

**SPONSORED BY:  
SECONDED BY:**

**CITY OF HOBOKEN  
ORDINANCE NO.:**

**AN ORDINANCE TO AMEND AND SUPPLEMENT CHAPTERS 196  
“ZONING” AND 128 “LICENSES” OF THE CODE OF THE CITY OF  
HOBOKEN ESTABLISHING LAND USE REGULATIONS AND  
LICENSING REQUIREMENTS FOR MEDICAL CANNABIS  
DISPENSARIES**

**WHEREAS**, the City Council wishes to create land use regulations and licensing requirements for medical cannabis dispensaries that can provide medicinal benefits and promote the health, safety, and general welfare of the community; and,

**WHEREAS**, the State of New Jersey is presently reviewing applications and will be issuing licenses to increase the number of medical cannabis dispensaries in the State of New Jersey; and,

**WHEREAS**, numerous inquiries have been made and the City Administration has met with several companies that operate medical cannabis dispensary facilities in New Jersey and other states across the country that have expressed interest in establishing business operations in Hoboken; and,

**WHEREAS**, these companies have applied to the State of New Jersey for licensing and are awaiting approval and issuance of a State license; and,

**WHEREAS**, it is in the best interest of the City of Hoboken to be proactive in establishing such local land use regulations and licensing requirements for medical cannabis dispensaries in advance of the issuance of additional licenses by the State to facilitate the opportunity for such businesses to establish operations and provide medicinal benefits in the City of Hoboken.

**NOW, THEREFORE, THE MAYOR AND COUNCIL OF THE CITY OF HOBOKEN DOES HEREBY ORDAIN AS FOLLOWS:**

**SECTION ONE: AMENDMENT**

Chapters 196 “Zoning” of the Code of the City of Hoboken shall be amended as follows; additions to the current ordinance are noted in underline.

**CHAPTER 196 - ZONING**

**ARTICLE II Definitions**

MEDICAL CANNABIS DISPENSARY(IES) – A facility licensed by the State of New Jersey and the City of Hoboken to dispense cannabis in any form approved by the State and related

supplies to qualified patients who (1) possess prescriptions issued by a licensed physician and who (2) are registered with the State of New Jersey.

STATE – The State of New Jersey.

USE-BY-REVIEW – A use that is permitted to occupy real property within a designated zone district but is subject to review by the planning board, which shall include a public hearing and site plan approval.

USE-BY-RIGHT – A principal use that is permitted to occupy real property within a designated zone district upon obtaining a Certificate of Zoning Compliance. Formal land use board approval is not required.

## **ARTICLE VI Schedule II: Industrial Districts**

§ 196-17 I-1 District; I-1 (W) Subdistrict.

B. Principal permitted uses shall be as follows:

- (1) I-1 District:
  - (a) Manufacturing, processing, producing or fabricating operations which meet the performance standards set forth in Article XII, provided that all operations and activities, except parking, are carried on within enclosed buildings and that there is no outside storage of materials, equipment or refuse.
  - (b) Office buildings.
  - (c) Research laboratories.
  - (d) Warehouses and related office buildings.
  - (e) Essential utility and public services.
  - (f) Wireless telecommunications towers subject to §§ 196-26 and 196-35.
  - (g) Medical Cannabis Dispensaries, subject to compliance with §196-33.1 and obtaining a State of New Jersey Marijuana/Cannabis License that permits medical cannabis dispensing.

§ 196-18 I-2 District.

B. Principal permitted uses shall be as follows:

- (1) Food processing and related storage and distributive activities.
- (2) Manufacturing, processing or fabricating operations which meet the performance standards set forth in Article XII, provided that all operations and activities are carried on within enclosed buildings and that there is no outside storage of materials.
- (3) Retail business or service.
- (4) Public buildings and uses, such as equipment garages, parking facilities, parks and playgrounds.
- (5) Wireless telecommunications towers subject to §§ 196-26 and 196-35.
- (6) Medical Cannabis Dispensaries, subject to compliance with §196-33.1 and obtaining a State of New Jersey Marijuana/Cannabis License that permits medical cannabis dispensing.

## **ARTICLE VII Schedule III: Review Districts**

§ 196-19 CBD District; CBD(H) Subdistrict; CBD(H)(CS) Subdistrict.

B. Principal permitted uses shall be as follows:

- (1) Commercial recreation.
- (2) Instructional use.
- (3) Office buildings.
- (4) Offices, including studios and clinics.
- (5) Hotels and motels.
- (6) Public buildings and uses, including governmental buildings, administrative offices, parks and plazas.
- (7) Residential buildings.
- (8) Restaurants and bars.
- (9) Retail business or service.
- (10) Medical Cannabis Dispensaries, subject to compliance with §196-33.1 and obtaining a State of New Jersey Marijuana/Cannabis License that permits medical cannabis dispensing. This use is excluded from CBD(H)(CS).

## **ARTICLE IX General Supplementary Regulations**

### **§ 196-33.1. Medical Cannabis Dispensaries.**

- A. The requirements 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. If any provision of this Ordinance is inconsistent with the statutes and/or regulations of the State of New Jersey, the State statutes and/or regulations shall govern.
- B. Prior to the operation of any Medical Cannabis Dispensary in Hoboken, a license for such use must be obtained from the State of New Jersey and from the City of Hoboken.
- C. Site plan approval must be obtained from the City of Hoboken Planning Board, or Board of Adjustment as the case may be, and a Certificate of Zoning Compliance must be issued by the Zoning Officer. To protect the public health, safety, and general welfare, and to prevent economic stagnation, site plan approval for a Medical Cannabis Dispensary shall expire after the period of vested rights as set forth in the Municipal Land Use Law (N.J.S.A. 40:55D, et seq.) unless extended by approval of the board of jurisdiction. The Certificate of Zoning Compliance issued by the Zoning Officer shall expire 6 months after the date of issuance if an application for licensure has not been submitted to the City's licensing authority.
- D. A Medical Cannabis Dispensary established pursuant to this Section shall, at all times, operate in complete compliance with the terms and conditions of its license(s) issued by the State of New Jersey and the City of Hoboken.
- E. No Medical Cannabis Dispensary shall be allowed as a Home Occupation as defined in Article II of this Chapter.

- F. No Medical Cannabis Dispensary shall be housed in a vehicle or any movable or mobile structure.
- G. Performance Standards
- (1) General. Standards and guidelines set forth in this section shall supersede other requirements of the zone district in which the dispensary is to be located to the extent they are inconsistent with the requirements for Medical Cannabis Dispensaries set forth herein. Where bulk regulations, parking requirements, or other provisions of the Zoning Code are not specifically stated, the underlying Zoning standards and guidelines shall prevail.
  - (2) Odor. A Medical Cannabis Dispensary shall have equipment 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 interior of 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 Hoboken Health Department and Building Department and may be subject to periodic inspection.
  - (3) 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. [See also, Chapter 133 Noise Control.]
  - (4) Security. All facilities associated with dispensing cannabis shall be secured and shall have full-time security protocols. Security protocols shall be submitted to the Hoboken Police Department for compliance review with all safety and security standards established by the State of New Jersey for Medical Cannabis Dispensaries. The Hoboken Police Department may, at their discretion and upon review of the proposed location, recommend or require additional safety and security measures.
- H. Suspension of use. If a duly licensed Medical Cannabis Dispensary has been inactive or unoccupied by the licensee for 6 months or more, and the license is suspended by the Director of Health and Human Services pursuant to §128-12.C of the Code of the City of Hoboken, the use approval for said premises shall be suspended. The Zoning Officer shall issue a notice of suspension to the licensee and to the owner of the property. Any subsequent application for use or occupancy of the premises as a Medical Cannabis Dispensary, including re-occupation by the previous licensee, shall be referred to the original board of jurisdiction for modification or extension of the board's approval.
- I. Permitted Zone District. Medical Cannabis Dispensaries are only permitted in commercial and industrial zone districts as set forth in sections §196-17 through §196-19 of the Code as use-by-review, requiring a public hearing, in accordance with the Municipal Land Use Law and Open Public Meetings Act, and site plan approval by the City of Hoboken Planning Board subject to the guidelines set forth herein. Medical Cannabis Dispensaries are not permitted in residential zone districts.
- J. Location.
- (1) One Medical Cannabis Dispensary shall be allowed per zone district where the use is permitted.

- (2) For safety and security reasons, a Medical Cannabis Dispensary shall only be located on the ground floor (i.e. street-level) of any building in which it has been approved to be located. Any such Medical Cannabis Dispensary shall be accessible directly from the right-of-way through a separate entrance, independent from any other retail or residential ingress to the building. Only a secured, one-way emergency exit from the establishment may be integrated with common egress.
- (3) The Medical Cannabis Dispensary shall comply with all setback or distance requirements established by law and in effect in the zone in which it is to be located as of the time of the licensee’s application.
- K. Hours of operation. It shall be unlawful for any person to dispense cannabis or cannabis products at a licensed Medical Cannabis Dispensary within the City of Hoboken at any time other than between the hours of 8:00 a.m. and 10:00 p.m. daily.

## **SECTION TWO: AMENDMENT**

Chapters 128 “Licenses” of the Code of the City of Hoboken shall be amended as follows; additions to the current ordinance are noted in underline.

### **CHAPTER 128 – LICENSES**

#### **ARTICLE I General Business and Vital Statistics Licensing Procedures and Fees**

§ 128-9. Reserved.

#### **ARTICLE II Medical Cannabis Dispensary Licensing**

##### **§ 128-10. Definitions.**

For purposes of this section, the following definitions shall apply:

MEDICAL CANNABIS DISPENSARY(IES) – A facility licensed by the State of New Jersey and the City of Hoboken to dispense cannabis in any form approved by the State and related supplies to qualified patients who (1) possess prescriptions issued by a licensed physician and who (2) are registered with the State of New Jersey.

STATE – The State of New Jersey.

##### **§ 128-11. Licensing.**

- A. Local licensing authority.
- (1) The requirements 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. If any provision of this Ordinance is inconsistent with the statutes and/or regulations of the State of New Jersey, the State statutes and/or regulations shall govern.
- (2) The City of Hoboken Director of Health and Human Services (“Director”) is hereby designated to act as the local licensing authority for the City for all Medical Cannabis Dispensaries. Under all circumstances in which State law requires communication to the City by the State licensing authority or any other State agency with regard to the licensing of Medical Cannabis

Dispensaries 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 Director.

- (3) Under no circumstances shall the Director receive or act upon any application for local licensing of a Medical Cannabis Dispensary if the State has failed to issue a license. It is the intent of this Chapter that no Medical Cannabis Dispensary may lawfully exist in the City of Hoboken absent the issuance of a State license and full regulatory oversight of the Medical Cannabis Dispensary by the State licensing authority as well as that of the City.
  - (4) Under no circumstances shall the Director receive or act upon any application for local licensing of a Medical Cannabis Dispensary unless or until the applicant has obtained site plan approval from a City of Hoboken land use board and a Certificate of Zoning Compliance has been issued by the Zoning Officer. The Director shall not receive or act upon any application for licensing if a Certificate of Zoning Compliance for such a facility is more than 6 months old.
- B. Cap on the number of Medical Cannabis Dispensary licenses. Effective January 1, 2019, the maximum number of Medical Cannabis Dispensary licenses issued by the City of Hoboken for operation within the municipal boundaries of the City of Hoboken shall not exceed three.
- C. Application. Persons wishing to obtain a Medical Cannabis Dispensary license shall file a license application with the Director, on a standardized form established by the Director and available in the Director's office and on the City's website. An application shall be deemed incomplete, and shall not be processed by the Director, 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 of prior approval by the State licensing authority for a Medical Cannabis Dispensary.
  - (2) The applicant shall submit proof that the applicant has or will have lawful possession of the premises proposed for the Medical Cannabis Dispensary, which proof may consist of the following: a deed, a lease, a real estate contract contingent upon successful licensing, or a letter of intent from the owner of the premises indicating an intent to lease the premises to the applicant contingent upon approval of required licenses.
  - (3) 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. Violation of this statute shall be grounds for suspension or revocation of license at the sole discretion of the City.
  - (4) The location proposed for licensing by the applicant shall comply with all applicable City zoning laws and the location restrictions set forth in §196-33.1 of this municipal code.
  - (5) The applicant shall submit, to the satisfaction of the Director, proof of financial capability to open and operate the Medical Cannabis Dispensary for which the applicant is seeking a

license. Standards for proof of financial capability shall be determined by the Director and adopted by rule or regulation.

- (6) The applicant shall submit annually, an application or renewal fee of \$15,000 for a Medical Cannabis Dispensary license.
- (7) In addition to complying with any other State or City requirements related to good character and having no criminal background, any person proposed to have an ownership interest in the license shall not have committed any cannabis licensing violation affecting public safety, as defined in the rules and regulations regarding State or City Medical Cannabis Dispensary licenses in the preceding year.
- (8) The applicant and the contents of the application shall otherwise comply with any and all qualification standards set forth in the State and City laws, regulations, or requirements.

E. Term of license and license renewals.

- (1) Any City license for a Medical Cannabis Dispensary issued pursuant to this Chapter shall be valid for a period of 1 year from the date of issuance.
- (2) The Director may, at his/her discretion, adjust the annual renewal date of the local license to correlate with an applicant's State licensing and renewal schedule, and the annual license fee shall be increased or decreased to prorate the period, accordingly.
- (3) Upon renewal of a Medical Cannabis Dispensary license, the licensee shall be governed by any Code amendments, additional restrictions, or changes in requirements adopted since the previous license was issued or renewed.
- (4) Transfer of ownership of a Medical Cannabis Dispensary license, change of location of any license, or modification to expand a licensed premise shall be treated as a new application, subject to City land use review and approval as set forth in section 196-33.1 of the Code.
- (5) If the licensee has received notice of violation of any law or regulation relating to their Medical Cannabis Dispensary license, including disciplinary action against any past or current cannabis license, the applicant for renewal shall include a copy of the notice of violation or disciplinary action with their application.

**§ 128-12. Disciplinary Actions; Sanctions; Penalties.**

- A. Disciplinary actions. Procedures for investigation of Medical Cannabis Dispensary license violations and for suspension, revocation, or other licensing sanctions as a result of any such violation shall be as follow:
- (1) First offense: \$500 per violation per day;
  - (2) Second offense: \$1,000 per violation per day;

- (3) Third violation shall result in summary suspension.
- B. Summary suspension. When the Director has reasonable grounds to believe that a Medical Cannabis Dispensary 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 Director 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.
- (2) The Director shall convene a review panel consisting of the Director, a second Director or administrative officer designated by the Mayor, and the Chair of the Hoboken Planning Board or his or her designee. To the extent practicable, the hearing shall be scheduled within 30 days of the date of the summary suspension order. The hearing shall be open to the public and shall be legally noticed as a public hearing in accordance with the Open Public Meetings Act.
- (3) The review panel, by majority vote, 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 \$25,000 per offense and/or issue a suspension of that Medical Cannabis Dispensary license for a period up to, but not exceeding, 6 months.
- C. Inactive licenses. The Director may suspend or revoke any Medical Cannabis Dispensary license if the licensed premises have been inactive or unoccupied by the licensee for 6 months or more.
- D. State license. The Director shall suspend or revoke any license if the corresponding State license for the subject location is expired, surrendered, suspended, or revoked.

### **SECTION THREE: REPEAL OF INCONSISTENT PROVISIONS**

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 FOUR: SEVERABILITY**

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 remaining in effect; it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

### **SECTION FIVE: EFFECTIVE DATE**

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



**SECTION SIX: CODIFICATION**

This ordinance shall be a part of the Code of the City of Hoboken as though codified and fully set forth therein. The City Clerk shall have this ordinance codified and incorporated in the official copies of the Code.

The City Clerk and the Corporation Counsel are authorized and directed to change any Chapter, Article and/or Section number of the Code of the City of Hoboken 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 repealers of existing provisions not intended to be repealed.

**Meeting Date: December 5, 2018**

Approved as to Legal Form:

Vetoed by the Mayor for the following reasons:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

\_\_\_\_\_  
 Brian Aloia, Esq. Corporation Counsel

Adopted by the Hoboken City Council  
 By a Vote of \_\_\_\_\_ Yeas to \_\_\_\_\_ Nays  
 On the \_\_\_ day of \_\_\_\_\_, 2018

-or-  
 Approved by the Mayor  
 On the \_\_\_ day of \_\_\_\_\_, 2018

\_\_\_\_\_  
 James Farina, City Clerk

\_\_\_\_\_  
 Ravinder S. Bhalla, Mayor

✓ Vote Record - CC - Ordinance					
		Yes/Aye	No/Nay	Abstain/Alternate	Absent
<input type="checkbox"/> 1st Reading <input type="checkbox"/> 2nd Reading <input type="checkbox"/> Tabled <input type="checkbox"/> Adopted <input type="checkbox"/> Failed	Peter Cunningham	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Mike DeFusco	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	James Doyle	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Vanessa Falco	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Tiffanie Fisher	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Jennifer Giattino	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Emily Jabbour	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Michael Russo	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Ruben Ramos	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

