

ORDINANCE NO. 21-34

AN ORDINANCE TO FURTHER AMEND AND SUPPLEMENT THE LAND DEVELOPMENT ORDINANCE OF THE TOWNSHIP OF NEPTUNE BY DEFINING AND REGULATING CANNABIS CLASS USES

BE IT ORDAINED, by the Township Committee of the Township of Neptune that the Land Development Ordinance be and is hereby amended as follows:

SECTION 1.

Section 201 – DEFINITIONS – is hereby amended to add the following:

Cannabis - means 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 as set forth in this act, 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" does not include: medical cannabis dispensed to registered qualifying patients pursuant to the "Jake Honig Compassionate Use Medical Cannabis Act," P.L.2009, c.307 (C.24:6I-1 et al.) and P.L.2015, c.158 (C.18A:40-12.22 et al.); marijuana as defined in N.J.S.2C:35-2 and applied to any offense set forth in chapters 35, 35A, and 36 of Title 2C of the New Jersey Statutes, or P.L.2001, c.114 (C.2C:35B-1 et seq.), or marihuana as defined in section 2 of P.L.1970, c.226 (C.24:21-2) and applied to any offense set forth in the "New Jersey Controlled Dangerous Substances Act," P.L.1970, c.226 (C.24:21-1 et al.); or hemp or a hemp product cultivated, handled, processed, transported, or sold pursuant to the "New Jersey Hemp Farming Act," P.L.2019, c.238 (C.4:28-6 et al.). (This definition is intended to correlate with Cannabis Class Uses as developed and updated by the State of New Jersey)

Cannabis Consumption Area - means, as further described in section 28 of P.L.2019, c.153 (C.24:6I-21), a designated location operated by a licensed cannabis retailer or permit holder for dispensing medical cannabis, for which both a State and local endorsement has been obtained, that is either: (1) an indoor, structurally enclosed area of the cannabis retailer or permit holder that is separate from the area in which retail sales of cannabis items or the dispensing of medical cannabis occurs; or (2) an exterior structure on the same premises as the cannabis retailer or permit holder, either separate from or connected to the cannabis retailer or permit holder, at which cannabis items or medical cannabis either obtained from the retailer or permit holder, or brought by a person to the consumption area, may be consumed. (This definition is intended to correlate with Cannabis Class Uses as developed and updated by the State of New Jersey)

Cannabis Cultivator - means any licensed person or entity that grows, cultivates, or produces cannabis in this State, 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. (This definition is intended to correlate with Cannabis Class Uses as developed and updated by the State of New Jersey)

Cannabis Delivery Service - means 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. (This definition is intended to correlate with Cannabis Class Uses as developed and updated by the State of New Jersey)

Cannabis Distributor - means 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. (This definition is intended to correlate with Cannabis Class Uses as developed and updated by the State of New Jersey)

Cannabis establishment - means a cannabis cultivator, a cannabis manufacturer, a cannabis wholesaler, or a cannabis retailer. (This definition is intended to correlate with Cannabis Class Uses as developed and updated by the State of New Jersey)

Cannabis manufacturer - means 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." (This definition is intended to correlate with Cannabis Class Uses as developed and updated by the State of New Jersey)

Cannabis product - means 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. (This definition is intended to correlate with Cannabis Class Uses as developed and updated by the State of New Jersey)

Cannabis resin - means the resin extracted from any part of the plant *Cannabis sativa* L., including cannabis extract and resin extracted using non-chemical processes, processed and used in accordance with P.L.2021, c.16 (C.24:6I-31 et al.). "Cannabis resin" does not include: any form of medical cannabis dispensed to registered qualifying patients pursuant to the "Jake Honig Compassionate Use Medical Cannabis Act," P.L.2009, c.307 (C.24:6I-1 et al.) and P.L.2015, c.158 (C.18A:40-12.22 et al.); hashish as defined in N.J.S.2C:35-2 and applied to any offense set forth in chapters 35, 35A, and 36 of Title 2C of the New Jersey Statutes, or P.L.2001, c.114 (C.2C:35B-1 et seq.), or as defined in section 2 of P.L.1970, c.226 (C.24:21-2) and applied to any offense of the "New Jersey Controlled Dangerous Substances Act," P.L.1970, c.226 (C.24:21-1 et al.); or hemp or a hemp product cultivated, handled, processed, transported, or sold pursuant to the "New Jersey Hemp Farming Act," P.L.2019, c.238 (C.4:28-6 et al.). (This definition is intended to correlate with Cannabis Class Uses as developed and updated by the State of New Jersey)

Cannabis retailer - means 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. (This definition is intended to correlate with Cannabis Class Uses as developed and updated by the State of New Jersey)

Cannabis testing facility - means 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. (This definition is intended to correlate with Cannabis Class Uses as developed and updated by the State of New Jersey)

Cannabis wholesaler - means 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. (This definition is intended to correlate with Cannabis Class Uses as developed and updated by the State of New Jersey)

Commission - means the Cannabis Regulatory Commission established pursuant to section 31 of P.L.2019, c.153 (C.24:6I-24). (This definition is intended to correlate with Cannabis Class Uses as developed and updated by the State of New Jersey)

Conditional license - means a temporary license designated as either a Class 1 Cannabis Cultivator license, a Class 2 Cannabis Manufacturer license, a Class 3 Cannabis Wholesaler license, a Class 4 Cannabis Distributor license, a Class 5 Cannabis Retailer license, or a Class 6 Cannabis Delivery license that allows the holder to lawfully act as a cannabis cultivator, cannabis manufacturer, cannabis wholesaler, cannabis distributor, cannabis retailer, or cannabis delivery service as the case may be, which is issued pursuant to an abbreviated application process, after which the conditional license holder shall have a limited period of time in which to become fully licensed by satisfying all of the remaining conditions for licensure which were not required for the issuance of the conditional license. (This definition is intended to correlate with Cannabis Class Uses as developed and updated by the State of New Jersey)

Consumption - means the act of ingesting, inhaling, or otherwise introducing cannabis items into the human body. (This definition is intended to correlate with Cannabis Class Uses as developed and updated by the State of New Jersey)

Delivery - means the transportation of cannabis items and related supplies to a consumer. "Delivery" also includes the use by a licensed cannabis retailer of any third party technology platform to receive, process, and fulfill orders by consumers, which third party shall not be required to be a licensed cannabis establishment, distributor, or delivery service, provided that any physical acts in connection with fulfilling the order and delivery shall be accomplished by a certified cannabis handler performing work for or on behalf of the licensed cannabis retailer, which includes a certified cannabis handler employed or otherwise working on behalf of a cannabis delivery service making off-premises deliveries of consumer purchases fulfilled by that cannabis retailer. (This definition is intended to correlate with Cannabis Class Uses as developed and updated by the State of New Jersey)

License - means a license issued under P.L.2021, c.16 (C.24:6I-31 et al.), including a license that is designated as either a Class 1 Cannabis Cultivator license, a Class 2 Cannabis Manufacturer license, a Class 3 Cannabis Wholesaler license, a Class 4 Cannabis Distributor license, a Class 5 Cannabis Retailer license, or a Class 6 Cannabis Delivery license. The term includes a conditional license for a designated class, except when the context of the provisions of P.L.2021, c.16 (C.24:6I-31 et al.) otherwise intend to only apply to a license and not a conditional license. (This definition is intended to correlate with Cannabis Class Uses as developed and updated by the State of New Jersey)

Licensee - means a person or entity that holds a license issued under P.L.2021, c.16 (C.24:6I-31 et al.), including a license that is designated as either a Class 1 Cannabis Cultivator license, a Class 2 Cannabis Manufacturer license, a Class 3 Cannabis Wholesaler license, a Class 4 Cannabis Distributor license, a Class 5 Cannabis Retailer license, or a Class 6 Cannabis Delivery license, and includes a person or entity that holds a conditional license for a designated class, except when the context of the provisions of P.L.2021, c.16 (C.24:6I-31 et al.) otherwise intend to only apply to a person or entity that holds a license and not a conditional license. (This definition is intended to correlate with Cannabis Class Uses as developed and updated by the State of New Jersey)

Licensee representative - means an owner, director, officer, manager, employee, agent, or other representative of a licensee, to the extent that the person acts in a representative capacity. (This definition is intended to correlate with Cannabis Class Uses as developed and updated by the State of New Jersey)

Manufacture - means the drying, processing, compounding, or conversion of usable cannabis into cannabis products or cannabis resins. "Manufacture" does not include packaging or labeling. (This definition is intended to correlate with Cannabis Class Uses as developed and updated by the State of New Jersey)

Mature cannabis plant - means a cannabis plant that is not an immature cannabis plant. (This definition is intended to correlate with Cannabis Class Uses as developed and updated by the State of New Jersey)

Medical cannabis - means cannabis dispensed to registered qualifying patients pursuant to the "Jake Honig Compassionate Use Medical Cannabis Act," P.L.2009, c.307 (C.24:6I-1 et al.) and P.L.2015, c.158 (C.18A:40-12.22 et al.). "Medical cannabis" does not include any cannabis or cannabis item which is cultivated, produced, processed, and consumed in accordance with P.L.2021, c.16 (C.24:6I-31 et al.). (This definition is intended to correlate with Cannabis Class Uses as developed and updated by the State of New Jersey)

Microbusiness - means a 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. (This definition is intended to correlate with Cannabis Class Uses as developed and updated by the State of New Jersey)

Noncommercial - means not dependent or conditioned upon the provision or receipt of financial consideration. (This definition is intended to correlate with Cannabis Class Uses as developed and updated by the State of New Jersey)

Premises or **Licensed Premises** - includes the following areas of a location licensed under P.L.2021, c.16 (C.24:6I-31 et al.): all public and private enclosed areas at the location that are used in the business operated at the location, including offices, kitchens, rest rooms, and storerooms; all areas outside a building that the Cannabis Regulatory Commission has specifically licensed for the production, manufacturing, wholesaling, distributing, retail sale, or delivery of cannabis items; and, for a location that the commission has specifically licensed for the production of cannabis outside a building, the entire lot or parcel that the licensee owns, leases, or has a right to occupy. (This definition is intended to correlate with Cannabis Class Uses as developed and updated by the State of New Jersey)

SECTION 2.

Section 415.21 – CANNABIS CLASS USES – is hereby added as follows:

Cannabis Class uses, (other than Alternative Treatment Centers) shall be permitted in the C-1 Zoning District provided the following supplementary regulations are met:

- A Hours of Operation. Cannabis Class uses are permitted the following hours of operation:
 - 1 Monday thru Saturday: 9 AM to 10 PM;
 - 2 Sunday: Closed
- B Location. The permitted location of such uses shall be in accordance with the current NJ State requirements in addition to the following:
 - 1 Located within the C-1 and LI Zoning Districts;
 - 2 Has frontage on Route 66, Asbury Avenue, Neptune Boulevard, or Route 18;
 - 3 Is not located less than 1,000 feet from a school or daycare on the same side or opposite of the street.
- C Permitted Classes of Licenses (as defined by the State of NJ). The following classes or combination of are permitted:
 - 1 Class 1 – Cannabis Cultivator
 - 2 Class 2 – Cannabis Manufacturer
 - 3 Class 3 – Cannabis Wholesaler
 - 4 Class 4 – Cannabis Distributor
 - 5 Class 5 – Cannabis Retailer
 - 6 Class 6 – Cannabis Delivery Service
- D Quantity. The maximum permitted number of recreational cannabis retail establishments within the Municipality is three (3).
- E Penalties. Refer to Land Development Ordinance section 1105.
- F Cannabis Consumption Areas. Cannabis Consumption Areas are prohibited.

SECTION 3.

Section 404.04 – C-1 – Planned Commercial Development, is hereby amended to add the Cannabis Class Use(s) as a Conditional Use.

SECTION 4.

Section 404.11 – LI – Light Industrial, is hereby amended to add the Cannabis Class Use(s) as a Conditional Us.

SECTION 5.

The remainder of all other sections and subsections of the aforementioned ordinance not specifically amended by this Ordinance shall remain in full force and effect.

SECTION 6.

All other Ordinances or parts thereof inconsistent with the provisions of this Ordinance are hereby repealed as to such inconsistency.

SECTION 7.

If any section, paragraph, subdivision, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudged and the remainder of this Ordinance shall be deemed valid and effective.

SECTION 8.

This Ordinance shall take effect upon its passage and publication according to law.

APPROVED ON FIRST READING: June 28, 2021

APPROVED, PASSED, AND ADOPTED: July 26, 2021

Richard J. Cuttrell,
Municipal Clerk

Dr. Michael Brantley,
Mayor