

TOWNSHIP OF LOWER, COUNTY OF CAPE MAY, STATE OF NEW JERSEY

ORDINANCE #2026-15

Title: **AN ORDINANCE AMENDING CHAPTER 400, LAND DEVELOPMENT, AND CHAPTER 432, MERCANTILE LICENSES, OF THE CODE OF THE TOWNSHIP OF LOWER TO INCREASE THE MAXIMUM NUMBER OF CLASS 5 CANNABIS RETAIL LICENSES FROM TWO TO THREE**

WHEREAS, on February 22, 2021, the State of New Jersey enacted the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act, P.L. 2021, c. 16 (N.J.S.A. 24:61-31 et seq.) (the "CREAMM Act"), which established a comprehensive regulatory and licensing framework for adult-use cannabis; and

WHEREAS, on July 6, 2021, the Township Council adopted Ordinance Nos. 2021-13 and 2021-14, respectively amending Chapter 400 of the Township Code to authorize a limited number of Class 5 cannabis retail and Class 6 cannabis delivery licenses and amending Chapter 432 to establish annual municipal licensing fees for those businesses; and

WHEREAS, on November 15, 2021, the Township Council adopted Ordinance No. 2021-20 to refine the land use regulations governing Class 5 cannabis retail stores and Class 6 cannabis delivery services within the Township; and

WHEREAS, on December 10, 2021, the New Jersey Cannabis Regulatory Commission issued guidance to municipalities concerning municipal approval and preference, including guidance that, when a municipality supports more applicants than its local license cap, the municipality may employ a first-in-time standard based upon Commission approval until the local licensing cap is reached; and

WHEREAS, on January 4, 2023, the Township Council adopted Ordinance No. 2022-15 establishing the GB-1 Cannabis Overlay Zone and further revising the Township's zoning regulations for Class 5 cannabis retail stores and Class 6 cannabis delivery services; and

WHEREAS, the Township Code presently limits the number of Class 5 cannabis retail licenses to two and the number of Class 6 cannabis delivery licenses to two; and

WHEREAS, there are currently two applicants seeking Class 5 cannabis retail licenses who at substantially the same stage of the State licensing process, and, notwithstanding prior guidance provided by the Cannabis Regulatory Commission, the Cannabis Regulatory Commission has indicated that it will not approve one applicant over the other; and

WHEREAS, to permit both applicants to proceed without requiring the Commission to choose between them, the Township Council has elected to increase the maximum number of Class 5 cannabis retail licenses from two to three, while maintaining a future limit of three Class 5 cannabis retail licenses and two Class 6 cannabis delivery licenses within the Township.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Township Council of the Township of Lower, County of Cape May, State of New Jersey, as follows:

Section 1. Section 400-56(P)(1) of Chapter 400, Land Development, of the Code of the Township of Lower is hereby amended and restated as follows:

§ 400-56 Conditional uses

P. Class 5 cannabis retail stores.

- (1) There shall be no more than three (3) Class 5 cannabis retail licenses issued or outstanding in the Township of Lower at any one time, and such licenses shall be confined to the GB-1 Cannabis Overlay Zone, MD-2, or I Zoning Districts. Cannabis retail stores shall not be permitted within any

other zone located within the Township of Lower. Class 5 cannabis retail stores located in the GB-1 Cannabis Overlay Zone are deemed to be permitted uses, subject to the provisions of § 400-111. No fourth or additional Class 5 cannabis retail license shall be issued, endorsed, or otherwise authorized by the Township.

Section 3. Section 432-4(O) of Chapter 432, Mercantile Licenses, of the Code of the Township of Lower is hereby amended and restated as follows:

O. Retail and delivery cannabis licenses. Businesses engaged in the sale and/or delivery of cannabis items within the Township of Lower shall pay the annual licensing fees and shall be subject to the numerical license limits set forth below:

- (1) Class 5 cannabis retail licenses: \$2,000. No more than three (3) Class 5 cannabis retail licenses shall be issued within the Township at any one time.
- (2) Class 6 cannabis delivery licenses: \$2,000. No more than two (2) Class 6 cannabis delivery licenses shall be issued within the Township at any one time.

Section 4. All other ordinances in conflict or inconsistent with this Ordinance are hereby repealed to the extent of such conflict or inconsistency.

Section 5. Should any section, paragraph, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid for any reason, the remaining portions of this Ordinance shall not be affected thereby and shall remain in full force and effect, and to this end the provision of this Ordinance are hereby declared to be severable.

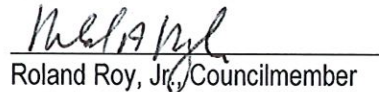
Section 6. This Ordinance shall become effective 20 days after final passage and publication according to law.



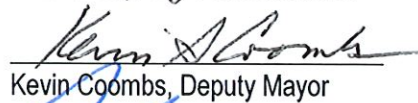
Thomas Conrad, Councilmember



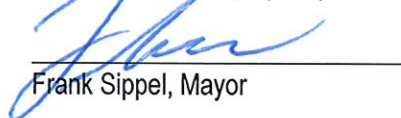
Joseph Wareham, Councilmember



Roland Roy, Jr., Councilmember



Kevin Coombs, Deputy Mayor



Frank Sippel, Mayor

First Reading: July 20, 2026

Adopted: August 3, 2026

Attest: 
Karen S. Fournier, Township Clerk