

ORDINANCE NO. 5581

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF ELIZABETH TO ESTABLISH CHAPTER 5.26 ENTITLED "CANNABIS ESTABLISHMENTS"

WHEREAS, the State of New Jersey (the "State") has legalized and regulated the adult use of cannabis use and possession for adults 21 years and older via "The New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act," P.L.2021, c.16., N.J.S.A. 24:6I-31 to 24:6I-56 (the "Act"); and

WHEREAS, the Act establishes six classes of licensed cannabis businesses that may operate within a municipality:

- **Class 1 Cannabis Cultivator** license, for facilities involved in growing and cultivating cannabis; and
- **Class 2 Cannabis Manufacturer** license, for facilities involved in the manufacturing, preparation, and packaging of cannabis items; and
- **Class 3 Cannabis Wholesaler** license, for facilities involved in obtaining and selling cannabis items for later resale by other licensees; and
- **Class 4 Cannabis Distributer** license, for businesses involved in transporting cannabis plants in bulk from on licensed cultivator to another licensed cultivator, or cannabis items in bulk from any type of licensed cannabis business to another; and
- **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; and

WHEREAS, the Act authorizes municipalities to adopt regulations governing the number of cannabis establishments, cannabis distributors or cannabis delivery services allowed to operate within their boundaries, as well as the location, manner, and times operation of such establishments, distributors, but the time of operation of delivery services shall be subject only to regulation by the State; and

WHEREAS, the City of Elizabeth has a strong interest in allowing all classes of license cannabis businesses to operate within the City; and

WHEREAS, to promote a successful and efficient cannabis industry in the City of Elizabeth, it is in the City's best interest to adopt the following regulations regarding the operation of cannabis businesses within the City; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ELIZABETH:

SECTION 1. Section 5.26.010 of the Code of the City of Elizabeth entitled "Purpose" is hereby established and shall read as follows:

The purpose of this Chapter is to regulate local cannabis establishments within the City as provided in "The New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act," P.L.2021, c.16., N.J.S.A. 24:6I-31 to 24:6I-56.

PRESENTED to the Mayor for
APPROVAL or DISAPPROVAL on

DEC 29 2021
City Clerk

SECTION 2. Section 5.26.020 of the Code of the City of Elizabeth entitled “**Definitions**” is hereby established and shall read as follows:

Unless specifically defined below, words or phrases used in this Chapter shall be interpreted consistently with the terms defined in N.J.S.A. 24:6I-33.

A “cannabis license” shall refer to a license issued by the State of New Jersey under N.J.S.A. 24:6I-31, et seq., 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, but shall not include a conditional license.

SECTION 3. Section 5.26.030 of the Code of the City of Elizabeth entitled “**Cannabis Business Licenses Required**” is hereby established and shall read as follows:

No person or entity shall engage in a regulated activity within the City without having first applied for and obtained a cannabis business license from the Chief License Inspector and a cannabis license issued by the State of New Jersey.

SECTION 4. Section 5.26.040 of the Code of the City of Elizabeth entitled “**Non-transferability; Expiration of License**” is hereby established and shall read as follows:

All licenses issued pursuant to this chapter shall not be transferrable and shall expire on the first day of December following the issuance of the license.

SECTION 5. Section 5.26.050 of the Code of the City of Elizabeth entitled “**Annual License Fee – Generally**” is hereby established and shall read as follows:

The annual fee for a license issued pursuant to this Chapter shall be as follows:

- A. Class 1 Cannabis Cultivator license: seven thousand five hundred dollars (\$7,500.00)
- B. Class 2 Cannabis Manufacturer license: five thousand dollars (\$5,000.00)
- C. Class 3 Cannabis Wholesaler license: five thousand dollars (\$5,000.00)
- D. Class 4 Cannabis Distributor license: five thousand dollars (\$5,000.00)
- E. Class 5 Cannabis Retailer license: five thousand dollars (\$5,000.00)
- F. Cannabis Consumption Area endorsement: ten thousand dollars (\$10,000.00).

SECTION 6. Section 5.26.060 of the Code of the City of Elizabeth entitled “**Annual License Fee – Microbusiness**” is hereby established and shall read as follows:

A cannabis microbusiness shall only be required to pay half of the fee required under Section 5.26.050.

SECTION 7. Section 5.26.070 of the Code of the City of Elizabeth entitled “**Initial Cannabis Business License Application - Requirements**” is hereby established and shall read as follows:

All initial applications for a cannabis business license pursuant to this chapter shall be in writing upon forms available from the Chief License Inspector and shall include the following information:

- A. A statement indicating which class of license is sought.
- B. A statement indicating whether the business is a microbusiness.
- C. The names and addresses of all persons and entities with a financial interest in the business, and the nature and extent of that interest. If an entity, the names and addresses of the officers, directors, and stockholders.
- D. A statement as to whether the applicant has been previously convicted of a crime, and if so, the date and place of such conviction, the nature of the offense, and the penalty imposed.
- E. A waiver allowing a criminal background check
- F. A description of the proposed location for the cannabis establishment, along with a floor plan and all architectural and engineering plans.
- G. Evidence of site control for the proposed location of the cannabis establishment. Where applicant is not the property owner of the proposed location for the cannabis establishment, a written statement from the property owner consenting to the application shall be required.
- H. A plan setting forth all odor mitigating practices for the proposed location of the cannabis establishment.
- I. All safety and security plans and procedures for the proposed location of the cannabis establishment.
- J. A private waste disposal plan for the proposed location of the cannabis establishment.
- K. A community impact, social responsibility, and research statement, which shall include, but shall not be limited to the following:
 - i. A community impact plan summarizing how the applicant intends to have a positive impact on the City of Elizabeth, which shall include an economic impact plan, and a description of outreach activities; and
 - ii. A written description of the applicant's record of social responsibility, philanthropy, and ties to the City.
- L. A workforce development and job creation plan, which may include information on the job creation and planned job creation at the proposed cannabis establishment or cannabis distributor; re-entry hiring; education, training and resources to be made available for employees; any relevant certifications, and a diversity plan.
- M. Name and contact information for the person responsible for nuisance complaints on the proposed location of the cannabis establishment.
- N. Name and contact information for the person to be contacted by local police, fire, or EMS personnel in the event of an on-site emergency.
- O. A copy of all Management Services Agreements.
- P. A copy of the applicant's cannabis license application to the State of New Jersey. If applicant has not filed a cannabis license application to

the State at the time of application under this Chapter, applicant shall submit a copy after it is filed with the State.

- Q. A copy of approvals made by the Elizabeth Planning Board, Zoning Board of Adjustment, or other any other boards, if required.

SECTION 8. Section 5.26.080 of the Code of the City of Elizabeth entitled “**Initial Cannabis Business License Application – Application Fee**” is hereby established and shall read as follows:

An application fee in the amount of \$1,000.00 shall be paid at the time of the filing of the initial cannabis business license application. Where applicant is successful, such application fee will be a credit towards the annual fee for a cannabis business license as required by this Chapter.

SECTION 9. Section 5.26.090 of the Code of the City of Elizabeth entitled “**Initial Cannabis Business License Application – Investigation**” is hereby established and shall read as follows:

Upon receipt of a completed application, the Chief License Inspector shall refer such application for review, comment, and recommendation to the following individuals: (1) the Chief of Police; (2) the Director of the Department of Planning and Community Development; (3) the Health Officer; and (4) the Fire Official.

Within forty-five (45) days each of these individuals shall refer the application back to the Chief License Inspector together with his or her comments and any specific recommendations relating to the issuance of a license. Where an individual recommends the denial of an application, he or she shall set forth the specific reasons for denial in writing to the Chief License Inspector.

SECTION 10. Section 5.26.100 of the Code of the City of Elizabeth entitled “**Initial Cannabis Business License Application – Denial**” is hereby established and shall read as follows:

The Chief License Inspector may deny an initial application for a cannabis business license only where:

- A. The applicant has materially failed to complete any portion of the application;
- B. The applicant has failed to pay the application fee set forth in Section 5.26.080;
- C. An individual specifically enumerated in Section 5.26.090 has issued a written recommendation for denial; or
- D. Issuance would be contrary to the public health, safety, and welfare of the residents of the City of Elizabeth.

Where the Chief License Inspector denies an initial application for a cannabis business license pursuant to this Chapter, such denial shall be communicated to the applicant in writing to the address provided on the application.

SECTION 11. Section 5.26.110 of the Code of the City of Elizabeth entitled “**Initial Cannabis Business License Application – Resolution of Support**” is hereby established and shall read as follows:

The Chief License Inspector shall request a resolution from the City Council of the City of Elizabeth in support of an applicant’s State of New Jersey cannabis license application where:

- A. The applicant has requested such a resolution of support in writing;
- B. The applicant has provided all information required by Section 5.26.070;
- C. The applicant has paid all fees required by Section 5.26.080;
- D. The application has been investigated by the individuals named in Section 5.26.090; and
- E. There exists no basis for the denial of the application pursuant to Section 5.26.10.

SECTION 12. Section 5.26.120 of the Code of the City of Elizabeth entitled “**Issuance of Cannabis Business License**” is hereby established and shall read as follows:

The Chief License Inspector shall issue a cannabis business license only where:

- F. Applicant’s application for initial cannabis business license has been approved or its renewal application has been approved; and
- G. Applicant holds a valid cannabis license of the same class or classes issued by the State of New Jersey; and
- H. Applicant has paid all applicable fees under this Chapter.

SECTION 13. Section 5.26.130 of the Code of the City of Elizabeth entitled “**Conditions Upon Cannabis Business License**” is hereby established and shall read as follows:

All cannabis business licenses issued pursuant to this Chapter shall be subject to the following terms and conditions:

- A. A licensee shall at all times maintain a cannabis license with the State of New Jersey.
- B. A licensee shall post in a conspicuous place its cannabis business license issued under this Chapter and its cannabis license issued by the State of New Jersey.
- C. Except as provided in Section 5.26.180 (A) and (B), a licensee shall only be allowed to perform regulated activities during the following hours:
 - i. On Monday through Saturday from 7 a.m. to 10 p.m.
 - ii. On Sunday from noon to 10 p.m.
- D. A licensee shall maintain a proper ventilation system to mitigate cannabis-related odor. The building shall be equipped with a ventilation system with carbon filters sufficient in type and capacity to eliminate cannabis odors emanating from the premises. The carbon filters are required to be replaced regularly for the best effectiveness to mitigate odor. The ventilation system must be approved by the City of Elizabeth.
- E. A licensee shall maintain a proper noise mitigation system.
- F. A licensee shall not display any cannabis or cannabis products in any manner that is visible from the exterior of the licensed premises

including, but not limited to, outdoor display, exterior windows, transparent paneling, or display boxes.

- G. A licensee shall post in a conspicuous location signage setting forth New Jersey's age requirements on purchasing and possessing cannabis.
- H. A licensee shall be subject to announced and unannounced inspections of the licensed premises to ensure compliance with this Chapter.
- I. A licensee shall provide adequate security to the licensed premises, including the following:
 - i. Burglary alarms for the licensed premises
 - ii. All licensees shall be required to maintain video surveillance cameras that capture all areas of the premises where cannabis is stored or sold. Said video surveillance footage shall be retained for a minimum of thirty (30) days, and access shall be given to the Elizabeth Police Department upon request.
 - iii. A Class 5 Retailer licensee shall employ a security guard during retail operating hours.
- J. A licensee shall adequately maintain the exterior of the premises and the right-of-way adjacent to the premises.
 - i. All licensees shall provide maintenance which shall include, but not be limited to, keeping the area free of litter, snow, and other debris.
 - ii. A Class 5 Retailer Licensee shall not permit individuals to congregate or loiter within twenty-five (25) feet of any entrance or exit of the licensed establishment.

SECTION 14. Section 5.26.140 of the Code of the City of Elizabeth entitled "Renewal of Cannabis Business License" is hereby established and shall read as follows:

Prior to the expiration of a cannabis business license issued under this Chapter, a licensee may apply to the Chief License Inspector for a renewal. As part of its renewal application, a licensee shall submit to an inspection of the licensed premises and provide the Chief License Inspector with the following information:

- I. Proof of a valid State of New Jersey cannabis license of the same class or classes of the license for which renewal is sought;
- J. A certified statement that all cannabis taxes are current;
- K. Proof of inventory sold from State of NJ Inventory Tracking System;
- L. Proof of annual 8-hour cannabis business training; and
- M. A copy of any complaints made or maintained against the licensee or licensed premises from the preceding twelve-month period and disposition or current status of said complaints.

SECTION 15. Section 5.26.150 of the Code of the City of Elizabeth entitled "Cannabis Consumption Area – Endorsement Required" is hereby established and shall read as follows:

No person or entity shall operate a Cannabis Consumption Area in the City of Elizabeth without having first applied for and obtained a Cannabis Consumption

Area Endorsement to their cannabis business license from the Chief License Inspector.

SECTION 16. Section 5.26.160 of the Code of the City of Elizabeth entitled “**Cannabis Consumption Area Endorsement – Application Requirements**” is hereby established and shall read as follows:

A person or entity that holds a valid Class 5 Retailer cannabis business license under this Chapter may apply to the Chief License Inspector for a Cannabis Consumption Area Endorsement. Such application shall be made on forms provided by the Chief License Inspector and shall include the following information:

- N. Copies of licensee’s Class 5 Retailer licenses from the City and the State of New Jersey.
- O. Copies of all relevant land use and zoning approvals, including approved site plan.
- P. Copies of inspections performed by the Construction and Zoning Bureaus.
- Q. Copies of inspections performed by the Health Department.

SECTION 17. Section 5.26.170 of the Code of the City of Elizabeth entitled “**Cannabis Consumption Area Endorsement – Chief License Inspector to Issue**” is hereby established and shall read as follows:

The Chief License Inspector may issue a Cannabis Consumption Area endorsement to a Class 5 Retail cannabis business license only where:

- R. Applicant’s application for a Cannabis Consumption Area endorsement has been approved; and
- S. Applicant holds a valid Class 5 Retailer license issued by the State of New Jersey; and
- T. Applicant has paid all applicable fees under this Chapter.

SECTION 18. Section 5.26.180 of the Code of the City of Elizabeth entitled “**Cannabis Consumption Area Endorsement – Conditions**” is hereby established and shall read as follows:

All cannabis business licenses that receive a Cannabis Consumption Area endorsement pursuant to this Chapter shall be subject to the terms and conditions set forth in Section 5.26.130 and the following additional terms and conditions:

- U. Indoor cannabis consumption areas shall be permitted to operate daily between the hours of 10:00 a.m. to 2 a.m. the following day.
- V. Outdoor cannabis consumption areas shall be permitted to operate daily between the hours of 10:00 a.m. to 10 p.m.
- W. All cannabis consumption areas must have conspicuous signage which shall indicate whether the consumption area may be used for the consumption of medical cannabis, personal use cannabis items, or both.

SECTION 19. Section 5.26.190 of the Code of the City of Elizabeth entitled “**Right to Appeal**” is hereby established and shall read as follows:

Where the Chief License Inspector denies an application under this Chapter, an applicant may appeal the denial by requesting a hearing within fifteen (15) calendar days from receipt of the Chief License Inspector’s written denial. Within thirty (30) days of service upon the Chief License Inspector of said request for appeal, the Business Administrator or his or her designee shall conduct a hearing. Within twenty (20) days following the conclusion of hearing held pursuant to this section, a decision shall be rendered in writing and sent to the Chief License Inspector and appellant-applicant.

SECTION 20. Section 5.26.200 of the Code of the City of Elizabeth entitled “**Suspension, Revocation and Hearing**” is hereby established and shall read as follows:

- A. Suspension. Any license issued pursuant to this Chapter may be suspended by the Chief License Inspector in addition to any other penalty imposed for any violation of this Chapter, including for reasons set forth in subsection B below, upon written notice to the licensee.
- i. A suspended licensee must immediately cease engagement of the regulated activity until such time as the license is reinstated by the Chief License Inspector.
 - ii. A suspended license may be reinstated where:
 - a. the Chief License Inspector has determined that the grounds leading to the suspension have been cured, corrected, abated, rectified, or appropriately resolved; or
 - b. Reinstatement is deemed appropriate following a hearing requested pursuant to subsection C. below.
- B. Revocation. Any license issued pursuant to this Chapter may be revoked by the Chief License Inspector upon written notice to the licensee where the licensee has violated any section of this Chapter or for the following reasons:
- i. Fraud, misrepresentation, or false statement made in the application process.
 - ii. Fraud, misrepresentation, or false statement made in the course of carrying on the regulated activity in this chapter.
 - iii. Unpaid cannabis taxes for three (3) consecutive quarters.
 - iv. Licensee’s cannabis license from the State of New Jersey has been revoked.
- C. Hearing. Upon receipt of a notice of suspension or revocation, the licensee may, within two (2) business days, file with the Chief License Inspector a written request for a hearing. The hearing shall be held within ten (10) days of the request, at which hearing the licensee shall have the opportunity to be heard. At the conclusion of the hearing, the Business Administrator or his or her designee shall either revoke, suspend, or reinstate the license. Where a licensee has received a written notice of revocation but does not request a hearing pursuant to

this Section, said license shall be automatically revoked ten (10) days after the notice of revocation is sent to the licensee.

SECTION 21. Section 5.26.210 of the Code of the City of Elizabeth entitled “**Suspension, Revocation and Hearing**” is hereby established and shall read as follows:

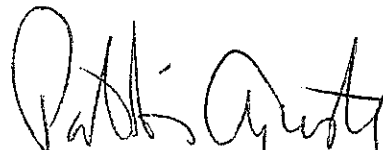
Any person who violates any provision of this chapter shall, upon conviction thereof, be subject to a fine not less than five hundred dollars (\$500.00) nor exceeding two thousand dollars (\$2,000.00), or imprisonment in the county jail or a period of community service for a term not exceeding ninety (90) days, or both within the discretion of the municipal judge. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

SECTION 22. All ordinances or parts of ordinances inconsistent with the provisions of this ordinance be and the same are hereby repealed.

SECTION 23. If any portion or clause of this ordinance is declared invalid for any reason whatsoever, same shall not affect the validity or constitutionality of any other part or portion of this ordinance.

SECTION 24. The effective date of this ordinance shall be twenty (20) days after its final passage by City Council and approval by the Mayor at the time and in the manner provided by law.

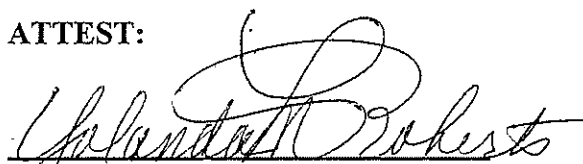
PASSED: December 28, 2021


PATRICIA PERKINS-AUGUSTE
President of City Council

APPROVED: 12-29-2021


J. CHRISTIAN BOLLWAGE
Mayor

ATTEST:


YOLANDA M. ROBERTS, R.M.C.
Municipal Clerk