

ORDINANCE OF THE CITY OF PLAINFIELD, IN THE COUNTY OF UNION, AUTHORIZING THE SITING OF CERTAIN CANNABIS RELATED BUSINESSES WITHIN THE CITY, AMENDING THE LAND USE AND DEVELOPMENT ORDINANCE AND ANY REDEVELOPMENT PLANS INCONSISTENT HEREWITH, AND ESTABLISHING CERTAIN REGULATIONS AND REQUIREMENTS FOR CANNABIS BUSINESSES

WHEREAS, on February 22, 2021, Governor Murphy signed into law the “New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act”, *N.J.S.A. 24:61-31 et seq.* (the “**Act**”), which provides for the legalization of a cannabis market that will be subject to State regulation by the Cannabis Regulatory Commission (the “**Commission**”) for the cultivation, distribution, and sale of cannabis, and legalizing the recreational use of marijuana by adults 21 years of age or older, subject to the comprehensive regulatory and licensing scheme to be established by the Commission; and

WHEREAS, the Act establishes six (6) classes of licensed cannabis businesses, specifically: cultivators, manufacturers, wholesalers, retailers, distributors, and delivery services; and

WHEREAS, the Act at *N.J.S.A. 24:6I-45(a)(1)* authorizes municipalities to enact an ordinance prohibiting classes of cannabis businesses in their communities; or to enact ordinances and adopt regulations governing the number of licensed cannabis businesses that will be permitted, as well as their location, manner, and times of operation within its jurisdiction, in a manner consistent with the Act’s regulation of cannabis businesses; and

WHEREAS, on August 21, 2021, the City Council of the City of Plainfield (the “**City**”) adopted Ordinance MC 2021-24 (the “**Original Ordinance**”) authorizing the licensure of certain cannabis businesses within the City; and

WHEREAS, the Personal Use Cannabis Rules, *N.J.A.C. 17:30-1 et seq.* (the “**Cannabis Regulations**”) were enacted by the State of New Jersey on August 19, 2021; and

WHEREAS, the City wishes to amend and restate the Original Ordinance to implement the Cannabis Regulations and adopt land use regulations and other requirements for cannabis businesses that can promote the health, safety, and general welfare of the community; and

WHEREAS, the City is designated as an “Impact Zone”, which is designated in the Act as an area in which the Commission shall prioritize applications for cannabis licenses; and

WHEREAS, the Municipal Land Use Law, *N.J.S.A. 40:55D-1 et seq.*, delegates to municipalities the power to zone and regulate development within its borders by adopting or amending zoning ordinances relating to the nature and extent of the uses of land and structures thereon; and

WHEREAS, the Local Redevelopment and Housing Law, *N.J.S.A. 40A:12A-1 et seq.* (the “**Redevelopment Law**”), gives municipalities the power to establish redevelopment plans with respect to areas in need of redevelopment and areas in need of rehabilitation; and

WHEREAS, on October 12, 2021, the City adopted Resolution 315-21 referring this Ordinance to the City Planning Board, and requesting that it review this Ordinance for consistency with the City’s Master Plan and to prepare recommendations regarding the regulations contained therein; and

WHEREAS, the City Planning Board, at its meeting of November 4, 2021, determined that this Ordinance is consistent with the City’s Master Plan, and made certain other recommendations, all of which it determined to be consistent with the City’s Master Plan, and which are embodied herein,

NOW THEREFORE, BE IT ORDAINED by the City of Plainfield, County of Union, New Jersey, as follows:

I. RECITALS INCORPORATED

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

II. LICENSE REQUIREMENTS

a) Definitions: The definitions set forth in the Act and the Cannabis Regulations are hereby incorporated by reference.

b) City pre-vetting of prospective licensees: Prior to receiving the evidence of City support set forth in paragraph c below, the prospective licensee shall be vetted by the City Department of Economic Development and the Mayor. The vetting process may include, among other things, a review of a prospective licensee’s: (i) demonstrated capacity to operate the proposed business, (ii) previous experience similar in scope and magnitude to the proposed business, and (iii) financials.

c) Evidence of City Support: In order to obtain a license from the Commission, a prospective licensee must secure support of the City with respect to such application. Such support shall be evidenced in writing from the Mayor of the City.

d) State Licensure Required: In order to locate within the City, a cannabis business must first obtain a license from the Commission. Such license must be in good standing during the entirety of the term of that business's operation within the City. The Applicant must follow the State’s licensing requirements set forth in *N.J.A.C. 17:30-6.1*.

e) City license required: In order to locate within the City, a cannabis business must first obtain a license from the City. The City license must be renewed annually and is non-transferable. The City license is subject to the licensee obtaining site plan approval. In order to obtain a City license, a prospective licensee must submit an application and application fee to the City’s

Economic Development Department and must enter into a social equity agreement with the City. The social equity agreement may include:

1. Proof of a MBE/WBE/DBE certification. If the cannabis business operator is not MBE/WBE/DBE certified, a percentage of equity should be allocated towards a minority group. Said minority group shall be located within the City. If there is not a City-based minority group available, then the minority group may be located within Union County and/or State of New Jersey.
 2. Apprentices. A cannabis retail business shall be required to employ apprentices. Said apprentice shall be someone who has previously been disadvantaged by cannabis drug laws and is preferably enrolled in a re-entry program. The apprentice position shall incorporate training that will lead to a management role and an equity share of the cannabis business within two (2) years.
 3. Local sourcing. At least twenty-five percent (25%) of cannabis products available for purchase from a cannabis retailer shall be cultivated and manufactured in the City of Plainfield and if unavailable in the City of Plainfield, in the State of New Jersey.
 4. Employment and training.
 - i) The staff at any cannabis business shall contain local hires. At a minimum, thirty percent (30%), or 3 employees, whichever is greater, of the staff shall reside in the City.
 - ii) All employees of a cannabis business shall complete Cannabis Business Training requirements as outlined in *N.J.A.C. 17:30-9.8*.
- f) Site plan review is required. All proposed cannabis businesses must obtain site plan approval from the Planning Board. All such applications must be reviewed by the Planning Board's Technical Review Committee, together with a representative from the City's Department of Health and Social Services, prior to any Planning Board hearing.

III. AMENDMENT OF LAND USE AND DEVELOPMENT ORDINANCE AND ANY REDEVELOPMENT PLANS INCONSISTENT HEREWITH

The City's Land Use and Development Ordinance and any redevelopment plans inconsistent herewith are hereby amended as follows:

- a) Permitted locations. The following State cannabis classes are permitted in the following zoning districts:
 1. Class 1: Cultivation - Light Industrial Zone District (LI)
 2. Class 2: Manufacture - Light Industrial Zone District (LI)

3. Class 3: Wholesale - Light Industrial Zone District (LI)
 4. Class 4: Distribution - Light Industrial Zone District (LI)
 5. Class 5: Retail – any District where retail is a permitted use, subject to compliance with the provisions of this ordinance
 6. Class 6: Delivery - Light Industrial Zone District (LI)
- b) Maximum number of facilities.
1. A maximum total of five (5) cannabis facilities operating under Classes 1, 2, 3, 4 and/or 6 shall be permitted within the City. By way of clarification, five (5) licenses total are permitted under this section, not five (5) licenses with respect to each class.
 2. A maximum of five (5) retail cannabis business establishments, operating under Class 5, shall be permitted within the City.
- c) Distance requirements.
1. In addition to any other requirements and limitations established by the Commission from time to time, no retail cannabis business shall be located within:
 - i. a 250 foot radius of any other retail cannabis business; or
 - ii. a 100 foot radius of any residential zoning district.
 2. Distances shall be measured from the property lines of the cannabis business site.
- d) Parking and loading.
1. Parking requirements for retail cannabis businesses:
 - i. A retail cannabis business establishment shall be required to provide no less than 1 space per 300 square feet of gross floor area.
 - ii. Retail cannabis businesses shall also follow the parking regulations set forth in Sections 17:9-42 and 17:11-15 of the City’s Land Use Ordinance, unless such establishments are located within an area governed by a redevelopment plan, in which case the parking standards set forth in the redevelopment plan shall control.
 - iii. Parking requirements may be satisfied through an off-site parking arrangement. A retail cannabis business establishment may lease parking spaces from the Plainfield Parking Utility’s municipal parking lots.
 2. Parking requirements for all other cannabis businesses:

- i. All non-retail cannabis businesses shall be required to provide no less than 1 space per 1,000 square feet of gross floor area.
 - ii. All non-retail cannabis businesses shall also follow the parking regulations set forth in Sections 17:9-42 and 17:11-15 of the City’s Land Use Ordinance.
 3. Loading requirements:
 - i. A retail cannabis business establishment shall adhere to Section 17:11-13 of the City’s Land Use Ordinance regarding required loading areas for commercial uses.
 - ii. All non-retail cannabis businesses shall adhere to Section 17:11-13 of the City’s Land Use Ordinance regarding required loading areas for light industrial and warehouses.
- e) Signage and display of products.
 1. Each business shall be permitted one (1) sign.
 2. The following words shall be prohibited from appearing on any sign: “cannabis”, “marijuana”, “pot”, “weed” and any other commonly known nickname of cannabis.
 3. Signage shall comply with the City’s 2018 Signage Ordinance, as may be amended from time to time.
 4. No cannabis products shall be displayed in any windows or doors.
- f) Operational requirements.
 1. Public consumption of cannabis products is prohibited, except that consumption lounges are permitted as specifically set forth herein. “Consumption Lounges” are defined as the public consumption of cannabis products purchased from the Class 5 retail cannabis business onsite and attached to that Consumption Lounge, which complies with the following:
 - i. Consumption of cannabis products not purchased from the onsite retail cannabis business is prohibited.
 - ii. The entire perimeter of the Consumption Lounge, whether indoors or outdoors, shall be enclosed and secure and only accessible internally via the cannabis retail business principal building, except for emergency exits.
 2. All cannabis businesses shall be subject to health and safety review, inspection, and enforcement, including but not limited to an annual health and safety review and inspection, by the City’s Quality of Life Task Force.

3. In addition to the protocol of the Quality of Life Task Force, all cannabis businesses shall abide by N.J.A.C. Subchapter 17: Monitoring, enforcement actions, and appeal rights.
4. Any cannabis business conducting deliveries to a residential dwelling shall adhere to *N.J.A.C. 17:30-12.8*.
5. A cannabis business operations manual is required for any cannabis business as outlined in *N.J.A.C. 17:30-9.6*.
6. Any cannabis microbusiness, as defined in the Cannabis Regulations shall comply with *N.J.A.C. 17:30-6.7*. A cannabis microbusiness shall be limited to 10 employees and premises no larger than 2,500 square feet.
7. All cannabis businesses shall comply with the following regarding odor:
 - i. A cannabis business shall provide an odor management plan, which shall contain details for air treatment and exhaust.
 - ii. All cannabis businesses must provide adequate HVAC air quality equipment.
 - iii. Cannabis odor must not permeate outside any cannabis business establishment. This must be demonstrated in the odor management plan.
 - iv. All cannabis businesses shall adhere to generally applicable City ordinances regulating odor emissions.
 - v. All retail cannabis businesses must follow the protocols set forth in the Clean Air Act.
8. All cannabis businesses shall comply with the following regarding noise:
 - i. All cannabis businesses shall adhere to all generally applicable noise ordinances and regulations of the City.
 - ii. All non-retail cannabis businesses shall take such sound mitigation measures as may be necessary, including but not limited to the installation of insulation if appropriate.
 - iii. All non-retail cannabis businesses shall adhere to the requirements of *N.J.A.C. 7:29*.
9. All cannabis businesses shall comply with the following hours of operation and security requirements:
 - i. All retail cannabis businesses shall adhere to the generally applicable hours of operation for retail businesses within the City. All Cannabis Lounges shall adhere to the generally applicable hours of operation for bars within the City. At least one (1) licensed security guard shall be onsite at all times during a retail cannabis business's hours of operation.

All patrons must be screened by said security employee and patrons must demonstrate proof of minimum age (21 years old).

- ii. All non-retail cannabis businesses shall adhere to the generally applicable hours of operation for manufacturing and light industrial businesses within the City.
- iii. Security alarm system installation must follow the requirements as proscribed in *N.J.A.C. 17:30-9.10*.

10. All cannabis businesses shall comply with the following capacity restrictions:

- i. A maximum of 30 patrons per 1,500 square feet of gross floor area shall be permitted in any retail cannabis business establishment. By way of clarification, floor area which is not accessible to customers (e.g., storage) shall not be included in the gross floor area for purposes of this calculation. The business's security employees shall monitor patron capacity and restrict entry if necessary.
- ii. The capacity of all non-retail cannabis businesses shall be governed by the generally applicable requirements for manufacturing and light industrial businesses within the City.

11. All cannabis retail businesses shall adhere to *N.J.A.C. 17:30-12.4* with regard to curbside retail sales.

12. All cannabis retailers shall be prohibited from the cultivation, production, manufacture, or any other action in the creation of cannabis products.

13. All cannabis businesses shall adhere to *N.J.A.C. 17:30-9.12* regarding storage. All cannabis retail businesses shall adhere to *N.J.A.C. 17:30.12.7* regarding storage.

14. All cannabis businesses shall follow inventory regulations as set forth in *N.J.A.C. 17:30-9.13*.

IV. FEES

The City's Land Use and Development Ordinance and any redevelopment plans inconsistent herewith are hereby amended as follows:

- a) Application fees: Cannabis businesses shall be subject to an application fee, as enumerated in the following table:

Class	Application Fee	Microbusiness Application Fee
1 – Cultivation	\$2,500	\$1,000

2 - Manufacture	\$2,500	\$1,000
3 - Wholesale	\$2,500	\$1,000
4 - Distribution	\$2,500	\$1,000
5 - Retail	\$2,500	\$1,000
6 – Delivery	\$1,500	\$1,000

b) Annual license fees: Upon issuance of the initial City license and every year thereafter, cannabis businesses shall be subject to an annual fee as enumerated in the following table:

Class	Regular License	Microbusiness License
1 – Cultivation	\$7,500	\$1,500
2 - Manufacture	\$7,500	\$1,500
3 - Wholesale	\$7,500	\$1,500
4 - Distribution	\$7,500	\$1,500
5 - Retail	\$5,000; plus an additional \$2,500 will be required for consumption.	\$1,500
6 – Delivery	\$5,000	\$1,500

V. PREVIOUS ORDINANCE; REDEVELOPMENT PLAN AMENDMENTS

This Ordinance amends and restates Ordinance MC 201-24 adopted on August 21, 2021. All redevelopment plans are hereby amended to the extent they are inconsistent herewith.

VI. SEVERABILITY

If any part of this Ordinance shall be deemed invalid, such parts shall be severed and the invalidity thereby shall not affect the remaining parts of this Ordinance.

VII. EFFECTIVE DATE

This Ordinance shall take effect in accordance with law.