

T Enteado

Email Correspondence
April 20 - May 11th

From: Frank Corrado <fcorrado@capelegal.com>
Sent: Tuesday, May 11, 2021 11:43 AM
To: Frank Marshall
Cc: C Sabo
Subject: RE: West Cape May cannabis questions

Sample ordinance attached

EMAIL REDACTED
ATTORNEY CLIENT PRIVILEGE

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

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

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

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

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

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

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

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

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

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

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

33-2.2 Definition of Terms.

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

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

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

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

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

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

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

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

a. Permitted Uses.

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

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

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

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

a. Permitted uses.

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

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

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

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

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

a. Permitted uses.

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

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

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

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

a. Permitted uses.

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

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

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

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

a. Permitted uses.

- 1. No change
- 2. No change

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

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

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

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

a. Permitted Principal Uses.

1. No change
2. No change
3. No change
4. No change
5. No change
6. No change
7. No change
8. ****Cannabis suppliers or cannabis retailers licensed by the State of New Jersey and the City of Bayonne.****

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

SECTION 10. LICENSING, REGISTRATION AND BUSINESS REGULATIONS AMENDMENT

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

****4-30 Cannabis Establishments**

The regulations of this Ordinance are subject to the enabling authority of the State of New Jersey and are subject to compliance with all statutes and/or regulations adopted by the State of New Jersey or its instrumentalities, including the Cannabis Regulatory Commission. If any provision of this Ordinance is inconsistent with state statutes and/or regulations, the state statutes and/or regulations shall prevail.

4-30.1 Definitions

CANNABIS ESTABLISHMENT. A Cannabis Supplier or Cannabis Retailer.

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

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

4-30.2 Licensing

- a. Local licensing authority.

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

2. The applicant shall submit an affidavit and documentary proof of compliance with all state and local laws regarding affirmative action, anti-discrimination and fair employment practices. The applicant shall also certify under oath that they will not and shall not discriminate based on race, color, religion (creed), gender, gender expression, age, national origin (ancestry), disability, marital status, sexual orientation, or military status, in any of its activities or operations.
3. The location proposed for licensing by the applicant shall comply with all applicable municipal zoning laws and the location restrictions set forth in this Code.
4. The applicant shall submit, to the satisfaction of the Administrator, proof of financial capability to open and operate the marijuana establishment for which the applicant is seeking a license. Standards for proof of financial capability shall be determined by the Administrator.
5. The applicant shall submit all required nonrefundable fees for the application and conditional license in accordance with the following fee schedule:

Class I:	\$10,000 Cannabis supplier license (grower)
Class II:	\$10,000 Cannabis supplier license (processor)
Class III:	\$5,000 Cannabis retailer license
6. The applicant shall submit all annual registration fees required in accordance with the following fee schedule, which shall be refunded in the event the applicant does not receive a license:

Class I:	\$40,000 per year Cannabis supplier license (grower)
Class II:	\$20,000 per year Cannabis supplier license (processor)
Class III:	\$10,000 per year Cannabis retailer license
7. In addition to complying with any State requirement related to good character and criminal background, any person proposed to have an ownership interest in the license shall not have had any cannabis license or permit revoked for a violation affecting public safety in the State of New Jersey or a subdivision thereof within the preceding five (5) years.
8. The applicant and the application shall otherwise comply with any, and all qualification standards set forth in the State and City laws or regulations.
9. In the event there are multiple applicants for a license, the Administrator shall evaluate all applicants and issue a notification of award after consideration and evaluation of the following criteria:
 - (a) Applicant's owners' or principals' qualifications and experience operating in highly regulated industries, including cannabis, healthcare, pharmaceutical manufacturing, and retail pharmacies, with preference to experience operating

such businesses within the State of New Jersey and where the value of owners' experience shall outweigh the experience of non-owner principals (twenty percent, not to exceed 2,500 words);

- (b) Applicant's qualifications and experience related to public safety and security, including any of the applicant's owners' or principals' experience in law enforcement and drug enforcement (five percent, not to exceed 1,000 words), and a summary of the applicant's plans for storage of products and currency, physical security, video surveillance, security personnel, and visitor management (five percent, not to exceed 2,500 words);
- (c) Applicant's or its owners' experience conducting or supporting or plans to conduct institutional review board-approved research involving human subjects that is related to medical cannabis or substance abuse, where the value of past or ongoing clinical research with IRB approval shall outweigh plans to conduct such research (five percent, not to exceed 2,500 words), whether the applicant has had any assurance accepted by the U.S. Department of Health & Human Services indicating the applicant's commitment to complying with 45 CFR Part 46 (five percent), and whether the applicant has a research collaboration or partnership agreement in effect with an accredited U.S. school of medicine or osteopathic medicine with experience conducting cannabis-related research (five percent);
- (d) Applicant's or its owners' demonstrated commitment or sufficient experience as responsible employers, defined as the applicant entity being a party to a labor peace agreement or the applicant entity or its parent company being a party to a collective bargaining agreement in the regulated cannabis industry for at least one year prior to application for a Cannabis Establishment license, in an effort to create well-paying jobs with employee benefits in the municipality (twenty percent in total; five points for labor peace, full twenty points for collective bargaining agreement in effect for at least one year);
- (e) Summary of the applicant's environmental impact and sustainability plan (four percent, not to exceed 500 words); whether the applicant entity or its parent company has any recognitions from or registrations with federal or New Jersey state environmental regulators for innovation in sustainability (three percent); and whether the applicant entity or its parent company holds any certification under international standards demonstrating the applicant has an effective environmental management system or has a designated sustainability officer to conduct internal audits to assess the effective implementation of an environmental management system (three percent);
- (f) Applicant's ties to the host community, demonstrated by at least one shareholder's proof of residency in Bayonne for five or more years in the past ten years or at least one shareholder's continuous ownership of a business

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

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

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

e. Term of license and license renewals.

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

40-30.3 Disciplinary Actions; Sanctions; Penalties

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

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

40-30.4 Reserved

40-30.5 Reserved**

SECTION 11. Any and all ordinances or parts thereof in conflict or inconsistent with this Ordinance are hereby repealed, but only to the extent of such conflict or inconsistency, it being the legislative intent that all such ordinances or part of ordinances now existing or in effect unless the same are in conflict or inconsistent with any provision of this Ordinance shall remain in effect.

SECTION 12. The provisions of this Ordinance are declared to be severable and if any section, subsection, sentence, clause or phrase thereof for any reason be held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses and phrases of this Ordinance, but shall remain in effect; it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

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

SECTION 14. This Ordinance shall be a part of the General Ordinances of the City of Bayonne as though codified and fully set forth therein. The City Clerk shall have this Ordinance codified and incorporated in the official copies of the City Code. The City Clerk and the City Attorney are authorized and directed to change any Chapter, Article and/or Section number of the General Ordinances of the City of Bayonne in the event that the codification of this Ordinance reveals that there is a conflict between the numbers and the existing Code, and in order to avoid confusion and possible accidental repeal of existing provisions not intended to be repealed.

ORDINANCE NO. 2021-04

AN ORDINANCE OF THE TOWN OF HACKETTSTOWN, COUNTY OF WARREN AND STATE OF NEW JERSEY, AMENDING THE LAND DEVELOPMENT ORDINANCE AND PERMITTING THE OPERATION OF CANNABIS CULTIVATION OR MANUFACTURING BUSINESSES WITHIN ITS GEOGRAPHICAL BOUNDARIES

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, Public Question No. 1 was approved by the voters of Hackettstown by a margin of 3,009 (63.3%) in favor and 1,742 (36.6%) opposed; 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, for facilities involved in growing and cultivating cannabis;
- Class 2 Cannabis Manufacturer license, for facilities involved in the manufacturing, preparation, and packaging of cannabis items;
- Class 3 Cannabis Wholesaler license, for facilities involved in obtaining and selling cannabis items for later resale by other licensees;
- Class 4 Cannabis Distributor license, for businesses involved in transporting cannabis plants in bulk from one licensed cultivator to another licensed cultivator, or cannabis items in bulk from any type of licensed cannabis business to another;
- Class 5 Cannabis Retailer license for locations at which cannabis items and related supplies are sold to consumers; and
- Class 6 Cannabis Delivery license, for businesses providing courier services for consumer purchases that are fulfilled by a licensed cannabis retailer in order to make deliveries of the purchases items to a consumer, and which service would include the ability of a consumer to make a purchase directly through the cannabis delivery service which would be presented by the delivery service for fulfillment by a retailer and then delivered to a consumer.

WHEREAS, section 31a of the Act authorizes municipalities by ordinance to adopt ordinances or 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 of operation of such establishments and distributors, but not the time of operation of delivery services, and establishing civil penalties for the violation of any such regulations; and

WHEREAS, section 31b of the Act requires municipalities that wish to prohibit or regulate one or more classes of cannabis-related activities do so only pursuant to an ordinance enacted pursuant to the specific authority to do so by section 31b, and invalidates any ordinance prohibiting one or more types of cannabis-related activities within the jurisdiction of the municipality enacted prior to February 22, 2021 as null and void,

WHEREAS, section 31b of the Act authorizes municipalities by ordinance to prohibit the operation of any one or more classes of cannabis establishments, distributors, or delivery services anywhere in the municipality, but not to prohibit the delivery of cannabis items and related supplies by a delivery service; and

WHEREAS, section 31b of the Act also stipulates, however, that any municipal regulation or prohibition must be adopted within 180 days of the effective date of the Act (*i.e.*, by August 22, 2021); and

WHEREAS, pursuant to section 31b of the Act, the failure to do so shall mean that for a period of five years thereafter, the growing, cultivating, manufacturing, selling and reselling of cannabis and cannabis items shall be permitted uses in all industrial zones, and the retail selling of cannabis items to consumers shall be a conditional use in all commercial and retail zones; and

WHEREAS, at the conclusion of the initial and any subsequent five-year period following a failure to enact local regulations or prohibitions, the municipality shall again have 180 days to adopt an ordinance regulating or prohibiting cannabis businesses, but any such ordinance would be prospective only and would not apply to any cannabis business already operating within the municipality; and

WHEREAS, section 40 of the Act permits a municipality to 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 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 to set its own rate or rates, but in no case exceeding: two percent of the receipts from each sale by a cannabis cultivator; two percent of the receipts from each sale by a cannabis manufacturer; one percent of the receipts from each sale by a cannabis wholesaler; and two percent of the receipts from each sale by a cannabis retailer; and

WHEREAS, the Council has determined that allowing and regulating one or more classes of cannabis business within Hackettstown is at this time necessary and appropriate, and in the best interest of the health, safety and welfare of Hackettstown’s residents and members of

the public who visit, travel, or conduct business in Hackettstown and amending its Land Development Ordinance to permit such cannabis-related activities, including land use and development, specified herein within certain geographic boundaries within Hackettstown, is also necessary and appropriate;

NOW THEREFORE, BE IT ORDAINED, by the Town Council of the Hackettstown, in the County of Warren, State of New Jersey, as follows:

1. Pursuant to section 31b of the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (P.L. 2021, c. 16), all cannabis establishments, are hereby prohibited from locating in Hackettstown except as provided herein and subject to the number, time, manner and land use restrictions set forth herein, as may be amended from time to time.

2. The cultivation, manufacturing and sale of cannabis and cannabis products to another licensed cannabis-related business (but not to consumers) shall be permitted as a conditional use in the LM Light Manufacturing district.

3. Section 105 of the Land Development Ordinance is hereby readopted and amended as follows:

105 Prohibited Uses.

A. All uses not expressly permitted in this Ordinance are prohibited. Additionally, no more than one (1) principal building shall be situated on any lot unless specifically permitted by this Ordinance.

B. Cannabis cultivation, manufacturing, production, wholesaling, distribution, testing, retail and delivery facilities are prohibited in all zone districts, except that cannabis cultivation and manufacturing facilities may be allowed in the LM Limited Manufacturing Zone as a Conditional Use under N.J.S.A. 40:55D-67 (see Section 601O for standards).

4. Section 200 of the Land Development Ordinance entitled "Definitions and Descriptions" is amended and supplemented to add the following definitions:

"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 the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act., P.L.2021, c.16 (C. 24:6L-1 et sdeq.) for use in cannabis products, and medical cannabis intended for consumption by 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.); but shall under no circumstance include marijuana as defined in N.J.S.2C:35-27 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 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.).

“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. A cannabis cultivator that is also licensed to sell cannabis and cannabis products to the public outside the Town shall nevertheless be permitted to engage in cannabis cultivation in the Town.

“Cannabis item” means any usable cannabis, cannabis product, cannabis extract, and any other cannabis resin including any form of medical cannabis intended for consumption by registered qualifying patients pursuant to the “Jake Honig Compassionate Use Medical Cannabis 5 Act,” P.L.2009, c.307 (C.24:6I-1 et al.) and P.L.2015, c.158 6 (C.18A:40-12.22 et al.).

“Cannabis manufacturer” means any licensed person or entity that processes cannabis items 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. A cannabis manufacturer that is also licensed to sell cannabis and cannabis products to the public in locations outside the Town shall nevertheless be permitted to engage in cannabis manufacturing in the Town.

“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.

“Manufacture” means the drying, processing, compounding, or conversion of usable cannabis into cannabis products or cannabis resins.

5. Section 408 of the Land Development Ordinance is hereby amended to add as follows:

A. Principal Permitted Use on the Land and in Buildings

... 16. Cannabis cultivation and cannabis manufacturing facilities as a conditional use under N.J.S.A. 40:55D-67 (See Section 601O for standards).

B. Accessory Uses Permitted

- ... 9. Storage, packaging, distribution and testing of cannabis and cannabis products by a cannabis cultivator or cannabis manufacturer incident to cultivation and manufacturing activities licensed by the State of New Jersey.
10. Renewable or sustainable energy equipment for use in conjunction with the licensed activities of a cannabis cultivator or cannabis manufacturer, including but not limited to roof- or ground-mounted solar arrays, battery storage and associated mechanical and electrical equipment.
6. Section 601 of the Land Development Ordinance is hereby amended to add as follows:

...
O.

Cannabis Cultivation and Manufacturing

1. A cannabis cultivation and/or manufacturing facility use shall be permitted in the LM District provided the following conditions, to the extent not inconsistent with State law or regulation, are met:
 - a. The facility shall meet all of the requirements for licensure by the New Jersey Cannabis Regulatory Commission and/or the New Jersey Department of Health.
 - b. Enclosed building: All cultivation, manufacturing, storage and distribution activities shall take place within enclosed building or greenhouse structures. The facility shall be the sole occupant of its building.
 - c. Fencing: All structures utilized for any cultivation, manufacturing, storage or distribution of cannabis shall be enclosed by a fence at least seven feet high.
 - d. Security: All structures shall be designed, using safety and security barriers, to prevent the unlawful and unauthorized entry into the structures as prescribed by State law.
 1. There shall be controlled access to the site, with 24/7 on-site video monitoring of the exterior and interior of the facility, which video shall be retained and stored for the period prescribed by State law, but in no case shall such video be retained and stored for less than 30 days.
 2. Plans and reports depicting or describing access and security details information concerning the facility shall be deemed and protected as confidential security documents, exempt from disclosure as public records.
 - e. There shall be no direct sales to the public from the property. Nothing herein shall permit the retail sale of cannabis or marijuana products, the dispensing of cannabis or marijuana product, or the direct point sale or distribution of marijuana products except to other cannabis businesses licensed by the State.

- f. Noise: Cannabis cultivation and manufacturing facilities shall operate in compliance with state and local noise laws and regulations, except in emergency situations requiring the use of a backup generator.
- g. Odor: Cannabis cultivation and manufacturing operations shall utilize available technology to filter and recirculate air, so that odors are not discernable by a reasonable person beyond the property line.
- h. Location: One thousand (1,000) linear feet measured from the lot line of the school or college/university facility to the nearest portion of the building containing a cannabis use. The subsequent approval of a school or any other facility in proximity to the cannabis use shall not render any existing cannabis business a nonconforming use.
- i. Emergency power: Cannabis cultivation and manufacturing operations shall have a backup generator, capable of maintaining at a minimum all electronic security systems in the event of a power failure.
- j. Signs: Cannabis cultivation and manufacturing facilities shall only be permitted to have one sign, displaying the site address only, in compliance with sign requirements for the LM Zone.
- k. Lighting: No light generated by any cannabis cultivation and manufacturing activities shall result in measurable light changes at the nearest property boundary to each structure.
- l. Consumption: No cannabis or cannabis product shall be smoked, eaten or otherwise consumed on the premises of any cannabis cultivation or manufacturing facility.

7. **Alternative Treatment Centers:** Notwithstanding any other provision of law, an alternative treatment center cultivation and/or processing facility previously authorized to locate and operate in the municipality shall be deemed a permitted use and may undertake the activities of a cannabis cultivator or cannabis manufacturer, as the case may be, upon demonstrating compliance with the requirements of the Act and under this ordinance governing such operations and a resolution adopted by a majority of the governing body.

8. **Coordination of Safety and Security Measures.** Any applicant for a cannabis cultivation or cannabis manufacturing facility shall coordinate with the Chief of Police, or his or her designee, regarding the measures to be taken to ensure the security of the facility and the safety of the public and facility employees. Such measures may include, but are not limited to, facility access controls, surveillance systems, and site lighting consistent with the requirements of State law.

9. **Inspection:** Subject to the requirements and limitations of state law, the municipality shall have the reasonable right to inspect the premises of any approved dispensary, cannabis cultivation or cannabis manufacturing facility during its regular hours of operation to ensure compliance with local ordinances and regulations.

10. **Public Nuisance Declared:** Operation of any prohibited or unpermitted cannabis business establishment within the municipality in violation of the provisions of this Chapter is hereby declared a public nuisance and shall be abated pursuant to all available remedies.

11. **Enforcement:** Violations of the provisions and requirements set forth or referenced herein may be enforced in any manner the municipality deems appropriate, including but not limited to bringing an appropriate ordinance enforcement action. When an ordinance enforcement action is brought, the General Penalty provisions of Town Code, as amended from time to time, shall apply. In addition to any other remedies, the Town may institute proceedings for injunction, mandamus, abatement or other appropriate remedies to prevent, enjoin, abate or remove any violations of this ordinance. The rights and remedies provided herein are civil in nature. The imposition of a fine shall not exempt the violator from compliance with the provisions of this ordinance.

12. **Governing Body Approval of Applications:** Whenever the Cannabis Regulatory Commission established by the Act (the "Commission") forwards to the municipality any application for initial licensing or renewal of an existing license for any cannabis establishment, distributor, or delivery service pursuant to section 19 of the Act or for a cannabis consumption area pursuant to section 28 of P.L.2019, c.153 (C.24:6I-21), or otherwise solicits the position of the municipality on any matter related to cannabis-related activities within the municipality, or upon the request of an applicant for or holder of such license, the governing body shall determine whether the application complies with the municipality's restrictions on the number of cannabis establishments, distributors, or delivery services, and on their location, manner, or times of operation, and promptly inform the Commission, applicant for or holder of a license whether the application complies with same and whether it either approves or denies each application or other request for municipal authorization forwarded to it. Notwithstanding the forgoing, nothing herein shall prohibit any elected or appointed official or employee from expressing their opinions or views on cannabis-related matters in their personal or individual official capacity, or endorsing an applicant for or holder of a license issued by the Commission, provided that such official shall not represent that their opinions or views are those of the municipality unless based on a duly adopted ordinance or resolution of the municipality, or other action of a majority of the governing body.

13. **Transfer Tax Imposed.** There is hereby imposed a transfer tax of two percent 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 manufacturer to another cannabis establishment; and receipts from the retail sales of cannabis items by a cannabis retailer to retail consumers who are 21 years of age or older; and a tax of one percent of the receipts from each sale by a cannabis wholesaler. Such tax shall be collected or paid, and remitted to the municipality 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 municipality by the cannabis retailer selling the cannabis item to that consumer. The transfer 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. No cannabis establishment required to collect a transfer tax

imposed hereunder 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 will be refunded to the cannabis establishment or the consumer.

14. **Tax Liability.** Every cannabis establishment required to collect a transfer 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 from another cannabis establishment or the consumer as if the transfer 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 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 fiscal officer of the municipality shall be joined as a party in any action or proceeding brought to collect the transfer tax or user tax.

15. **Collection of Taxes and Lien.** All revenues collected from a transfer tax imposed by ordinance pursuant to this section shall be remitted to the chief financial officer in the manner prescribed herein. The chief financial officer shall collect and administer any transfer tax imposed by ordinance pursuant to this chapter. The municipality may enforce the payment of delinquent taxes or transfer fees imposed by ordinance pursuant to this section in the same manner as provided for municipal real property taxes. In the event that the transfer tax imposed by ordinance pursuant to 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. The 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.

16. **Administration of Transfer Tax.** The chief financial officer is charged with the administration and enforcement of the provisions of this chapter, and is empowered to prescribe, adopt, promulgate and enforce rules and regulations relating to any matter pertaining to the administration and enforcement of this chapter, including provisions for the reexamination and corrections of declarations and returns, and of payments alleged or found to be incorrect, or as to which an overpayment is claimed or found to have occurred, and to prescribe forms necessary for the administration of this chapter. Should a cannabis establishment fail or refuse to provide adequate information to the chief financial officer to determine the amount of tax due, the chief financial officer may use information provided to the chief financial officer from other sources (i.e., the Commission or Department of Treasury) to determine the amount of tax liability.

16.1 It shall be the duty of the chief financial officer to collect and receive the taxes, fines, and penalties imposed by this chapter. It shall also be the duty of the chief financial officer to keep a record showing the date of such receipt. The chief financial officer is authorized to enter into agreements with the State of New Jersey to obtain information to facilitate administration of the tax. The chief financial officer is authorized to issue a ruling upon written request of a taxpayer or upon its own volition.

16.2 The chief financial officer is hereby authorized to examine the books, papers and records of any taxpayer to verify the accuracy of any declaration or return, or if no declaration or return was filed, to ascertain the tax due. Every taxpayer is hereby directed and required to give to the chief financial officer, or to any agent designated by him/her, the means, facilities and opportunity for such examinations and investigations, as are hereby authorized.

17. **Recordkeeping.** Taxpayers liable for the transfer tax are required to keep such records as will enable the filing of true and accurate returns or the tax and such records shall be preserved for a period of not less than three (3) years from the filing date or due date, whichever is later, in order to enable the chief financial officer or any agent designated by him to verify the correctness of the declarations or returns filed. If records are not available in the municipality to support the returns which were filed or which should have been filed, the taxpayer will be required to make them available to the chief financial officer either by producing them at a location in the municipality or by paying for the expenses incurred by the chief financial officer or his agent in traveling to the place where the records are regularly kept.

18. **Returns.** All cannabis establishments operating in the municipality are required to file a transfer tax return with the chief financial officer to report their sales during each calendar quarter and the amount of tax in accordance with the provisions of this chapter. Returns shall be filed and payments of tax imposed for the preceding calendar quarter shall be made on or before the last day of April, July, October, and January, respectively. A taxpayer who has overpaid the transfer tax, or who believes it is not liable for the tax, may file a written request on an amended tax return with the chief financial officer for a refund or a credit of the tax. For amounts paid as a result of a notice asserting or informing a taxpayer of an underpayment, a written request for a refund shall be filed with the chief financial officer within two (2) years of the date of the payment.

19. **Confidentiality.** The returns filed by taxpayers, and the records and files of the chief financial officer respecting the administration of the transfer tax, shall be considered confidential and privileged and neither the municipality nor any employee or agent engaged in the administration thereof or charged with the custody of any such records or files, nor any former officer or employee, nor any person who may have secured information therefrom, shall divulge, disclose, use for their own personal advantage, or examine for any reason other than a reason necessitated by the performance of official duties any information obtained from the said records or files or from any examination or inspection of the premises or property of any person. Neither the chief financial officer nor any employee engaged in such administration or charged with the custody of any such records or files shall be required to produce any of them for the inspection of any person or for use in any action or proceeding except when the records or files

or the facts shown thereby are directly involved in an action or proceeding under the provisions of the State Uniform Tax Procedure Law or of the tax law affected, or where the determination of the action or proceeding will affect the validity or amount of the claim of the municipality under the tax provisions of this chapter.

20. **Audit and Assessment.** The chief financial officer may initiate an audit by means of an audit notice. If, as a result of an examination conducted by the chief financial officer, a return has not been filed by a taxpayer or a return is found to be incorrect and transfer taxes are owed, the chief financial officer is authorized to assess and collect any tax due. If no return has been filed and tax is found to be due, the tax actually due may be assessed and collected with or without the formality of obtaining a return from the taxpayer. Deficiency assessments (i.e., where a taxpayer has filed a return but is found to owe additional tax) shall include taxes for up to three (3) years to the date when the deficiency is assessed. Where no return was filed, there shall be no limit to the period of assessment.

Upon proposing an assessment, the chief financial officer shall send the taxpayer an interim notice by certified mail, return receipt requested, which advises the taxpayer of additional taxes that are due. Should the taxpayer wish to dispute the assessment administratively by requesting a hearing with the chief financial officer, it must do so within thirty (30) days of the date of such interim notice. If, after the chief financial officer sends an interim notice, a taxpayer fails to timely request a hearing with the Chief financial officer or requests a hearing and after conducting a hearing, the chief financial officer determines that the taxes are due, the chief financial officer shall send the taxpayer by certified mail, return receipt requested, a final notice. Should the taxpayer wish to dispute the assessment set forth in the final notice, he or she must initiate an appeal in the New Jersey Tax Court within ninety (90) days after the mailing of any final notice regarding a decision, order, finding, assessment, or action hereunder.

21. **Time Limitations.** The following periods of limitations shall apply to suits for collection of taxes: When a return has been filed but no tax paid, any suit brought to recover the tax due and unpaid shall be filed within two (2) years after the return was due or filed, whichever is later. Where no return was filed or a fraudulent return was filed, there shall be no limits to file suit for the collection of taxes. Where, before the expiration of the time prescribed in this section for the filing a lawsuit against the taxpayer, both the chief financial officer and the taxpayer have consented in writing to its extension after such time, the suit may be filed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

22. **Hearings.** Any person who receives an interim notice from the chief financial officer may within thirty (30) days after the date of an interim notice, request a hearing with the chief financial officer. Any person who fails to request a chief financial officer's hearing in a timely manner waives the right to administratively contest any element of the assessment. The chief financial officer shall accept payments of disputed tax amounts under protest pending appeals; however, any request for refund of such monies must be filed in accordance with this section.

23. **Appeals.** Any aggrieved taxpayer may, within ninety (90) days after the mailing of any final notice regarding a decision, order, finding, assessment, or action hereunder, or publication of any rule, regulation or policy of the chief financial officer, appeal to the Tax Court pursuant to the jurisdiction granted by N.J.S.A. 2B:13-2a(3) to review actions or regulations of municipal officials by filing a complaint in accordance with the New Jersey Court Rule 8:3-1. The appeal provided by this section shall be the exclusive remedy available to any taxpayer for review of a final decision of the chief financial officer in respect to a determination of liability for the tax imposed by this chapter.

24. **Operational Requirements.** A cannabis cultivation or manufacturing facility issued a permit or license by the State of New Jersey and operating in the Town under this ordinance shall at all times comply with the following operational requirements.

a. A cannabis facility shall comply with the zoning code, the building code, and the property maintenance code at all times.

b. The facility must hold at all times a valid license or permit issued by the State of New Jersey to undertake cannabis cultivation and manufacturing activities at the permitted property. A State issued license is valid only for the location identified on the license and until the expiration date printed on the license and cannot be transferred to another location in the Town without a new application. The State issued license shall be prominently displayed inside the permitted premises in a location where it can be easily viewed by law enforcement and administrative authorities.

c. Cultivation and manufacturing operations shall be conducted solely within the permitted premises on the permitted property. No cultivation or manufacturing facility shall be permitted to operate from a moveable, mobile or transitory location, except for the permitted and transportation of cannabis and cannabis products to and from the facility pursuant to the terms of the State license or permit.

d. No person under the age of 18 shall be permitted to enter into the permitted premises without a parent or legal guardian.

e. A cannabis cultivation or manufacturing facility shall at all times maintain a security system that meets State law requirements, and shall also include:

1. Security surveillance cameras installed to monitor all entrances along with the interior and exterior of the permitted premises;
2. Burglary alarm systems which are professionally monitored and operated 24 hours a day, 7 days a week;
3. All security recordings and documentation shall be preserved for at least 30 days and made available to law enforcement upon request for inspection.

f. All cannabis in whatever form stored at the permitted premises shall be kept in a secure manner and shall not be visible from outside the permitted premises, nor shall it be grown, processed, exchanged, displayed or dispensed outside the permitted premises.

g. The amount of cannabis on the permitted property and under the control of the permit holder, owner or operator of the facility shall not exceed the amount permitted by the State license.

h. Cannabis offered for sale and distribution must be packaged and labeled in accordance with State law.

i. No pictures, photographs, drawings, or other depictions of cannabis or cannabis paraphernalia shall appear on the outside of any permitted premises nor be visible outside of the permitted premises on the permitted property.

j. The words “marijuana,” “cannabis” and any other words used or intended to convey the presence or availability of marijuana shall not appear on the outside of the permitted premises nor be visible outside of the permitted premises on the permitted property.

k. Sales to the public, public consumption, or use of cannabis, alcohol, cannabis or other controlled substances on the permitted premises is prohibited.

l. The facility’s operation and design shall minimize any impact to adjacent uses, including the control of any odor such that no odor is detectable beyond the permitted property. No facility shall be operated in a manner creating noise, dust, vibration, glare, fumes, or odors beyond the boundaries of the property on which the facility is operated; or creating any other nuisance that hinders the public health, safety and welfare of the residents of the Town of Hackettstown.

m. No person operating or employed by a cannabis cultivation or manufacturing facility shall provide or otherwise make available cannabis to any person who is not legally authorized to possess same under state law.

n. All necessary building, electrical, plumbing and mechanical permits must be obtained for any part of the permitted premises in which electrical, wiring, lighting or watering devices that support the cultivation, growing, harvesting or testing of cannabis are located.

o. The owner and operator of a cannabis cultivation or manufacturing facility shall use lawful methods in controlling and disposing of waste or by-products from any activities allowed under the State license or permit.

p. Cannabis may be transported within the Town under this ordinance by a company licensed to do so by the State, and to effectuate its purpose, only:

1. In a manner consistent with all applicable State laws and rules, as amended;
2. In a secure manner designed to prevent the loss of the cannabis;
3. Using vehicles that do not have exterior markings including the words “marijuana,” “cannabis,” or any similar or slang words; pictures or other

sale, renderings of the cannabis plant; advertisements for cannabis or for its transfer, cultivation, delivery, transportation or manufacture; or any other word, phrase or symbol indicating or tending to indicate that the vehicle is transporting cannabis.

q. No vehicle may be used for the ongoing or continuous storage of cannabis, but may only be used incidental to, and in furtherance of, the transportation of cannabis and cannabis products.

25. **Definitions and Repealer.** Unless specifically defined otherwise herein, any term used herein shall be incorporate the definition of that term in the Act. Any article, section, paragraph, subsection, clause, or other provision of the Town of Hackettstown Ordinances inconsistent with the provisions of this ordinance is hereby repealed to the extent of such inconsistency.

26. **Interpretation and Savings Provision.** No ordinance, regulation or interpretation thereof shall conflict with the Act. If any section, paragraph, subsection, clause, or provision of this ordinance shall be adjudged by a court of competent jurisdiction to conflict with the Act or otherwise be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause, or provision so adjudged, and the remainder of this ordinance shall be deemed valid and effective.

27. **Effective Date.** This ordinance shall take effect upon its passage and publication and filing as otherwise provided for by law.

NOTICE

Notice is hereby given that the aforesaid ordinance was introduced at a regular meeting of the Common Council of the Town of Hackettstown, New Jersey, held on April 22, 2021, and that at a regular meeting of the same to be held remotely (access information available on Town website: <https://www.hackettstown.net/>) as a consequence of the Covid-19 emergency, on May 27, 2021 at the Municipal Building, 215 Stiger Street, Hackettstown, New Jersey, at the hour of 7:00 p.m., the said Common Council will conduct a public hearing and will consider the final passage of said ordinance.

WILLIAM W. KUSTER, JR.
Town Clerk/Administrator

