

AN ORDINANCE OF THE CITY OF BAYONNE, NEW JERSEY AMENDING AND SUPPLEMENTING THE GENERAL ORDINANCES OF THE CITY, CHAPTER 33, PLANNING AND DEVELOPMENT REGULATIONS, SECTION 33-2.2 DEFINITIONS; CHAPTER 35, ZONING REGULATIONS, SECTION 35-4.22 RESERVED, SECTION 35-5.8 C-1 NEIGHBORHOOD COMMERCIAL DISTRICT, SECTION 35-5.10 CBD CENTRAL BUSINESS DISTRICT (BROADWAY CORRIDOR), SECTION 35-5.11 UPTOWN BUSINESS DISTRICT (BROADWAY CORRIDOR), SECTION 35-5.12 ORS OFFICE/RETAIL SERVICE DISTRICT (BROADWAY CORRIDOR), SECTION 35-5.13 H-C HIGHWAY COMMERCIAL/SELECTED LIGHT INDUSTRIAL DISTRICT, SECTION 35-5.16 IL-A AND IL-B LIGHT INDUSTRIAL DISTRICTS; AND CHAPTER 4, LICENSING, REGISTRATION AND BUSINESS REGULATIONS, SECTION 4-30 RESERVED; ESTABLISHING ZONING AND LICENSING REQUIREMENTS FOR REGULATED CANNABIS ESTABLISHMENTS

WHEREAS, the City Council of the City of Bayonne, in the County of Hudson, New Jersey (the “City”), a public body corporate and politic of the State of New Jersey (the “State”), wishes to create land use regulations and licensing requirements for regulated cannabis establishments that also protect the health, safety and general welfare of the community; and

WHEREAS, the Jake Honig Compassionate Use Medical Cannabis Act (the “Act”), N.J.S.A. 24:6I-1 to -30, permits the authorized cultivation, processing, manufacturing, preparing, packaging, transferring, sale, purchase, research, possession, use, and consumption of medical cannabis and products created from or which include cannabis; and

WHEREAS, the City finds that the expansion of the medical cannabis program in the State has provided needed compassionate relief to the many persons suffering from chronic and/or serious debilitating illnesses who may benefit; and

WHEREAS, on November 3, 2020, the citizens of New Jersey voted to approve Public Question No. 1, amending and supplementing Section VII of Article IV of the New Jersey Constitution to authorize the growth, cultivation, processing, manufacturing, preparing, packaging, transferring, and retail purchasing and consumption of cannabis, or products created from or which include cannabis for persons twenty-one (21) years or older in New Jersey, and further authorized municipalities to enact an additional municipal tax of up to two (2) percent on the receipts from each sale of cannabis or products created from or which include cannabis; and

WHEREAS, the City finds, given the Schedule I status of cannabis under the federal Controlled Substance Act, complexities with access to banking and the level of cash transactions in cannabis-related businesses, and other concerns associated with cannabis-related businesses, that only qualified operators should be permitted to safely operate strictly regulated cannabis facilities in the municipality on a limited basis and subject to reasonable time, manner, and place restrictions, in order to balance

patients' and consumers' interests and the creation of jobs and economic opportunity within the City with public safety; and

WHEREAS, in light of the enactment of the Act on July 2, 2019, expanding the New Jersey Medicinal Marijuana Program, and the passage of Public Question No. 1 on November 3, 2020, it is in the best interest of the City to proactively establish licensing requirements for regulated cannabis establishments and imposing a municipal tax to support enforcement activities.

NOW THEREFORE, BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF BAYONNE, NEW JERSEY AS FOLLOWS:

SECTION 1. The aforementioned recitals are incorporated herein as though fully set forth at length.

SECTION 2. The Revised General Ordinances of the City of Bayonne, Chapter 33 Planning and Development Regulations, Section 2.2, entitled "Definition of Terms", is hereby amended and supplemented as follows (additions ****between asterisks and/or in bold****, deletions ~~{within brackets and/or struck through}~~):

33-2.2 Definition of Terms.

****CANNABIS SUPPLIER.** A State-regulated cannabis grower, also referred to as a cannabis cultivation facility; a cannabis processor, also referred to as a cannabis product manufacturing facility; a medical cannabis alternative treatment center; or a clinical registrant, all of which shall possess prior to commencing operations one of the classes of permit or permit endorsement issued by the State of New Jersey that authorizes such cannabis establishment to cultivate, manufacture, process, wholesale, and/or study or research cannabis or cannabis-derived or infused products, provided that such facility shall not dispense, sell, or distribute cannabis or cannabis products from such facility.

CANNABIS RETAILER. A State-regulated cannabis retailer, medical cannabis alternative treatment center, or clinical registrant, which shall possess prior to commencing operations one of the classes of permit or permit endorsement issued by the State of New Jersey that authorizes the dispensation, sale, or distribution of cannabis or cannabis-derived or infused products and/or related clinical research, provided that such facility shall not cultivate, manufacture, process, or wholesale cannabis or cannabis products from such facility.

CANNABIS ESTABLISHMENT. A cannabis supplier or cannabis retailer.**

SECTION 3. The Revised General Ordinances of the City of Bayonne, Chapter 35, Zoning Regulations, Section 4, entitled "General Provisions", Subsection 22, entitled "Reserved", is hereby amended and supplemented as follows (additions ****between asterisks and/or in bold****, deletions ~~{within brackets and/or struck through}~~):

**** 35-4.22 Cannabis Establishments.**

Cannabis establishments shall be permitted, pursuant to this Chapter, only if the following requirements are complied with:

- a. The regulations 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 prevail.
- b. Prior to the operation of any cannabis establishment, a permit or license must be obtained from the State of New Jersey and from the City of Bayonne for the applicable type(s) of cannabis establishment. No cannabis establishment shall be permitted to operate without State and municipal permits or licenses.
- c. Permitted uses shall, at all times, comply with the terms and conditions of the licensee's cannabis establishment license for permits or licenses issued by the State of New Jersey and the City of Bayonne.
- d. No cannabis establishment shall be allowed as a Home Professional Occupation as defined in Chapter 33-2.2 and Chapter 35-4.25.
- e. No cannabis establishment shall be housed in a vehicle or any movable or mobile structure.
- f. Odor. Cannabis establishments shall have equipment to mitigate odor. The building shall be equipped with a ventilation system with carbon filters sufficient in type and capacity to mitigate cannabis odors emanating from the interior of the premises.
- g. 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.
- h. Security. All cannabis establishments shall be secured in accordance with State of New Jersey statutes and regulations; shall have a round-the-clock video surveillance system, 365 days a year; and shall have trained security personnel onsite at all times during operating hours.
- i. Hours. No cannabis retailer may open to customers for business before 8:00 am or remain open to customers for business after 10:00 pm.
- j. Prohibited uses. Except as expressly permitted by this Chapter and Chapter 4, Section 30 of the General Ordinances, entitled Cannabis Establishments, as well as any other activity involved in the cultivation, manufacture, processing, testing, dispensation, distribution and/or sale of cannabis, marijuana or cannabis products, are expressly prohibited as land uses or otherwise in the City of Bayonne.
- k. Reserved**

SECTION 4. The Revised General Ordinances of the City of Bayonne, Chapter 35, Zoning Regulations, Section 5.8, entitled “C-1 Neighborhood Commercial District”, is hereby amended and supplemented as follows (additions ****between asterisks and/or in bold****, deletions ~~{within brackets and/or struck through}~~):

a. Permitted Uses.

1. No change
2. No change
3. No change
4. No change
5. No change
6. No change
7. No change
8. No change
9. No change
10. No change
11. No change

12. **Cannabis retailers licensed by the State of New Jersey and the City of Bayonne.******

- b. No change
- c. No change
- d. No change
- e. No change

SECTION 5. The Revised General Ordinances of the City of Bayonne, Chapter 35, Zoning Regulations, Section 5.10, entitled “CBD Central Business District (Broadway Corridor)”, is hereby amended and supplemented as follows (additions ****between asterisks and/or in bold****, deletions ~~{within brackets and/or struck through}~~):

a. Permitted uses.

1. No change
2. No change
3. No change
4. No change

5. No change
6. No change
7. No change
8. No change
9. No change
10. No change
11. No change
12. No change
13. No change

14. **Cannabis retailers licensed by the State of New Jersey and the City of Bayonne.**

- b. No change
- c. No change
- d. No change
- e. No change
- f. No change

SECTION 6. The Revised General Ordinances of the City of Bayonne, Chapter 35, Zoning Regulations, Section 5.11, entitled “Uptown Business District (Broadway Corridor)”, is hereby amended and supplemented as follows (additions ****between asterisks and/or in bold****, deletions ~~{within brackets and/or struck through}~~):

- a. Permitted uses.
 1. No change
 2. No change
 3. No change
 4. No change
 5. No change
 6. No change
 7. No change
 - 8. **Cannabis retailers licensed by the State of New Jersey and the City of Bayonne.****

- b. No change
- c. No change
- d. No change
- e. No change
- f. No change

SECTION 7. The Revised General Ordinances of the City of Bayonne, Chapter 35, Zoning Regulations, Section 5.12, entitled “ORS Office/Retail Service District (Broadway Corridor)”, is hereby amended and supplemented as follows (additions ****between asterisks and/or in bold****, deletions ~~{within brackets and/or struck through}~~):

- a. Permitted uses.
 - 1. No change
 - 2. No change
 - 3. No change
 - 4. No change
 - 5. No change
 - 6. No change
 - 7. No change
 - 8. No change
 - 9. ****Cannabis retailers licensed by the State of New Jersey and the City of Bayonne.****
- b. No change
- c. No change
- d. No change
- e. No change

SECTION 8. The Revised General Ordinances of the City of Bayonne, Chapter 35, Zoning Regulations, Section 5.13, entitled “H-C Highway Commercial/Selected Light Industrial District”, is hereby amended and supplemented as follows (additions ****between asterisks and/or in bold****, deletions ~~{within brackets and/or struck through}~~):

- a. Permitted uses.
 - 1. No change
 - 2. No change

3. No change
4. No change
5. No change
6. No change
7. No change
8. No change
9. No change
10. No change
11. No change

12. **Cannabis suppliers or cannabis retailers licensed by the State of New Jersey and the City of Bayonne.**

- b. No change
- c. No change
- d. No change
- e. No change
- f. No change

SECTION 9. The Revised General Ordinances of the City of Bayonne, Chapter 35, Zoning Regulations, Section 5.16, entitled “IL-A and IL-B Light Industrial Districts”, is hereby amended and supplemented as follows (additions ****between asterisks and/or in bold****, deletions ~~{within brackets and/or struck through}~~):

a. Permitted Principal Uses.

1. No change
2. No change
3. No change
4. No change
5. No change
6. No change
7. No change

8. **Cannabis suppliers or cannabis retailers licensed by the State of New Jersey and the City of Bayonne.**

- b. No change
- c. No change
- d. No change
- e. No change
- f. No change

SECTION 10. LICENSING, REGISTRATION AND BUSINESS REGULATIONS AMENDMENT

That a Section 4-30, entitled “Cannabis Establishments,” shall be created and added to the Revised General Ordinances of the City of Bayonne, Chapter 4, Licensing, Registration and Business Regulations, as follows ((additions ****between asterisks and/or in bold****):

****4-30 Cannabis Establishments**

The regulations of this Ordinance 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, including the Cannabis Regulatory Commission. If any provision of this Ordinance is inconsistent with state statutes and/or regulations, the state statutes and/or regulations shall prevail.

4-30.1 Definitions

CANNABIS ESTABLISHMENT. A Cannabis Supplier or Cannabis Retailer.

CANNABIS RETAILER: A State-regulated cannabis retailer, medical cannabis alternative treatment center, or clinical registrant, which shall possess prior to commencing operations one of the classes of permit or permit endorsement issued by the State of New Jersey that authorizes the dispensation, sale, or distribution of cannabis or cannabis-derived or infused products and/or related clinical research, provided that such facility shall not cultivate, manufacture, process, or wholesale cannabis or cannabis products from such facility.

CANNABIS SUPPLIER: A State-regulated cannabis grower, also referred to as a cannabis cultivation facility; a cannabis processor, also referred to as a cannabis product manufacturing facility; a medical cannabis alternative treatment center; or a clinical registrant, all of which shall possess prior to commencing operations one of the classes of permit or permit endorsement issued by the State of New Jersey that authorizes such cannabis establishment to cultivate, manufacture, process, wholesale, and/or study or research cannabis or cannabis-derived or infused products, provided that such facility shall not dispense, sell, or distribute cannabis or cannabis products from such facility.

4-30.2 Licensing

- a. Local licensing authority.

1. The City Administrator is hereby designated to act as the local licensing authority for the City for all cannabis establishments. Under all circumstances in which State law requires communication to the City by the Cannabis Regulatory Commission or any other State agency with regard to the licensing of cannabis establishments by the State, or in which State law requires any review or approval by the City of any action taken by the State licensing authority, the exclusive authority for receiving such communications and granting such approvals shall be exercised by the Administrator.
 2. Under no circumstances shall a local license for a cannabis establishment issued by the Administrator be effective until or unless the State has issued the requisite permits or licenses to operate such a facility. It is the intent of this Chapter that no cannabis establishment may lawfully operate in the City of Bayonne without the issuance of a State permit or license and full regulatory oversight of the cannabis establishment by the Cannabis Regulatory Commission or other state licensing authority as well as oversight and issuance of a license by the City.
- b. Classification of licenses. The City, subject to land use approval and State licensure, may issue the following municipal licenses to operate a cannabis establishment:
- Class I: Cannabis supplier license (grower)
 - Class II: Cannabis supplier license (processor)
 - Class III: Cannabis retailer license
- c. Maximum number of licenses. The City may issue a maximum of one (1) Class I license, one (1) Class II license, and two (2) Class III licenses. Licensure in all classes may be, but are not required to be, held by the same entity or individual, but an entity may not hold more than one cannabis retailer license. Any license conditionally issued by the City is contingent upon the locally licensed entity's or individual's subsequent recipient of a State permit or license of the same class or type of regulated cannabis activity.
- d. Application. Persons wishing to obtain any classification of cannabis license shall file a license application with the Administrator, on a standardized form established by the Administrator and available in the Administrator's office. The Administrator shall establish a reasonable application period and deadline for all applications. An application shall be deemed incomplete, and shall not be processed by the Administrator, until all documents and application fees are submitted. To be deemed complete, all applications shall be accompanied by the following:
1. The applicant shall submit proof 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.

2. The 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 applicant 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.
3. The location proposed for licensing by the applicant shall comply with all applicable municipal zoning laws and the location restrictions set forth in this Code.
4. The applicant shall submit, to the satisfaction of the Administrator, proof of financial capability to open and operate the marijuana establishment for which the applicant is seeking a license. Standards for proof of financial capability shall be determined by the Administrator.
5. The applicant shall submit all required nonrefundable fees for the application and conditional license in accordance with the following fee schedule:
 - Class I: \$10,000 Cannabis supplier license (grower)
 - Class II: \$10,000 Cannabis supplier license (processor)
 - Class III: \$5,000 Cannabis retailer license
6. The applicant shall submit all annual registration fees required in accordance with the following fee schedule, which shall be refunded in the event the applicant does not receive a license:
 - Class I: \$40,000 per year Cannabis supplier license (grower)
 - Class II: \$20,000 per year Cannabis supplier license (processor)
 - Class III: \$10,000 per year Cannabis retailer license
7. In addition to complying with any State requirement related to good character and criminal background, 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.
8. The applicant and the application shall otherwise comply with any, and all qualification standards set forth in the State and City laws or regulations.
9. In the event there are multiple applicants for a license, the Administrator shall evaluate all applicants and issue a notification of award after consideration and evaluation of the following criteria:
 - (a) 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);

- (b) Applicant's qualifications and experience related to public safety and security, including any of the applicant's owners' or principals' experience in law enforcement and drug enforcement (five percent, not to exceed 1,000 words), and a summary of the applicant's plans for storage of products and currency, physical security, video surveillance, security personnel, and visitor management (five percent, not to exceed 2,500 words);
- (c) Applicant's or its owners' experience conducting or supporting or plans to conduct institutional review board-approved research involving human subjects that is related to medical cannabis or substance abuse, where the value of past or ongoing clinical research with IRB approval shall outweigh plans to conduct such research (five percent, not to exceed 2,500 words), whether the applicant has had any assurance accepted by the U.S. Department of Health & Human Services indicating the applicant's commitment to complying with 45 CFR Part 46 (five percent), and whether the applicant has a research collaboration or partnership agreement in effect with an accredited U.S. school of medicine or osteopathic medicine with experience conducting cannabis-related research (five percent);
- (d) 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);
- (e) Summary of the applicant's environmental impact and sustainability plan (four percent, not to exceed 500 words); whether the 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 applicant entity or its parent company holds any certification under international standards demonstrating the 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 percent);
- (f) 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 percent); and

(g) Applicant's demonstrated commitment to diversity in its ownership composition and hiring practices and whether the applicant 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).

10. Notwithstanding the foregoing competitive application process, a notification of award and conditional municipal license shall entitle the recipient applicant to pursue a State permit or license in the appropriate classification for up to 12 months, which may be extended in the Administrator's discretion for an additional 6 months for good cause. No license to operate shall issue until the applicant has received a State permit and satisfied other prerequisites of municipal licensure. If the recipient of a notice of award and conditional license has not received a State permit or license within 12 months from issuance, unless extended for good cause, the Administrator shall issue a new request for applications and evaluate all applicants for licensure under the above criteria.

e. Term of license and license renewals.

1. Any local license issued pursuant to this Chapter shall be valid for a period of three (3) years from the date of issuance and shall be renewed in accordance with the provisions of this Chapter.
2. The Administrator may, at his/her discretion, adjust the renewal date of the local license to correlate with an applicant's State licensing and renewal schedule.
3. 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.
4. 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 City Planning review and zoning approval.
5. Except where the Administrator has received a complete renewal application along with the requisite fees, and has issued a license renewal, it shall be unlawful for any person to manufacture, sell, distribute, transfer, transport, or otherwise remove cannabis or cannabis products from the premises of any license after the expiration date recorded on the face of the license.

40-30.3 Disciplinary Actions; Sanctions; Penalties

a. Disciplinary actions. Procedures for investigation of license violations and for suspension, revocation, or other licensing sanctions as a result of any such violation shall be as follows:

1. First offense: Up to \$250 per violation per day;
 2. Second offense: Up to \$500 per violation per day;
 3. Third violation shall result in summary suspension.
- b. Summary suspension. Notwithstanding the foregoing section, when the Administrator has reasonable grounds to believe that a licensee has engaged in deliberate and willful violation of any applicable law or regulation, or that the public health, safety, and/or general welfare has been jeopardized and requires emergency action, the Administrator may enter a summary suspension order for the immediate suspension of such license pending further investigation.
1. The summary suspension order shall be in writing and shall State the reasons therefore. The licensee shall be afforded an opportunity for a hearing as outlined herein.
 2. The Administrator shall convene a review panel consisting of the Administrator, a second administrative officer designated by the Mayor, and the Chief of Police. The hearing shall be scheduled within 30 days of the date of the order.
 3. The review panel is authorized to impose any fines, conditions, restrictions, suspensions, or combination thereof authorized by the State of New Jersey. In the absence of State specified penalties, the City may issue fines up to, but not to exceed, \$2,500 per offense and/or suspension of license for a period not to exceed 6 months.
- c. Inactive licenses. Following the commencement of retail sales of cannabis or cannabis products, the Administrator may suspend or revoke any license if the licensed premises have been inactive or unoccupied by the licensee for at least 6 months.
- d. State license. The Administrator may suspend or revoke any license if the corresponding State license or permit for the subject location is expired, surrendered, suspended, or revoked.

40-30.4 Reserved

40-30.5 Reserved**

SECTION 11. Any and all ordinances or parts thereof in conflict or inconsistent 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.

SECTION 12. 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 remaining in effect; it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

SECTION 13. This Ordinance shall take effect upon passage and publication as provided by law.

SECTION 14. 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.