

AN ORDINANCE TO AMEND CHAPTER 5 OF THE CITY CODE TO PROHIBIT THE OPERATION OF RETAIL MARIJUANA BUSINESSES IN THE CITY OF WILMINGTON, DELAWARE

#0511

Sponsors:

Council
Member
Field

Council
President
Congo

Co-
Sponsors:

Council
Members
White
Spadola

WHEREAS, City Council is empowered by the City Charter to enact legislation that preserves, protects, and promotes the general health, safety, and welfare of citizens of the City of Wilmington; and

WHEREAS, recreational marijuana use became legal for adult use in the State of Delaware on April 23, 2023, when House Bill 1 was enacted without Governor John Carney’s signature; and

WHEREAS, House Bill 2, enacted on April 27, 2023, without Governor John Carney’s signature, created the Delaware Marijuana Control Act, 4 *Del. C.* §§ 1301, *et seq.*, The Delaware Marijuana Control Act became effective on August 1, 2023; and

WHEREAS, 4 *Del. C.* § 1351(a) allows municipalities to prohibit or limit the operation of the four types of marijuana-related uses through the enactment of an ordinance or through an initiated or referred measure; and

WHEREAS, several municipalities throughout the State of Delaware have opted out of allowing the operation of the four types of marijuana-related uses; and

WHEREAS, City Council believes it is in the City’s best interest to also prohibit the operation of retail marijuana stores within the borders of the City of Wilmington.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF WILMINGTON HEREBY ORDAINS:

SECTION 1. Chapter 5 of the City Code is hereby amended by adding the underlined language to read as follows:

Sec. 5-4. – Prohibition of Marijuana-Related Retail Businesses.

(a) Definitions.

(1) *Hemp* means the plant *Cannabis sativa L.* and any part of such plant, whether growing or not, with a delta-9

tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.

(2) Retail marijuana store means an entity licensed to purchase marijuana from marijuana cultivation facilities, to purchase marijuana and marijuana products from marijuana product manufacturing facilities, and to sell marijuana and marijuana products to consumers.

(b) Prohibition. Within the limits and bounds of the City of Wilmington, no person shall operate, maintain, or otherwise be engaged in any entity, whether for profit or nonprofit, defined in subsection (a) as a retail marijuana store. Nothing herein shall be construed as prohibiting or restricting the retail of hemp as defined in subsection (a).

SECTION 2. Chapter 5 of the City Code is hereby amended by renumbering certain reserved sections thereof by deleting the stricken language and adding the underlined language to read as follows:

Secs. ~~5-45-5~~ – 5-30. – Reserved.

SECTION 3. This Ordinance shall be deemed effective upon passage by City Council and approval by the Mayor.

First Reading November 21, 2024
Second Reading November 21, 2024
Third Reading

Passed by City Council,

President of City Council

ATTEST: _____
City Clerk

Approved this ____ day of _____, 2024.

Mayor

SYNOPSIS: This Ordinance prohibits retail marijuana-related businesses from being established and operating within the limits and bounds of the City of Wilmington.

FISCAL IMPACT STATEMENT: There is no anticipated negative fiscal impact associated with this Ordinance.