

AN ORDINANCE AMENDING AND SUPPLEMENTING THE REVISED GENERAL ORDINANCES OF THE CITY OF BAYONNE, NEW JERSEY, CHAPTER 39, RECREATIONAL CANNABIS.

SECTION 1: The Revised General Ordinances of the City of Bayonne, New Jersey, Amending and Supplementing Chapter 39, Recreational Cannabis, Section 39-2 Preliminary application and review process and administrations fee and support Resolution, is hereby amended and supplemented as follows (additions ****between asterisks and/or in bold****, deletions {within brackets and/or ~~struck through~~):

§ 39-2 Preliminary application and review process and administration fee and support Resolution.

- a. Classification of licenses. The City, subject to land use approval and State licensure, may issue the following municipal licenses to operate the following cannabis establishments or delivery service:

Class I: Cannabis cultivator license
Class II: Cannabis manufacturer license
Class V: Cannabis retailer license
Class VI: Cannabis delivery license

- b. Maximum number of licenses. The City may issue a maximum of one (1) Class I license, one (1) Class II license, two (2) Class V licenses, and two (2) Class VI licenses. The City adopts license limitations per N.J.A.C. 17:30-6.8.

- c. Location. The City of Bayonne hereby permits a Class I Cultivator, Class II Manufacturer, Class V Retailer and **Class VI Bayonne-based Delivery Service** to operate in the designated H-C (Highway Commercial/Selected Light Industrial District and I-H (Heavy Industrial District) as listed in Chapter 35 of the Revised General Ordinances, Zoning Regulations, Section 5 District Regulations, Subsections 5.13 and 5.17: ****only provided that the properties are located East of the Route 440 Corridor and excluding the following blocks and lots in the I-H as follows:**

Block 360, Lots 1 and 2
Block 332, Lots 1, 2, 2.01, 3, 4, 5, 6, and 7
Block 333.01, Lot 7
Block 511, Lots 2, 3, 4, 5 and 6
Block 333.03, Lots 1, 2, 3, and 4
Block 333.02, Lots 1, 2.01, 3, 4, and 5
Block 311.01, Lots 5, 6, 9, 10.01, 11 and 12
Block 311.02, Lots 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10
Block 301.01, Lots 1 and 6
Block 301.04, Lot 3
Block 301.02, Lots 4.02, 5, 6, 7, 8, 9 and 10.01
Block 301.03, Lot 1.02**

d. Enabling authority. The requirements of this section are subject to the enabling authority of the State of New Jersey and are subject to compliance with all statutes and/or regulations adopted by the State of New Jersey or its instrumentalities. If any provision of this section is inconsistent with the statutes and/or regulations of the State of New Jersey, the state statutes and/or regulations shall govern.

****e. Applicant shall not apply for a preliminary license seeking a Resolution of Support without first obtaining a conditional license from the State of New Jersey.****

****f**** e. Administrative and municipal preliminary application fees. The **a**A****pplicant shall submit all required nonrefundable fees for the preliminary application process and ~~certificate~~ ****Letter**** of **z**Z****oning **e**C****ompliance in accordance with the following fee schedule:****:****

~~1. Applicant shall not apply for a preliminary license seeking a Resolution of Support without first obtaining a conditional license from the State of New Jersey.~~

****1**** ~~2.~~ The preliminary application fee for a Resolution supporting the application for a cannabis license for a cannabis cultivator, cannabis manufacturer, ~~or~~ cannabis retailer ****or cannabis deliverer**** shall be \$2,500.

****2**** ~~3.~~ The preliminary application fee for a Resolution supporting the application for a cannabis delivery service shall be \$1,500.

****2**** ~~4.~~ The ~~certificate~~ ****Letter**** of **z**Z****oning **e**C****ompliance is \$50.00.

****g**** ~~f.~~ Preliminary Application. Person or entity wishing to obtain any classification of cannabis license shall file a preliminary license application with the Review Board[?] on a standardized form available online (link available at the Official City of Bayonne Website). A hearing will be conducted by the Review Board evaluating all **a**A****pplicants. An **a**A****pplicant shall not be entitled to a hearing by the Board until all documents and application fees are submitted. To be deemed complete, preliminary applications shall adhere to all deadlines and ****be**** accompanied by the following:

1. All preliminary applications must be submitted ~~by no later than June 17, 2022.~~
****in accordance with the application due date indicated on the license application**.**

~~2. Applicant is required to obtain a certificate of zoning compliance. In order to obtain a certificate of zoning compliance, the applicant shall submit the following proof to the zoning officer that the applicant has or will have lawful possession of the premises proposed for the cannabis establishment, which proof may consist of: a~~

~~deed, a lease, a real estate contract contingent upon successful licensing, or a binding letter of intent by the owner of the premises indicating an intent to lease the premises to the entrant contingent upon successful licensing and that the location is within in one of the permitted zones. (See Chapter 35 of the Revised General Ordinances, Zoning Regulations, Section 5 District Regulations, Subsections 5.13 and 5.17.)~~

****2. Applicant is required to obtain a Letter of Zoning Compliance from the Zoning Officer. In order to obtain a Letter of Zoning Compliance, the Applicant shall submit the following:**

- i. Letter to the Zoning Officer stipulating the physical address, block and lot of proposed location and that the location is within one of the permitted zones (See Chapter 35 of the Revised General Ordinances, Zoning Regulations, Section 5 District Regulations, Subsections 5.13 and 5.17)**
- ii. Proof to the Zoning Officer that the Applicant has or will have lawful possession of the premises proposed for the cannabis establishment, which proof may consist of: a deed, a lease, a real estate contract contingent upon successful licensing or a binding letter of intent by the owner of the premises indicating an intent to lease the premises to the entrant contingent upon successful licensing.****

~~3. On July 15, 2022, notices will go out scheduling~~ ****Applicants will be notified in writing of**** the date and time of the hearings. No rescheduling dates will be provided unless for extraordinary circumstances.

4. The Review Board shall receive and review all preliminary applications for cannabis cultivator, cannabis manufacturer, cannabis retailer and cannabis delivery service ~~and~~ ****along with a ** certificate **Letter**** of ~~z**Z**oning e**C**ompliance~~ and ****will**** conduct hearings with each ~~a**A**pplicant~~. The Review Board will review, score^[] and provide a recommendation to the Council for a Resolution of Support in accordance with rankings of scores assigned by priority requirements set by the municipality in a highest priority-based system. The Review Board shall either provide a recommendation to the ****Municipal**** Council for a resolution supporting the ~~a**A**pplicant~~ for a cannabis license or deny the application. ~~Prior to a Review Board hearing, the applicant shall provide the Review Board with a Letter of Zoning Compliance in accordance with paragraph 2 above.~~

5. Preliminary Hearing. The Review Board shall evaluate all ~~a**A**pplicants~~ after consideration and evaluation of the following criteria:

- i. Applicant's**,** owners'**,** or principals' qualifications and experience operating in highly regulated industries,**

including cannabis, healthcare, pharmaceutical manufacturing[;] and retail pharmacies, with preference to experience operating such businesses within the State of New Jersey ~~and where the value of owners' experience shall outweigh the experience of non-owner principals (twenty percent, not to exceed 2,500 words);~~

ii. Applicant's qualifications and experience related to public safety and security, including any of the ~~a**A**~~applicant's owners' or principals' experience in law enforcement and drug enforcement (~~five**ten** percent, not to exceed 1,000 words~~) [;] and a summary of the ~~a**A**~~applicant's plans for storage of products and currency, physical security, video surveillance, security personnel[;] and visitor management (~~five**ten** percent, not to exceed 2,500 words~~);

~~iii. Applicant's or its owners' demonstrated commitment or sufficient experience as responsible employers, defined as the applicant entity being a party to a labor peace agreement or the applicant entity or its parent company being a party to a collective bargaining agreement in the regulated cannabis industry for at least one year prior to application for a Cannabis Establishment license, in an effort to create well paying jobs with employee benefits in the municipality (twenty percent in total; five points for labor peace, full twenty points for collective bargaining agreement in effect for at least one year);~~

~~(d)**(iii.)** Summary of the ~~a**A**~~applicant's environmental impact and sustainability plan (~~four percent, not to exceed 500 words~~); whether the ~~a**A**~~applicant entity or its parent company has any recognitions from or registrations with federal or New Jersey state environmental regulators for innovation in sustainability (~~three percent~~); and whether the ~~a**A**~~applicant entity or its parent company holds any certification under international standards demonstrating the ~~a**A**~~applicant has an effective environmental management system or has a designated sustainability officer to conduct internal audits to assess the effective implementation of an environmental management system (~~three**twenty** percent~~);~~

~~(e)**(iv.)** Applicant's ties to the host community, demonstrated by at least one shareholder's proof of residency in Bayonne for five or more years in the past ten years or at least one shareholder's continuous ownership of a business based in~~

Bayonne for five or more years in the past ten years (five**ten** percent);

(f)**(v.)** Applicant's demonstrated commitment to diversity in its ownership composition and hiring practices and whether the a**A**pplicant entity or its parent company holds any certifications as a NJ minority-owned, women-owned, or veteran-owned business (twenty percent in total; ten points for one certification and twenty points for two or more);

(g)**(vi.)** Applicant's willing commitment to the community and its support for, by example, local cannabis education programs, local employment and jobs training, public safety programs, ~~the Special Improvement District (SID)~~ or other mutually beneficial community investments **(ten percent)** [;]**.**

(h)**(vii.)** **Mandatory Requirements.**

A. Applicant must demonstrate good character and pass a criminal background check. Applicant is required to produce a fingerprint-based criminal background check performed through the State by way of IdentoGo for all persons proposed to have an ownership interest in the license. No fingerprint-based criminal background check older than 90 days will be accepted;

(i)**B** Any a**A**pplicant having an ownership interest in the license shall not have been disciplined for a violation affecting public safety in the State of New Jersey or a subdivision thereof within the preceding five (5) years;

(j)**C** Any a**A**pplicant having an ownership interest in the license shall not have had any cannabis license or permit revoked for a violation affecting public safety in the State of New Jersey or a subdivision thereof within the preceding five (5) years;

(k)**D** Applicant shall submit an affidavit and documentary proof of compliance with all state and local laws regarding affirmative action, anti-discrimination and fair employment practices. The a**A**pplicant shall also certify under oath that they will not and shall not discriminate based on race, color, religion (creed), gender, gender expression, age, national origin (ancestry), disability,

marital status, sexual orientation[;] or military status, in any of its activities or operations[; and]**.**

~~(1) Applicant's overview plans for security, reduction of noise, water conservation and odor control.~~

6. If a ~~recommendation for s~~**Resolution of S**upport for either a Class I, Class II, Class V or Class VI License is approved by the City of Bayonne **Municipal** Council, the **A**pplicant must then return to the State to finish obtaining a State License.
7. A waiting list shall be kept of the **A**pplicants that have gone through the hearing process and **were** ranked by the Review Board for a period of ~~6 months~~ **one year** from the date the last Resolution of Support was approved by the City Council. If an **A**pplicant that received a Resolution of Support for either a Class I, Class II, Class V or Class VI is denied a State License, the Board will contact the next **A**pplicant on the waiting list in order of ranking and determine the **A**pplicant's continued interest in obtaining a Resolution of Support from the City of Bayonne. If an **A**pplicant continues to express an interest in obtaining a Resolution of Support, the Board will provide a recommendation to the Council for a Resolution of Support as to the next **A**pplicant on the waiting list.

§ 39-3. Planning Board.

- a. After the **A**pplicant is issued a Class I, Class II, Class V or Class VI State License, ~~a~~**the A**pplicant shall return to the City of Bayonne to complete the application process for a municipal license. Applicant must submit a Site Plan to the City of Bayonne Planning Board and adhere to all requirements of the Planning Board in addition to all terms and conditions herein set by this Ordinance. (See Chapter 33 Planning and Development Regulations). A Technical Review Committee meeting is required prior to the Planning Board processing your submission. (See Chapter 33-4.10).
- b. Any applications to the Planning Board for ~~either~~ **any** license shall be accompanied by a license fee, as stated below in this section:
 - ~~1.~~ Cannabis cultivator: \$5,000.
 - ~~2.~~ Cannabis manufacturer: \$10,000.
 - ~~3.~~ Cannabis retailer: \$15,000.
 - ~~4.~~ Cannabis delivery: \$2,500.
- c. All applications to the Planning Board shall be accompanied by an initial escrow deposit of \$7,000 **for Planning Board fees in accordance with the Schedule of Fees for Land Use Approval pursuant to Chapter 33-12.3** to pay professionals for services rendered during the application process, such as review and preparation of documents, transcripts, review of assets and inspections. If review costs exceed the

escrow deposited, the applicant shall pay the additional amount within 15 days of the request for additional funds. Where the review costs are less than the amount of the escrow deposit, the difference shall be returned to the applicant.

p.d. The Planning Board shall conduct a hearing with respect to a license application for a cannabis cultivator, cannabis manufacturer, cannabis retailer, cannabis delivery service to issue approval of the site plan in accordance with Chapter 33 Planning and Development Regulations.

d.e. Compliance requirements. A cannabis cultivator, cannabis manufacturer, cannabis retailer and cannabis delivery service established pursuant to this section shall, at all times, operate in complete compliance with the terms and conditions of its license(s) or permit(s) issued by the State of New Jersey, all terms and conditions provided by this Ordinance, ~~any community host agreement~~ and license issued by the City of Bayonne, including conditions imposed by the City of Bayonne Technical Review Committee and Planning Board, and/or conditions set forth in the site plan approvals mandated by this Ordinance[7] and all applicable codes and standards set forth in state codes and the Municipal Code of the City of Bayonne **and as follows:**

1. The applicant shall submit proof of financial capability to open and operate the cannabis establishment for which the applicant is seeking a municipal license. Standards for proof of financial capability shall be determined by the City of Bayonne's financial advisors which shall produce a determination of financial capacity.
2. In addition to complying with any State requirement related to good character and criminal background, the municipal applicant is required to produce a fingerprint-based criminal background check performed through the State by way of IdentoGo for all persons proposed to have an ownership interest in the license. No fingerprint-based criminal background check older than 90 days will be accepted. Any person proposed to have an ownership interest in the license shall not have had any cannabis license or permit revoked for a violation affecting public safety in the State of New Jersey or a subdivision thereof within the preceding five (5) years.
3. Prior to the operation of any cannabis establishment or delivery service a license must be obtained from the State of New Jersey and from the City of Bayonne for the applicable type(s) of cannabis establishment or delivery service. No cannabis establishment shall be permitted to operate without State and municipal licenses.
4. Permitted uses shall, at all times, comply with the terms and conditions of the licensee's cannabis establishment license or cannabis delivery services for permits or licenses issued by the State of New Jersey and the City of Bayonne.

5. Within the permitted zones in accordance with this Chapter, there shall be a minimum of 1,000 feet between cannabis retailers measured from the primary entrance of each location to the next.
6. Within the permitted zones where the cannabis establishments are located, there shall be a minimum of 1,000 feet between the cannabis establishment and schools, churches, child daycare facilities and public parks and playgrounds.
7. No cannabis establishment or delivery service shall be allowed as a Home Professional Occupation as defined in Chapter 33-2.2 and Chapter 35-4.25.
8. No cannabis establishment shall be housed in a vehicle or any movable or mobile structure.

****9. All cannabis establishments and delivery service with regard to the secure transport to and from another cannabis establishment must comply with the requirements of N.J. Admin. Code § 17:30-9.15.****

e.****10.**** Site plan approval; minimum requirements; performance standards.

~~1.~~****i.**** Prior site approval. A cannabis cultivator, cannabis manufacturer and cannabis retailer located within the City of Bayonne shall first obtain a ~~certificate~~ ****Letter**** of ~~zoning~~ ****Z****oning ~~e**C**ompliance~~ from the Bayonne Zoning Officer.

~~2.~~****ii.**** Building use. A cannabis cultivator, cannabis manufacturer and cannabis retailer shall only be located on the ground floor (i.e., street level) of any building in which it has been approved to be located unless the cannabis cultivator, cannabis manufacturer and cannabis retailer occupies the entire building on the property. Any such cannabis establishment shall be accessible directly from the right-of-way through a separate entrance, independent from any other retail or residential ingress to the building. Only a secured, one-way emergency exit from the establishment may be integrated with common egress.

~~3.~~****iii.**** Setback requirements. The cannabis cultivator, cannabis manufacturer and cannabis retailer shall comply with all setback or distance requirements established by the state and/or municipality and in effect at the time of application.

~~4.~~****iv.**** Product display and storage. No cannabis products or paraphernalia shall be visible from a public sidewalk, public

street or right-of-way[;] or any other public place. All cannabis products shall be stored indoors and on-site.

~~5.~~**v.** Delivery vehicles associated with a cannabis delivery service and cannabis retailer shall not be parked on the street overnight.

~~**f. Community host agreement.** The Cannabis Review Board shall, at its discretion, negotiate a community host agreement with the cannabis cultivator, cannabis manufacturer, cannabis retailer and cannabis delivery service establishing the applicant's willing commitment to the community and its support for, by example, local cannabis education programs, local employment and jobs training, public safety programs, the Special Improvement District (SID) or other mutually beneficial community investments.~~

~~g.~~**11. Pollen And Seed Control.** The cannabis business licensee shall implement measures to prevent cross-pollination and to prevent cannabis pollen and seeds from leaving the premises[;] including[;] but not limited to, use of pollen screens, ultraviolet light and methods to ensure that employees and other visitors do not leave the premises while carrying any cannabis pollen or seeds.

~~h.~~**12. Odor.** A cannabis cultivator, cannabis manufacturer and cannabis retailer shall have equipment to mitigate cannabis-related odor. The building shall be equipped with a ventilation system with carbon filters sufficient in type and capacity to eliminate cannabis odors emanating from the interior of the premises. The carbon filters are required to be replaced regularly for the best effectiveness to mitigate odor. The ventilation system must be approved by the City of Bayonne Health Department and Building Department and may be subject to periodic inspections.

~~i.~~**13. Water Use.** In addition to satisfying all other City requirements, the ~~a~~**A**pplicant shall provide a water conservation plan[;] which describes all water sources and their reuse, with zero waste.

14. Recycle. The Applicant shall provide a sustainable packaging plan that reduces or eliminates the use of single-use plastics and promotes the use of recyclable or green packaging.

~~j.~~**15. Noise.** Outside generators and other mechanical equipment used for any kind of power supply, cooling or ventilation shall be enclosed and have appropriate baffles, mufflers, and/or other noise reduction systems to mitigate noise pollution (See also Chapter 3, Section 1, Noise and Chapter 4, Section 1.14).

~~k.~~**16. Security.** All facilities associated with the sale or dispensing of cannabis, cannabis items and related products or services shall be secured and shall have full-time security protocols. Security protocols shall be submitted to the Bayonne Police

Department for compliance review with all safety and security standards established by the State of New Jersey. The Bayonne Police Department may, at its discretion and upon review of the proposed location, recommend or require additional safety and security measures. At minimum, the following shall apply:

1. **i.** A video recording security system shall be employed covering all areas of the cannabis cultivator, cannabis manufacturer and cannabis retailer and the adjacent exterior of the building with a ~~24/7~~ **24 hours a day 7 days a week** recording system that records for a minimum thirty-day archive.
2. **ii.** The Bayonne Police Department and Zoning Officer shall be provided the name and telephone number of the responsible staff person who could be reached 24 hours a day in case of any suspicious activity or emergency.
3. **iii.** Outside areas of the premises shall be well-illuminated for safety and security, but not in a way that is counter to Code requirements for outdoor lighting and screening or obtrusive to pedestrian, drivers or other users of the public right-of-way.
4. **iv.** The premises and right-of-way adjacent to the cannabis cultivator, cannabis manufacturer and cannabis retailer shall be monitored by staff of the cannabis establishment and kept free of loitering, litter and other debris^[5] and ~~and~~ **the** sidewalks shall be kept in good condition^{**},^{**} and swept and cleaned on a regular basis. (See also Chapter 17, Sections 17-1, 17-3, 17-14, 17-32 adopting International Property Maintenance Code, Section 302 and Chapter 25, Sections 25-4, 25-5).

v. Cannabis Delivery Services.

A. All cannabis delivery vehicles

- (1) **Shall be equipped with secure lockboxes or secure cargo area, which shall be used for the sanitary and secure transport of cannabis.**
- (2) **Shall retain a Global Positioning System (GPS) device for identifying the geographic location of the delivery vehicle, either permanently or**

temporarily affixed to the delivery vehicle while the delivery vehicle is in operation.

- (a) The device shall remain active and in the possession of the cannabis delivery service member at all times during transport.
- (b) At all times, the originating cannabis business and the cannabis delivery service member shall be able to identify the geographic location of all delivery vehicles that are transporting its cannabis items and upon request shall provide that information to the City personnel in charge of enforcement of this Chapter.

B. The cannabis business using a delivery service or the cannabis delivery service member shall retain all information regarding any delivery vehicles, including the vehicle's make, model, color, vehicle identification number, license plate number, vehicle registration and delivery location and, upon request, provide the information to the City personnel in charge of enforcement of this Chapter.

C. The cannabis delivery service member shall not leave cannabis items in an unattended delivery vehicle unless the vehicle is locked and equipped with an active vehicle alarm system. In no case shall cannabis items be left in a delivery vehicle overnight or outside the operating hours of the cannabis business conducting the transport.

D. The cannabis delivery service member shall have access to a secure form of communication with the cannabis business, such as a cellular

telephone, at all times that the delivery vehicle contains cannabis items.

E. All transport of cannabis items shall be conducted by a person. A transport of cannabis items shall not be made through the use of an unmanned vehicle, which shall include a drone.

F. The cannabis delivery service member shall only travel between originating cannabis business premises and the drop off location and shall not deviate from the delivery path described in this subsection, except in the event of emergency, or as necessary for rest, fuel, or vehicle repair stops, or because road conditions make continued use of the route or operation of the vehicle unsafe, impossible, or impracticable.

(1) The process of transport begins when the cannabis delivery service member leaves the originating cannabis business premises with the purchase order of cannabis items and ends when the cannabis delivery service member furnishes the cannabis items to the receiving person or business.

G. Each cannabis business or cannabis delivery service member shall maintain a written or electronic record of each transport of cannabis; for each transport, such record shall include:

(1) The date and time that the transport began and ended;

(2) The name, license number, and signature of the cannabis delivery service member performing the transport;

(3) The weight of the cannabis or cannabis items transported;

(4) The batch number of the usable cannabis or the lot number of the cannabis product, the

name of the strain/cultivar, and the form of the cannabis product; and

- (5) The signature of the cannabis delivery service member of the receiving cannabis business attesting to receipt of the goods.
- (6) A cannabis business shall report any vehicle accidents, diversions, losses, or other reportable events that occur during transport to the City personnel in charge of enforcement of this Chapter in accordance with N.J.A.C. 17:30-9.11.**

l.**17.** **Hours of Operation**.** No cannabis retailer may open to customers for business before 10:00 am or remain open to customers for business after 10:00 pm.

m.**18.** **Queuing.** Queuing of customers outside a cannabis retailer is prohibited. The cannabis retailer shall have a sufficient waiting area inside the facility to accommodate customers[5] or shall provide a reservation service, phone/text notification service or other alternatives to waiting on the public right-of-way. Loitering is prohibited and shall be managed by the facility.

19. **Parking. All Cannabis Establishments shall adhere to City regulations regarding parking. Class I and II Cannabis Establishments shall have one (1) parking space per three (300) square feet of floor area. Class V Cannabis Establishments shall have one (1) parking space for each employee and a minimum of no less than one (1) parking space per three (300) square feet of floor area. All Cannabis Establishments shall have one (1) parking space for a vehicle associated with the business.**

~~n. **Parking.** One parking space shall be provided for each five persons of occupancy load after the first 20 persons rounded to the closest whole number. The requisite number of spaces should be secured from a private or public parking facility not more than five block lengths away. Spaces may be used by staff and/or offered to patrons through validation.~~

20. **Signage. All Cannabis Establishments shall adhere to City regulations regarding signage. Cannabis Establishments shall be permitted one (1) sign outside of the premises or vehicle which may not include the following words: “weed,” “pot,” “marijuana,” or “cannabis.” Outside signs shall not depict any image, symbol, logo, shape or any other image of cannabis, cannabis paraphernalia, smoke or anything other conspicuous image or symbol that could be interpreted as cannabis or cannabis product. A cannabis delivery vehicle shall not bear markings, image, symbol, logo, shape or any other image of cannabis, cannabis paraphernalia, smoke or anything other conspicuous image or symbol that would either identify or

indicate that the vehicle is used to transport cannabis. Initial signage and any subsequent changes made thereto must be approved by the Planning Board.**

~~o.~~ **f.** **Prohibited uses.** Except as expressly permitted by this Chapter, entitled Recreational Cannabis Ordinance, any other activity involved in the cultivation, manufactur[e]**ing**, processing, dispensation**ing**, distribution**ing** and/or sale of cannabis, ~~marijuana (is there a difference between cannabis and marijuana)~~ or cannabis products, are expressly prohibited as land uses or otherwise in the City of Bayonne. **No indoor or outdoor consumption areas are permitted within the City. No outdoor cultivation is permitted within in the City.**

~~p.~~ The Planning Board shall conduct a hearing with respect to a license application for a cannabis cultivator, cannabis manufacturer, cannabis retailer, cannabis delivery service to issue approval of the site plan (See Chapter 33 Planning and Development Regulations).

~~q.~~ **g.** After receipt of ~~p~~ **P**lanning ~~b~~ **B**oard approval, resolution of approval and resolution compliance, the ~~a~~ **A**pplicant shall obtain permits and comply with all applicable requirements of municipal departments including but not limited to zoning (use permits and sign permits), health, public safety and building in accordance with the Revised General Ordinances of the City of Bayonne.

~~r.~~ **h.** After ~~a~~ **an A**pplicant complies with all municipal requirements and obtains all required permits in accordance with paragraph ~~q~~ **g**, the ~~zoning officer~~ **City Clerk** shall issue a cannabis establishment or delivery service license.

~~s.~~ **i.** An ~~a~~ **A**pplicant shall provide additional clarification and/or supplementation within 10 days after any written request by the Review Board for the same.

~~t.~~ **j.** The ~~a~~ **A**pplicant shall otherwise comply with any[5] and all qualification standards set forth in the State and City laws or regulations.

~~u.~~ **k.** Notwithstanding the foregoing competitive application process, a ~~conditional municipal license~~ **Resolution of Support authorized by the Municipal Council** shall entitle the ~~recipient~~ **A**pplicant to pursue a State permit or license in the appropriate classification for up to 12 months, which may be extended in the (~~Planning or Review~~)Board's discretion for an additional 6 months for good cause. No municipal license to operate shall be issue**d** until the ~~a~~ **A**pplicant has received a State license and satisfied other prerequisites of municipal licensure. If the recipient of a ~~conditional license~~ **Resolution of Support** has not received a State permit or license within 12 months from issuance, unless extended for good cause, the Board shall pull an ~~a~~ **A**pplicant from the waiting list based on §39-1.4d.82(g)(7).

§ 39-4. Cannabis Taxation.

a. It is the purpose of this Section to implement the provisions of P.L., 2021, ~~c~~ **16** which authorizes the governing body of a municipality to adopt an ordinance imposing a tax at a uniform percentage rate not to exceed **two percent** (2%) of the receipt from each sale by

a cannabis cultivator; two percent (2%) of the receipts from each sale by a cannabis manufacturer; and two **percent** (2%) of the receipts from a cannabis retailer **and delivery service**, which shall be in addition to any other tax or fee imposed pursuant to statute, ~~or~~ local ordinance or resolution by any governmental entity upon the cannabis establishment.

- b. Unless otherwise defined herein, as used herein, the City adopts by reference the terms and definitions established in Chapter ~~2~~**3** of this Code and Section 40 of N.J.S.A. ~~24:61-33~~.
- c. There is hereby established a local cannabis transfer tax in the City of Bayonne which shall be fixed at a uniform percentage rate of two percent (2%) of **the** receipts from each sale by a cannabis cultivator and two percent (2%) of the receipts from each sale by a cannabis manufacturer, **retailer and delivery service**.
- d. Any transaction for which the transfer or user tax is imposed^[7] or could be imposed^[7] pursuant to this section, other than those which generate receipts from retail sales by cannabis retailers, shall be exempt from the tax imposed under the "Sales and Use Tax Act," P.L. 1966, c. ~~30~~ (C.54:32B-1 et seq.).
- e. The cannabis transfer tax shall be in addition to any other tax or fee imposed pursuant to statute, ~~or~~ local ordinance or resolution by any governmental entity upon property or cannabis establishment.

§ 39-5. Collection of Transfer Tax.

- a. The transfer tax or user tax imposed by this article shall be collected, ~~or~~ paid and remitted to **the** City of Bayonne by the cannabis establishment **and/or delivery service** purchasing or receiving the cannabis or cannabis item. The transfer ~~T~~**t**ax or user ~~T~~**t**ax shall be stated, charged^[7] and shown separately on any sales slip, invoice, receipt^[7] or other statement or memorandum of the price paid or payable^[7] or equivalent value of the transfer^[7] for the cannabis or cannabis item.
- b. Every cannabis establishment **and/or delivery service** required to collect a transfer tax or user tax imposed by **this** ordinance pursuant to this section shall be personally liable for the transfer tax or user tax imposed, collected^[7] or required to be collected under this section. Any cannabis establishment **and/or delivery service** shall have the same right with respect to collecting tax or user tax from another cannabis establishment **and delivery service** as if the transferor user tax was part of the purchase price of the cannabis or cannabis item and payable at the same time; ~~provided, however, that the Chief Financial Officer of~~ **the** City of Bayonne shall be joined as a party in any action or proceeding brought to collect the transfer tax.
- c. No cannabis establishment **and/or delivery service** required to collect a transfer tax or user tax imposed by this section shall advertise or hold out to any person or to the public in general, in any manner directly or indirectly, ~~that~~ the transfer tax or user tax will not be

separately charged ~~and~~****or**** stated to another cannabis establishment^[5] ****and/or delivery service**** or that the transfer tax or user tax will be refunded to the cannabis establishment ****and/or delivery service****.

- d. All revenues collected from the transfer tax or user tax imposed by ordinance pursuant to this section shall be remitted to ****the**** City of Bayonne Chief Financial Officer on a quarterly basis payable for the prior three month's activities and due at the same time as quarterly dates for the collection of property taxes. The revenues due on February 1 of each year shall include all transfer taxes and user taxes collected for the immediate prior months of October, November and December. The revenues due on May 1 of each year shall include all transfer taxes and user taxes collected for the immediate prior months of January, February and March. The revenues due on ****August**** 1 of each year shall include all transfer taxes and user taxes collected for the immediate prior months of April, May and June. The revenues due on November 1 of each year shall include all transfer taxes and user taxes collected for the immediate prior months of July, August and September.

§ 39-6. Term of license and license renewals.

- a. Any local license issued pursuant to this Chapter shall be valid for a period of ~~three~~ ****one**** (3 ****1****) years from the date of issuance and shall be renewed ****annually**** in accordance with the provisions of this Chapter.
- b. All licenses shall be renewed as stated below in this section:
 - 1. Cannabis cultivator: \$5,000.
 - 2. Cannabis manufacturer: \$10,000.
 - 3. Cannabis retailer: \$15,000.
 - 4. Cannabis delivery: \$2,500.
- c. Renewal of any license shall be governed by any code amendments, additional restrictions or changes in regulations adopted since the previous license was issued or renewed. Renewal applications will be available on the City of Bayonne website.
- ~~d. Transfer of ownership of any local license or change of location of any license or modification to expand a licensed premise shall be subject to approval by Planning Board with the necessary zoning, health, public safety and/or building approvals.~~
- **d. Transfer of ownership of any local license shall first require state approval followed by proof from the state that the new owner(s) has all state and Planning Board requirements for ownership of a cannabis establishment and delivery service in the form and manner prescribed by the Planning Board. Transfer of location or modification to expand a license shall require state approval followed approval by the Planning Board and a Letter of Zoning Compliance from the City's Zoning Officer and all necessary zoning, health, public safety and/or building approvals. All transfers must also comply with N.J. Admin. Code § 17:30-9.2 and 9.3****

- e. Except where the Board has received a complete renewal application along with the requisite fees[5] and has issued a license renewal, it shall be unlawful for any person to manufacture, sell, distribute, transfer, transport[5] or otherwise remove cannabis or cannabis products from the premises of any licensee after the expiration date recorded on the face of the license.
- f. Reinvestment of local license fees. Local license fees from cannabis cultivators, cannabis manufacturers**,** ~~and~~ cannabis retailers ****and cannabis delivery service**** shall be used for public education and/or increased public safety in the area surrounding the dispensary. A separate account shall be established for ****the**** collection and disbursement of said funds by the Cannabis Review Board with the advice and consent of the ****Municipal**** City Council ****as determined by the Chief Financial Officer****.

§39-7 Disciplinary Actions; Sanctions; Penalties

§39-7.1 Penalty for violation. Any violation of the provisions of this ****Chapter**** ~~section or the conditions of the zoning and/or building permit granted, health violation, and/or public safety violation inclusive of any agreements or conditions imposed by the Planning Board~~ shall be punishable by a civil fine; minimum fine shall be \$1**2**,500, maximum fine shall be \$3**5**,000. Each day that a violation is committed, exists or continues shall be deemed a separate and distinct offense. In addition, ongoing or repeat offenses may result in ****the**** suspension of the certificate of occupancy for a period to be determined by the ****Construction Official, Health Officer, Public Safety Director and/or**** Zoning Officer in consultation with the ~~Cannabis Review Board~~ ****Planning Board**** or revocation of the municipal license. All violations will be reported to the State Cannabis Regulatory Commission or other designated state authority. ****This Chapter shall be enforced by the Police Department, City Engineer, Construction Official, Health Department, Municipal Official of the City of Bayonne or any of their designated agents or assigns****.

§39-7.2 Suspension of use.

- a. Inactive licenses. If, for any reason, a location occupied by a cannabis cultivator, cannabis manufacturer or cannabis retailer becomes inactive or unoccupied by the approved operator for an uninterrupted period of six months or more, the certificate of occupancy for said premises may be suspended and the ****Construction Official**** ~~Zoning Officer~~ shall issue a notice of suspension to the operator and to the owner of the property. Any subsequent application for use or occupancy of the premises as a cannabis cultivator, cannabis manufacturer or[5] cannabis retailer including reoccupation by the previous operator, shall be referred to the Cannabis Review Board and the Zoning Officer as a new application.
- b. State license. The ~~Planning Board~~ ****City Clerk**** may suspend or revoke any license if the corresponding State license or permit for the subject location is expired, surrendered, suspended[5] or revoked.

§39-8. Any and all ordinances or parts thereof in conflict or inconsistencies with this Ordinance are hereby repealed, but only to the extent of such conflict or inconsistency, it being the legislative

intent that all such ordinances or part of ordinances now existing or in effect unless the same are in conflict or inconsistent with any provision of this Ordinance shall remain in effect.

§39-9. The provisions of this Ordinance are declared to be severable and if any section, subsection, sentence, clause or phrase thereof for any reason be held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses and phrases of this Ordinance[.] but shall remain~~ing~~****e**** in effect; it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

§39-10. This Ordinance shall take effect upon passage and publication as provided by law.

§39-11. This Ordinance shall be a part of the General Ordinances of the City of Bayonne as though codified and fully set forth therein. The City Clerk shall have this Ordinance codified and incorporated in the official copies of the City Code. The City Clerk and the City Attorney are authorized and directed to change any Chapter, Article and/or Section number of the General Ordinances of the City of Bayonne in the event that the codification of this Ordinance reveals that there is a conflict between the numbers and the existing Code, and in order to avoid confusion and possible accidental repeal of existing provisions not intended to be repealed.

§39-12 Reserved

§39-13 Reserved