the need to provide and create the appropriate land use controls relative to the development of Somers Point as a vibrant, waterfront community, the preservation of its historic district and neighborhoods, as well as developing better access throughout the City to its businesses within the community; and

**WHEREAS**, pursuant to N.J.S.A. 40:55D-64 and N.J.S.A. 40:55D-26, this ordinance was referred by the City Council to the Somers Point Planning Board to determine the consistency of this ordinance with the Master Plan; and

**NOW THEREFORE, BE IT ORDAINED**, by the Common Council of the City of Somers Point, in the County of Atlantic, State of New Jersey, as follows:

1. Pursuant to section 31b of the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (P.L. 2021, c. 16), all cannabis establishments, cannabis distributors or cannabis delivery services are hereby prohibited from operating anywhere in the City of Somers Point, except for the delivery of cannabis items and related supplies by a delivery service.

2. Section 114-119(A)16 of Chapter 114 of Article XX, entitled "Prohibited Uses" of the City of Somers Point Code is hereby amended by repealing this current section in its entirety and replacing said section on prohibited uses, the following: "All classes of cannabis establishments or cannabis distributors or cannabis delivery services as said terms are defined in section 3 of P.L. 2021, c. 16, but not the delivery of cannabis items and related supplies by a delivery service, or the sale of paraphernalia associated with the use of recreational cannabis."

3. Any article, section, paragraph, subsection, clause, or other provision of the City of Somers Point Code inconsistent with the provisions of this ordinance is hereby repealed to the extent of such inconsistency.

4. If any section, paragraph, subsection, clause, or provision of this ordinance shall be adjudged by a court of competent jurisdiction to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause, or provision so adjudged, and the remainder of this ordinance shall be deemed valid and effective.

5. This ordinance shall take effect upon its final passage and publication as required by law.

# *City of Somers Point* **Ordinance**

First Reading: 5/27/2021  
 Publication: 6/1/2021  
 Final Passage: 7/22/2021  
 Publication:

	MOTION	SECOND	YES	NO		ABSTAIN	ABSENT	RECUSE
Bruno								
Dill								
Ferreri								
McCarrie								
McGuigan								
Owen								
Johnston								
Consent Agenda								

The within Ordinance was introduced at a meeting of the Common Council of the City of Somers Point, County of Atlantic and State of New Jersey held on May 27, 2021 and will be further considered for final passage after a public hearing thereon at a meeting of said Common Council on July 22, 2021.

\_\_\_\_\_  
Date

\_\_\_\_\_  
John L. Glasser, Jr.  
Mayor