

CITY OF BORDENTOWN

ORDINANCE 2021-25

AN ORDINANCE AMENDING ORDINANCE 2021-15 AMENDING AND SUPPLEMENTING CHAPTERS 139 AND 300 OF THE REVISED GENERAL ORDINANCES OF THE CITY OF BORDENTOWN TO IMPLEMENT PROVISIONS OF THE NEW JERSEY CANNABIS REGULATORY, ENFORCEMENT ASSISTANCE AND MARKETPLACE MODERNIZATION ACT

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, the passage of the public question was the largest margin of any statewide cannabis legalization ballot measures to date in U.S. history with more than 67% of voters supporting the initiative; and

WHEREAS, Bordentown City voters specifically supported the measure by an even greater percentage with 8 of every 10 voters supporting the initiative; 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, Class 2 Cannabis Manufacturer license; Class 3 Cannabis Wholesaler license; Class 4 Cannabis Distributer license; Class 5 Cannabis Retailer license; and Class 6 Cannabis Delivery license; and

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 stipulates that any municipal regulation of any of the above classes must be adopted within 180 days of the effective date of the Act (*i.e.*, by August 22, 2021); and

WHEREAS, conversely, if a municipality fails to adopt regulations, the above six classes of activities will be permitted in industrial and commercial areas of the City without the benefit of municipal regulations governing their locations and/or any other restrictions the municipality may seek to impose; and

WHEREAS, section 40 of the Act authorizes municipalities by ordinance to adopt regulations which establish limited taxation of the above classes of activity within the municipality; and

WHEREAS, specifically, a municipality may adopt an ordinance imposing a transfer tax on the sale of cannabis or cannabis items by a cannabis establishment that is located in the municipality and at the discretion of the municipality, the tax may be imposed on: receipts from the sale of cannabis by a cannabis cultivator to another cannabis cultivator; receipts from the sale of cannabis items from one cannabis establishment to another cannabis establishment; receipts from the retail sales of cannabis items by a cannabis retailer to retail consumers who are 21 years of age or older; or any combination thereof; and

WHEREAS, the Board of Commissioners have determined that it is appropriate to implement these measures as permitted by law; and

WHEREAS, on August 9, 2021, the City adopted Ordinance 2021-15 to implement the provisions of the Act and to establish a cannabis licensing process in the City; and

WHEREAS, after release of the State’s cannabis regulations (N.J.A.C. 17:30 et seq.) on August 19, 2021 and upon further review and consideration, the City Commissioners now desire to amend Ordinance 2021-15.

NOW, THEREFORE, BE IT ORDAINED AND ADOPTED, by the Commissioners of the City of Bordentown, County of Burlington that the Code of the City of Bordentown be amended as follows.

SECTION 1

Chapter 139, entitled “Cannabis Business Licenses and Transfer Tax”, shall be added to the City Code as follows:

§ 139-1 Definitions. As used in this section, the following terms shall have the meanings indicated.

ACADEMIC MEDICAL CENTER - An entity located in New Jersey that, on the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.), has an addiction medicine faculty practice or is in the same health care system as another facility located in New Jersey that offers outpatient medical detoxification services or inpatient treatment services for substance use disorder; has a pain management faculty practice or a facility-based pain management service located in New Jersey; has graduate medical training programs accredited, or pending accreditation, by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association in primary care and medical specialties; is the principal teaching affiliate of a medical school based in the State; and has the ability to conduct research related to medical cannabis. If the entity is part of a system of health care facilities, the entity shall not qualify as an academic medical center unless the health care system is principally located within the State.

ALTERNATIVE TREATMENT CENTER or MEDICAL CANNABIS BUSINESS - An organization issued a permit pursuant to the “Jake Honig Compassionate Use Medical Cannabis Act,” P.L.2009, c.307 (C.24:6I-1 et al.) to operate as a medical cannabis

cultivator, medical cannabis manufacturer, medical cannabis dispensary, or clinical registrant, as well as any alternative treatment center deemed pursuant to section 7 of that act (C.24:6I-7) to concurrently hold a medical cannabis cultivator permit, a medical cannabis manufacturer permit, and a medical cannabis dispensary permit.

CANNABIS - All parts of the plant *Cannabis sativa* L., whether growing or not, the seeds thereof, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds, except those containing resin extracted from the plant, which are cultivated and, when applicable, manufactured in accordance with P.L.2021, c.16 (C.24:6I-31 et al.) for use in cannabis products, but shall not include the weight of any other ingredient combined with cannabis to prepare topical or oral administrations, food, drink, or other product.

CANNABIS BUSINESS - Any person or entity that holds any of the six Classes of licenses established under P.L. 2021, c. 16, the “New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act.”

CANNABIS CULTIVATOR - Any licensed person or entity that grows, cultivates, or produces cannabis, and sells, and may transport, this cannabis to other cannabis cultivators, or usable cannabis to cannabis manufacturers, cannabis wholesalers, or cannabis retailers, but not to consumers. This person or entity shall hold a Class 1 Cannabis Cultivator license.

CANNABIS DELIVERY SERVICE - Any licensed person or entity that provides courier services for consumer purchases of cannabis items and related supplies fulfilled by a cannabis retailer in order to make deliveries of the cannabis items and related supplies to that consumer, and which services include the ability of a consumer to purchase the cannabis items directly through the cannabis delivery service, which after presenting the purchase order to the cannabis retailer for fulfillment, is delivered to that consumer. This person or entity shall hold a Class 6 Cannabis Delivery license.

CANNABIS DISTRIBUTOR - Any licensed person or entity that transports cannabis in bulk intrastate from one licensed cannabis cultivator to another licensed cannabis cultivator, or transports cannabis items in bulk intrastate from any one class of licensed cannabis establishment to another class of licensed cannabis establishment and may engage in the temporary storage of cannabis or cannabis items as necessary to carry out transportation activities. This person or entity shall hold a Class 4 Cannabis Distributor license.

CANNABIS ESTABLISHMENT - A cannabis cultivator, a cannabis manufacturer, a cannabis wholesaler, or a cannabis retailer.

CANNABIS MANUFACTURER - Any licensed person or entity that processes cannabis items in this State by purchasing or otherwise obtaining usable cannabis, manufacturing, preparing, and packaging cannabis items, and selling, and optionally transporting, these items to other cannabis manufacturers, cannabis wholesalers, or cannabis retailers, but not to consumers. This person or entity shall hold a Class 2 Cannabis Manufacturer license.

CANNABIS PRODUCT - A product containing usable cannabis, cannabis extract, or any other cannabis resin and other ingredients intended for human consumption or use, including a product intended to be applied to the skin or hair, edible cannabis products, ointments, and tinctures. “Cannabis product” does not include: (1) usable cannabis by itself; or (2) cannabis extract by itself; or (3) any other cannabis resin by itself.

CANNABIS RETAILER - Any licensed person or entity that purchases or otherwise obtains usable cannabis from cannabis cultivators and cannabis items from cannabis manufacturers or cannabis wholesalers, and sells these to consumers from a retail store, and may use a cannabis delivery service or a certified cannabis handler for the off-premises delivery of cannabis items and related supplies to consumers. A cannabis retailer shall also accept consumer purchases to be fulfilled from its retail store that are presented by a cannabis delivery service which will be delivered by the cannabis delivery service to that consumer. This person or entity shall hold a Class 5 Cannabis Retailer license.

CANNABIS TESTING FACILITY - An independent, third-party entity meeting accreditation requirements established by the Cannabis Regulatory Commission that is licensed to analyze and certify cannabis items and medical cannabis for compliance with applicable health, safety, and potency standards.

CANNABIS TRAINING FACILITY

An entity that provides educational curriculum and/or mentorship and job training in related Cannabis & Hemp related businesses, including but not necessarily limited to; medical research, political science, legal, accounting, operational professionals, and law enforcement in the emerging cannabis industry taking a Science, Technology, Engineering, Arts, & Math approach. A Training Facility may, but is not required to, hold any license to sell, cultivate, or manufacture Cannabis.

CANNABIS WHOLESALER - Any licensed person or entity that purchases or otherwise obtains, stores, sells or otherwise transfers, and may transport, cannabis items for the purpose of resale or other transfer to either another cannabis wholesaler or to a cannabis retailer, but not to consumers. This person or entity shall hold a Class 3 Cannabis Wholesaler license.

DRUG FREE SCHOOL ZONE

An area inclusive of property used for school purposes by any publicly funded primary school, whether or not owned by such school, within 1,000 feet of any such property. As it pertains to Cannabis Businesses within the City of Bordentown, it does not include parks nor other public facilities outside of school property.

MICROBUSINESS – Any person or entity licensed under P.L.2021, c.16 (C.24:6I-31 et al.) as a cannabis cultivator, cannabis manufacturer, cannabis wholesaler, cannabis distributor, cannabis retailer, or cannabis delivery service that may only, with respect to its business operations, and capacity and quantity of product: (1) employ no more than 10 employees; (2) operate a cannabis establishment occupying an area of no more than 2,500 square feet, and in the case of a cannabis cultivator, grow cannabis on an area no more than 2,500 square feet measured on a horizontal plane and grow above that plane not higher than 24 feet; (3) possess no more than 1,000 cannabis plants each month, except that a

cannabis distributor's possession of cannabis plants for transportation shall not be subject to this limit; (4) acquire each month, in the case of a cannabis manufacturer, no more than 1,000 pounds of usable cannabis; (5) acquire for resale each month, in the case of a cannabis wholesaler, no more than 1,000 pounds of usable cannabis, or the equivalent amount in any form of manufactured cannabis product or cannabis resin, or any combination thereof; and (6) acquire for retail sale each month, in the case of a cannabis retailer, no more than 1,000 pounds of usable cannabis, or the equivalent amount in any form of manufactured cannabis product or cannabis resin, or any combination thereof.

§ 139-2 License Required.

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.

The purpose of this article is to enable the City of Bordentown to take effective action to assure that all cannabis-related business advance the requirements of their licensure as regulated by the State of NJ, by ensuring the citizens of the City of Bordentown are provided ample opportunity to participate within this new industry while advancing community development initiatives, including but not limited to; public health, job training, enhanced recreational opportunities, drug prevention education, and social justice related programming and/or support thereof. Once evaluations and recommendations are made by the Committee, the City Commissioners could then be in a position to provide an applicant a Resolution of support for an application to the State of New Jersey Cannabis Regulatory Commission. Conditional license seekers will only gain such support when real property is identified.

§ 139- 3 Limitation on the number of cannabis businesses within the City.

- A. The number of cannabis cultivators permitted within the City is set at a maximum of two (2).
- B. The number of cannabis manufacturers permitted within the City is set at a maximum of two (2).
- C. The number of cannabis retailers permitted within the City is set at a maximum of two (2).
- D. The number of cannabis delivery services permitted within the City is set at a maximum of one (1).
- E. Cannabis wholesalers and cannabis distributors are prohibited in the City.

§ 139-4 Minimum distances for cannabis businesses.

- A. No cannabis retailer shall be located within 1,000 feet of another cannabis retailer within City limits and measured property line to property line. Alternative Treatment Centers are not subject to this proximity limitation. Alternative Treatment Centers and adult use cannabis retailers may be located on the same premises.
- B. Distance between cannabis retailers and schools. No cannabis retailer shall be located within a Drug-Free School Zone as defined herein. Cannabis cultivators, and cannabis manufacturers may be located in a Drug-Free School Zone, provided that:

- (1) The site is not immediately adjacent to the school; and
- (2) The site is secured in accordance with all applicable provisions as defined in the Act and this Code; and
- (3) No marketing or advertisements of the site are within a Drug Free School Zone; and
- (4) Light pollution, glare or brightness resulting from glow lamps are 0.5 candles or less at the property line; and
- (5) No unusual odors, smells or fragrances extend beyond the property line.

§ 139-5 Local Licensing Authority. The City Cannabis Advisory Committee (CAC) appointed by the City Governing Body will act as the body for local review for the City for all cannabis businesses. Where State law requires communication to the City by the Cannabis Regulatory Commission or any other State agency with regard to the licensing of cannabis businesses and where 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 communicated through the City Clerk's Office upon recommendation by the City Cannabis Advisory Committee and authorized by the City Commissioners Governing Body.

- A. There will be Seven (7) members of the CAC which shall include residents and business owners located within the City. The appointees shall include at a minimum one member from the following categories;
 - (1) Mayor or Designee
 - (2) City Administrator or Designee
 - (3) Member of the Economic Development Commission
 - (4) Bordentown City Police Chief or Designee
 - (5) City Planning Board Chair or Designee
 - (6) A Resident
 - (7) A Business Owner

- B. The Committee shall be supported by the City Planner and City Solicitors Office

§ 139-6 Effectiveness. Under no circumstances shall a local license issued to a cannabis business by the City Clerk be effective until the State has issued the requisite licenses to operate such a business. It is the intent of this Chapter that no cannabis business may lawfully operate in the City of Bordentown without the issuance of a State license and full regulatory oversight of the cannabis business by the Cannabis Regulatory Commission or other state licensing authority, as well as the issuance of a Cannabis Business License by the City.

§ 139-7 Application. Persons or entities wishing to obtain any classification of cannabis license shall file a license application with the City Commissioners, on a standardized form established by the City and made available in the Clerk's office. The Commissioners may establish a reasonable application period and deadline for all applications through a Request for Proposals (RFP) if deemed appropriate. An application shall be deemed incomplete and shall not be processed by the Clerk and transmitted to the Cannabis Advisory Committee, until all documents and application fees are submitted. To be deemed complete, all applications shall be accompanied by the following:

- A. The applicant shall submit proof that the applicant has or will have lawful possession of the premises proposed for the cannabis business, 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.

- B. 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, genderexpression, age, national origin (ancestry), disability, marital status, sexual orientation, or military status, in any of its activities or operations.
- C. 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 with a Conditional Zoning Permit required.
- D. The applicant shall submit, to the satisfaction of the Committee, proof of financial capability to open and operate the cannabis establishment for which the applicant is seeking a license. Standards for proof of financial capability shall be presented in strict confidence as determined by the requirements of the Cannabis Regulatory Commission.
- E. The applicant and the application shall otherwise comply with any, and all qualification standards set forth in the State and City laws or regulations.
- F. The applicant shall address, at a minimum, the criteria established in § 139-8, in addition to the application developed by the Committee.
- G. The applicant shall submit a fee for the application for a conditional permit in the amount of \$5,000. Micro-licenses shall submit a fee of \$1,000.
- H. Bi-annual Registration Fees. Upon obtaining a State license shall submit bi-annual registration fees of \$10,000. Micro-licenses shall submit a fee of \$2,000
- I. Transfer Fees. Shall be 10% of sale of any license awarded a Cannabis Business in the City of Bordentown or \$10,000, whichever is greater.

§ 139-8 Evaluation.

- A. The Committee shall evaluate all applicants and issue a recommendation to the City Commissioners after consideration and evaluation of the criteria set forth by the City Commissioners. Presentation before the City Commissioners may be required of the entity seeking support. Each application will be reviewed within the confines of the license category being sought. (For example, a retail dispensary should focus on customer service, marketing, branding and architectural presentation, and public access issues, while a cultivation, distribution, wholesale operation on security, job environment, truck access and loading, and security. Micro-licenses should focus on their business plan and tangentially related experiences and support structures.) Notwithstanding the categories provided for herein, subjectivity in regard to personal tastes and aesthetic matters should be restrained in favor of the thoroughness and level of detail by which an applicant responds. Prior to issuing any request for proposals and/or an application pursuant to §139-7, the City Commissioners, upon recommendation by the Committee shall publish final criteria and weight categories appropriately. Notwithstanding, the criteria for application, which is taken largely from State Legislation, may include at a minimum;

- (1) Applicant's owners' or principals' qualifications and experience operating in highly regulated industries, including cannabis, healthcare, pharmaceutical manufacturing, and retail pharmacies, etc., with preference to experience operating such businesses within the State of New Jersey.
- (2) Applicant's brand and proposal for the physical presence of the business. Including but not limited to; the site's ability to meet all land use regulations (parking, landscaping, signage, etc.), architectural treatments, interior design and general customer experience (where applicable).
- (3) A summary of the applicant's operational plans; including, but not limited to, storage of products and currency, physical security, video surveillance, security personnel, and visitor management.
- (4) Applicant's orientation to research and development of Cannabis, if any. Including but not limited to its owners' experience conducting, supporting, and/or their future plans to participate in institutional review board-approved research related to medical cannabis, veterans' affairs, or substance abuse. If appropriate, include 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 (human subjects); 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, veterans affairs, drug and alcohol research, or other institutions of higher learning dedicated to cannabis research.
- (5) Applicant's or its owners' demonstrated commitment or sufficient experience as responsible employers, defined as the applicant entity being committed to a local program in collaboration with organizations committed to the well-being of residents, specifically, but not necessarily limited to the City and surrounding service area. Provide evidence in letters of support and agreements including, but not limited to a local workforce hiring and development plan, community service, collaborations with a university or specialized training facility such as, but limited to Vo-Tech, and dedicated support to social justice initiatives.
- (6) Summary of the applicant's environmental impact/mitigation, and sustainability plan; 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 within the industry, or plans accordingly; 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.
- (7) Applicant's ties to the host community, demonstrated by at least one shareholder's proof of residency in the City for five or more years in the past ten years, or at least one shareholder's continuous ownership of a business

based in town for five or more years in the past ten years.

- (8) Applicant's experience and/or commitment to community health related programs and associated charitable organizations, including but not limited to, particular attention toward prevention of drug and alcohol abuse including but limited to youth and vulnerable persons both locally and regionally; and
- (9) Applicant's demonstrated commitment to diversity in its ownership composition and hiring practices. Applicant should include any and all commitments toward supporting and working with local micro-licensees, including but not limited to contracting with, and training/mentorship. The applicant entity or its parent company holds any certifications as a NJ minority-owned, women-owned, or veteran-owned business.

§ 139-9 Award of the City License.

A. Notwithstanding the foregoing competitive application process, a notification of award and conditional municipal permit shall entitle the recipient applicant to pursue a State license in the requisite classification for up to 12 months, which may be extended in the Commissioners' discretion for an additional 6 months for good cause. No business may operate until the applicant has received a State license and satisfied other prerequisites of municipal permit. If the recipient of a notice of award and conditional permit 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.

B. Term of License and License renewals.

(1) Any local License issued pursuant to this Chapter that receives a State Cannabis License to operate shall be valid for a period of two (2) years from the date of state issuance and shall be renewed in accordance with the provisions of this Chapter.

(2) The Committee may, at its 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 in addition to any history of property maintenance and zoning code violations.

(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 Commissioners review and Commercial property/tenant transfers and associated inspections. Such review shall be in accordance with Section 139-8, Evaluation, (above).

(5) Except where the Committee 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.

C. Award - In the event more than one application for a Cannabis Business of the same classification is submitted to the City which are either too close in proximity to one another, or exceed the number of available licenses, and if the applications otherwise comply with all the requirements of this chapter and the Act, the City is not permitted to approve all of the applications because of the limitations set forth in this subsection. The City Commissioners shall make a determination if reasonable accommodations can be made to eliminate the conflict and/or expand the number of available City Cannabis Business licenses awarded in any given year.

D. Requests for a resolution of local support, pursuant to N.J.S.A 24:6I-7.2, shall include a conditional Local Host Agreement with the City and shall be contingent upon State license approval. Upon receipt of a State License, the local host agreement shall be fully executed. No applicant shall commence operation in the City without execution of an Agreement.

E. Resolutions of local support do not constitute final approval for local licensure. A local license shall only be granted as set forth in this Code.

§ 139-10 Requirements Applicable to All Cannabis Businesses.

A. Samples of cannabis products offered for sale may be displayed on shelves, counters and display cases. All bulk cannabis products shall be locked within a separate vault or safe, with no other items in the safe, securely fastened to a wall or floor, as coordinated with the Bordentown City Police Department and allowable under Cannabis Regulatory Commission regulations and state legislation.

B. Signage.

(1) External signage, including window signage, must be limited to text identifying the business and the logo for the business, provided that said logo does not include a cannabis plant leaf and / or outward glorification of cannabis consumption, where applicable.

(2) All other City sign regulations must be complied with.

C. Cannabis businesses must adhere to the provisions of Chapter 300 Zoning.

D. Security and reporting.

(1) Surveillance System.

i. Cannabis Establishments shall be monitored at all times by closed-circuit television surveillance system. Security cameras shall be in use 24-hours per day, seven days per week, and shall cover all cannabis dispensing areas, storage areas, all doors and windows with access into the cannabis business, parking areas if applicable, and any other areas not mentioned if deemed necessary by the Chief of Police or his/her designee. The surveillance system must be capable of providing surveillance of both interior and exterior areas of the cannabis business and must be of adequate quality,

- color rendition and resolution to allow the ready identification of an individual on or adjacent to the site.
- ii. The security cameras must be Internet Protocol (IP) cameras capable of providing real time footage over the internet. Operators must provide the Bordentown City Police Department with access to this real-time camera footage in case of an emergency.
 - iii. The recordings shall be maintained at the cannabis business for a period of not less than thirty (30) days and shall be provided to the City Police Department within twenty-four (24) hours of a written request from the Police Department for any recordings.
- E. Outside areas of the premises and the perimeter shall be lit in accordance with City regulations and all doors equipped with motion censored lights.
 - F. The Bordentown City Police Department shall be provided the name and phone number of a staff person to notify during suspicious activity during or after operating hours.
 - G. Security staff is required on the premises during all hours of operation.
 - H. The premises must only be accessed by authorized personnel and free of loitering.
 - I. All cultivation of cannabis shall take place in an enclosed, locked facility.
 - J. All currency over \$1,000 shall be stored within a separate vault or safe, not used for the storage of cannabis, securely fastened to a wall or floor, as approved by the Bordentown City Police Department.
 - K. Cannabis businesses shall comply with all security requirements as established by state law and regulations, as they may be updated from time to time, in addition to coordination with the Bordentown City Police Department.
 - L. No products to be visible from public places. Cannabis plants, products, accessories, and associated paraphernalia contained in any cannabis business shall not be visible from a public sidewalk, public street or right-of-way, or any other public place. On-site storage of usable cannabis shall comply with 21 CFR 1301.72.
 - M. No beer or alcohol on premises. No fermented malt beverages and no alcoholic beverages shall be kept, served or consumed on the premises of a cannabis business.
 - N. Storage of products. All products and accessories shall be stored completely indoors and on-site in accordance with the Act and the Permitting Authority regulations.
 - O. Cannabis Consumption Areas. No consumption or smoking of any cannabis products shall be allowed or permitted on the premises or adjacent grounds of a cannabis business unless specially permitted through a Consumption Area permit as part of a licensed cannabis retailer.
 - P. Prevention of emissions and disposal of materials.

(1) Sufficient measures and means of preventing smoke, odors, debris, dust, fluids and other substances from exiting the cannabis business premises shall be provided at

all times. In the event that any debris, dust, fluids or other substances shall exit the business premises, the property owner and operator shall be jointly and severally responsible for the full cleanup immediately.

- (2) Businesses shall properly dispose of all materials and other substances in a safe and sanitary manner in accordance with state regulations.
 - (3) As applicable, cannabis businesses shall be equipped with ventilation systems with carbon filters sufficient in type and capacity to eliminate cannabis odors emanating from the interior to the exterior of the premises discernible by reasonable persons. The ventilation system must be inspected and approved by the Construction Official.
 - (4) If carbon dioxide will be used in any cultivation area, sufficient physical barriers or a negative air pressure system shall be in place to prevent carbon dioxide from moving into the ambient air, into other units in the same building or into an adjacent building in a concentration that would be harmful to any person, including persons with respiratory disease and shall be inspected and approved by the Construction Official and the Fire Marshall.
 - (5) All state regulations concerning ventilation systems shall be followed.
- Q. Compliance with other codes. Any cannabis business and the adjacent grounds of the cannabis business shall comply with all zoning, health, building, fire, and other codes and ordinances of the City as shown by completed inspections and approvals by the City Planner, Construction Division, Fire Safety Division, and the City Health Department, if applicable.
- R. No harm to public health, safety or welfare. The premises of a cannabis business, and any adjacent grounds thereto, shall be operated in a manner that does not cause any substantial harm to the public health, safety and welfare.
- S. Additional requirements. At the time a site plan approval is granted, amended, or a major change to a cannabis business is approved, the City may impose on the applicant any condition related to the proposed use that is reasonably necessary to protect the public health, safety or welfare, not inconsistent with the Permitting authority requirements, including but not limited to the following:
- (1) Additional security requirements.
 - (2) Limits and requirements on parking and traffic flows.
 - (3) Requirements for walls, doors, windows, locks and fences on the premises and adjacent grounds.
 - (4) Limits on cannabis products that may be sold.
 - (5) Requirements and limits on ventilation and lighting.
 - (6) Limits on noise inside the licensed premises or on the adjacent grounds.
 - (7) Prohibitions on certain conduct in the cannabis business.
 - (8) Limits on hours of operation.
- T. Penalty for violation. Any violation of the provisions of this subsection or the conditions of the zoning permit granted, by a cannabis business shall be punishable by a civil fine of up to \$1,000. Each day that a violation is committed, exists or continues shall be deemed a separate and distinct

offense. In addition, any violation of the provisions of this subsection, or any conditions imposed by the zoning permit may result in the revocation of the zoning permit.

- U. Relationship to any Redevelopment Plan, and the City Zoning and site plan standards. To the extent any provisions of the City redevelopment plans, zoning and site plan standards conflict with this section, the provisions and standards of this section shall control.

§ 139-11 Disciplinary Actions; Sanctions; Penalties

- A. Disciplinary actions. Penalties for investigation of permit violations and for suspension, revocation, or other permit 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 Commissioners have 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 Commissioners may enter a summary suspension order for the immediate suspension of the permit and notice to the Cannabis Regulatory Commission 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 Commissioners shall convene a review panel. 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 permit if a licensed premises has been inactive or unoccupied by the licensee for at least 6 months.

- D. State license. The Commissioners may suspend or revoke any permit if the corresponding State license for the subject location is expired, surrendered, suspended, or revoked.

§ 139-12 Medical Cannabis Transfer Tax.

There is hereby established a medical cannabis transfer tax in the City of Bordentown, which shall be fixed at a uniform percentage rate of 1% on the purchase price of any medical cannabis dispensed by a medical cannabis dispensary in the City, including medical cannabis that is furnished by the dispensary to a medical cannabis handler for delivery to a registered qualifying patient or the patient’s caregiver, and 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 dispensary.

§ 139-13 Recreational/Adult Use Cannabis Transfer Tax.

- A. There is hereby established a local cannabis transfer tax in the City of Bordentown which shall be fixed at a uniform percentage rate of two percent (2%) of the receipts from each sale by a cannabis cultivator; two percent (2%) of the receipts from each sale by a cannabis manufacturer; one percent (1%) of the receipts from each sale by a cannabis wholesaler; and two percent (2%) of the receipts from each sale by a cannabis retailer for every occupancy of a cannabis establishment in the City of Bordentown.
- B. In addition to the tax established in paragraph A of this section, a user tax, at the equivalent transfer tax rates, is hereby established on any concurrent license holder, as permitted by section 33 of P.L.2021, c.16 (C.24:6I-46), operating more than one cannabis establishment. The user tax shall be imposed on the value of each transfer or use of cannabis or cannabis items not otherwise subject to the transfer tax imposed pursuant to paragraph A of this subsection, from the license holder's establishment that is located in Bordentown to any of the other license holder's establishments, whether located in this City or another municipality.
- C. Any transaction for which the transfer tax or user tax is imposed, or could be imposed, pursuant to this section, other than those which generate receipts from the 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.).

§ 139-14 Tax in addition to other taxes or fees.

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.

§ 139-15 Collection.

- A. The transfer tax or user tax imposed by this article shall be collected or paid and remitted to Bordentown City by the cannabis establishment from the cannabis establishment purchasing or receiving the cannabis or cannabis item, or from the consumer at the point of sale, on behalf of the City by the cannabis retailer selling the cannabis item to that consumer. The transfer tax or user tax shall be stated, charged, and shown separately on any sales slip, invoice, receipt, or other statement or memorandum of the price paid or payable, or equivalent value of the transfer, for the cannabis or cannabis item.
- B. Every cannabis establishment required to collect a transfer tax or user tax imposed by ordinance pursuant to this section shall be personally liable for the transfer tax or user tax imposed, collected, or required to be collected under this section. Any cannabis establishment shall have the same right with respect to collecting the transfer tax or user tax from another cannabis establishment or the consumer as if the transfer tax or user tax was a part of the sale and payable at the same time, or with respect to non-payment of the transfer tax or user tax by the cannabis establishment or consumer, as if the transfer tax or user tax was a part of the purchase price of the cannabis or cannabis item, or equivalent value of the transfer of the cannabis or cannabis item, and payable at the same time; provided, however, that the Chief Financial Officer of Bordentown shall be joined as a party in any action or proceeding brought to collect the transfer tax or user tax.
- C. No cannabis establishment 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 stated to another cannabis establishment or the consumer, or that the transfer tax or user tax will be refunded to the cannabis establishment or the consumer.

- D. All revenues collected from a transfer tax or user tax imposed by ordinance pursuant to this section shall be remitted to the Bordentown 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 or user taxes collected for the prior year 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.

§ 139-16 Payment; vendor violations and penalties.

- A. The Chief Financial Officer shall collect and administer any transfer tax or user tax imposed to this section.
- B. The municipality shall enforce the payment of delinquent taxes or transfer fees imposed pursuant to this section in the same manner as provided for municipal real property taxes.
- C. In the event that the transfer tax or user tax imposed by this section is not paid as and when due by a cannabis establishment, the unpaid balance, and any interest accruing thereon, shall be a lien on the parcel of real property comprising the cannabis establishment's premises in the same manner as all other unpaid municipal taxes, fees, or other charges. The lien shall be superior and paramount to the interest in the parcel of any owner, lessee, tenant, mortgagee, or other person, except the lien of municipal taxes, and shall be on a parity with and deemed equal to the municipal lien on the parcel for unpaid property taxes due and owing in the same year.
- D. A municipality shall file in the office of its tax collector a statement showing the amount and due date of the unpaid balance and identifying the lot and block number of the parcel of real property that comprises the delinquent cannabis establishment's premises. The lien shall be enforced as a municipal lien in the same manner as all other municipal liens are enforced."

SECTION 2

Amend Chapter 300 Zoning, Article XVI (§300-103) entitled “Cannabis Businesses,” shall be added to the City Code as follows:

Cannabis Businesses, as set forth below shall be permitted as conditional uses in certain zones. The purpose of this section is to set forth the requirements and procedures applicable to permitting certain Cannabis Businesses as conditional uses, in accordance with N.J.S.A. 40:55D-67. Such uses may be permitted when authorized as a conditional use by the Planning Board, including site plan approval and (if necessary) a conditional use variance approval by the Zoning Board pursuant to N.J.S.A. 40:55D-70(d)(3). Cannabis Businesses shall comply with additional requirements set forth herein. Nothing herein shall prohibit the City from adopting a redevelopment plan permitting any type of Cannabis Establishment in a designated redevelopment area.

§ 300-103 Cannabis Businesses

- A. The definitions for this section shall be the same as found in Chapter 139 of this Code.
- B. Cannabis Retailers.
 - 1) Cannabis Retailers shall be permitted as a conditional use in the following zones in accordance with this chapter. The Permitted Conditional uses within Article IX Highway Commercial Zone as depicted on the Cannabis Overlay Zone Map shall add:
 - i. Highway Commercial (HC)
 - 2) Cannabis Retailers are permitted subject to the following conditions:
 - i. Adherence to the site design standards of the City Zoning Ordinances and through a review by the Zoning Official and the City Planning Board, is required.
 - ii. Issuance of Bordentown City Cannabis Business License.
 - iii. Site plan approval is required.
 - iv. Cannabis Retailers shall not be located within a Drug-Free School Zone.
 - v. Retailers shall limit their hours of operation from 8:00 a.m. to 10:00 p.m., Monday to Sunday, or as otherwise provided for within a special use permit.
 - vi. Cannabis Retailers shall not be located within 1,000 feet of another Cannabis Retailer within the City of Bordentown.
 - vii. Executed Local Host Agreement
- C. Alternative Treatment Centers, Medical Cannabis Dispensaries, and Academic Medical Center
 - 1) Alternative Treatment Centers (ATC) and Medical Cannabis Dispensaries shall be permitted as a conditional use in the following zones in accordance with this chapter. The Permitted Conditional uses within Article IX Highway Commercial Zone as depicted on the Cannabis Overlay Zone Map shall add:
 - i. Highway Commercial (HC)
 - ii. Ocean Spray Redevelopment Area (OSRA) (Park Street frontage only)
 - 2) ATCs and Medical Cannabis Dispensaries are permitted subject to the following criteria:
 - 1. Adherence to the site design standards of the City Zoning Ordinances through a review by the Zoning Official, and the City Planning Board is required.

2. Issuance of Bordentown City Cannabis Business License.
3. Site plan approval is required.
4. The retail component must front a public street.
5. ATCs / Medical dispensaries may be permitted within a Drug-Free School Zone but not immediately adjacent or within site lines from the school entrance and play areas. If placed within said area, signage which advertises the business and/or directs the public toward the business and/or promotes consumption of cannabis products is prohibited. The dispensary must only be devoted to health and wellness of those seeking alternative remedies.
6. Medical dispensaries may only sell useable cannabis-related product to individuals with an active MMP Identification Card or Caregiver Identification Card.
7. Medical dispensaries may not participate in adult-use (21 years or older) sales unless specifically authorized and in compliance with this Chapter and outside a Drug-Free School Zone.
8. Executed Local Host Agreement.

D. Vertically Integrated Cannabis Facilities, Cannabis Testing Lab, Academic Medical Center, and Cannabis Training Facilities.

- 1) Vertically integrated operations proposing to have cultivation, manufacturing, and retailing of cannabis within the same facility shall be permitted as a conditional use within the following zones in accordance with this chapter. In no event shall a vertically integrated facility that cultivates, manufactures, and dispenses non-medical, recreational cannabis be permitted without amendment to this chapter. The Permitted Conditional uses within Article IX Highway Commercial Zone and the Ocean Spray Redevelopment Plan as depicted on the Cannabis Overlay Zone Map shall add:
 - i. Highway Commercial (HC)
 - ii. Ocean Spray Redevelopment Area (OSRA)
- 2) Vertically Integrated Cannabis Facilities are permitted subject to the following criteria:
 - i. Adherence to the site design standards of the City Zoning Ordinance through a review by the Zoning Official, and the City Planning Board when applicable, is required.
 - ii. The property must have frontage along a major roadway, which, for the purposes of this chapter shall mean any roadway that retail is permitted to be located, e.g. Park Street, Route 130 and/or Route 206.
 - iii. Issuance of Bordentown City Cannabis Business License.
 - iv. Site plan approval is required.
 - v. If a retailer is co-located with a cultivation center, the area of the proposed premises utilized for cultivation shall be physically separated from the area of the premises utilized for the dispensing of ~~medical~~ cannabis ~~and that is~~ open to the public or to patients. Walls, barriers, locks, signage, and other means shall be employed to prevent the public or patients from entering the area of the premises utilized for cultivation of medical cannabis.
 - vi. Unusual odors, smells, fragrances, or other olfactory stimulants shall be prohibited. Odor mitigation filtration systems must be installed and maintained in perfect working order.
 - vii. Light pollution, glare or brightness resulting from glow lamps must be 0.5 candle or less at the property line

- viii. Noise beyond the decibel level permitted by City noise ordinances shall be prohibited.
- ix. Executed Local Host Agreement

E. Cannabis Cultivators, Manufacturers, Academic Medical Center, Delivery, Cannabis Testing Lab, and Cannabis Training Facility. -

- 1) Standalone facilities centers shall be permitted as conditional uses in the following zones in accordance with this chapter. The Permitted Conditional uses within Article X Commercial Industrial Zone as depicted on the Cannabis Overlay Zone Map, shall add:
 - i. Commercial Industrial (CI)
 - ii. Ocean Spray Redevelopment Area (OSRA)
- 2) Such facilities shall be permitted subject to the following criteria:
 - i. Adherence to the site design standards of the City Zoning Ordinances through a review by the Zoning Official, and the City Planning Board, is required.
 - ii. Issuance of Bordentown City Cannabis Business License.
 - iii. Site plan approval is required.
 - iv. Cultivation centers shall not be located immediately adjacent to school property used for school purposes where children are present.
 - v. Secured in accordance with all applicable provisions as defined in the Act and outlined below.
 - vi. No signage other than directional or discrete building identification found in shall be permitted. Signage shall remain innocuous, and part of the general directional signage typically found in industrial manufacturing facilities. Facade signs will be limited to those at the point of entry to the facility and may not be more than six square feet.
 - vii. Unusual odors, smells, fragrances, or other olfactory stimulants shall be prohibited. Odor mitigation filtration systems must be installed and maintained in perfect working order.
 - viii. Light pollution, glare or brightness resulting from glow lamps must be 0.5 candle or less at the property line
 - ix. Noise beyond the decibel level permitted by City noise ordinances shall be prohibited.
 - x. Executed Local Host Agreement

F. Cannabis Delivery Service. Nothing herein shall prohibit the delivery of cannabis within the City to consumers by a properly licensed Cannabis Delivery Service.

G. Microbusinesses. Microbusinesses are permitted as conditional uses within any area where Cannabis Businesses are permitted within the City according to their use category (i.e., Dispensary, Cultivation, or Manufacturing). Microbusiness may also be located on the same premise as a non-micro licensee as long as training, or a business incubator or mentorship program is being conducted. Certified copies of such agreements between entities shall be required.

H. Additional Requirements Applicable to All Cannabis Businesses.

- 1) Samples of cannabis products offered for sale may be displayed on shelves, counters, and display cases. All bulk cannabis products shall be locked within a separate vault or safe, with no other items in the safe, securely fastened to a wall or floor, as coordinated with the

Bordentown City Police Department and allowable under Permitting Authority regulations and state legislation.

- 2) Signage.
 - i. External signage, including window signage, must be limited to text identifying the business and the logo for the business, provided that said logo does not include a cannabis plant leaf and / or outward glorification of cannabis consumption, where applicable.
 - ii. All other City sign regulations must be complied with.
- 3) 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.
- 4) Parking shall adhere to § 300 Article XV Off-Street Parking and Loading in addition to § 244-58 Off-street parking regulations B. Parking Schedule. Accordingly.
 - i. Parking for Retailers shall be provided for as a Commercial, Retail and Service Establishment.
 - ii. Parking for Cultivation, Manufacturing, Distribution, and Wholesale facilities shall be provided for as an *Industrial Use*.
- 5) In the event of a conflict between the City bulk standards and the Act or the Permitting Authority's regulations, the City shall consider the pertinent statute or regulation as justification of any variance and/or design waiver.

Repealer, Severability and Effective Date.

- A. Repealer. Any and all Ordinances inconsistent with the terms of this Ordinance are hereby repealed to the extent of any such inconsistencies.
- B. Severability. In the event that any clause, section, paragraph or sentence of this Ordinance is deemed to be invalid or unenforceable for any reason, then the City Commissioners hereby declares its intent that the balance of the Ordinance not affected by said invalidity shall remain in full force and effect to the extent that it allows the City to meet the goals of the Ordinance.
- C. This Ordinance shall take effect upon passage and publication according to law.
- D.

CERTIFICATION

I, Grace I. Archer, Clerk of the City of Bordentown, County of Burlington, do hereby certify the foregoing to be a true and correct copy of an Ordinance adopted by the Board of Commissioners at a Meeting of said Commissioners held on the 8th day of November 2021 and said Ordinance was adopted by a majority of the members of the Board of Commissioners.

**Grace I. Archer, RMC
City Clerk**