

**ORDINANCE OF THE CITY OF TRENTON AMENDING THE TRENTON CITY
CODE, AND AMENDING CERTAIN REDEVELOPMENT AREA PLANS, TO PERMIT
AND GOVERN LEGAL MARIJUANA OPERATIONS WITHIN THE CITY OF
TRENTON**

SECTION I: INTRODUCTION

WHEREAS, the City of Trenton is a Faulkner Act municipality with a Mayor-Council form of government pursuant to N.J.S.A. 40:69A-31, *et seq.*, with its organization, positions, powers, and duties outlined within the Code of the City of Trenton as set forth pursuant to the Faulkner Act; and

WHEREAS, pursuant to N.J.S.A. 40:48-2, a municipality may make, amend, repeal and enforce ordinances not contrary to the laws of this State or of the United States, as it may deem necessary and proper for order and protection of persons and property, and for the preservation of the public health, safety, and welfare of the municipality and its inhabitants; and

WHEREAS, the State of New Jersey has permitted the adult use of marijuana in limited circumstances via the Compassionate Use Medical Marijuana Act, P.L. 2009, c.307 (2010), codified at N.J.S.A. 24:6I-1, *et seq.* (the “CUMMA”), and its associated regulations; and

WHEREAS, New Jersey law enforcement officers made over 24,000 arrests for marijuana possession in 2012, more than in the previous 20 years, which equated to roughly three out of every five arrests; and

WHEREAS, African American New Jerseyans are nearly three times more likely to be arrested for marijuana possession than white New Jerseyans, despite similar usage rates; and

WHEREAS, the Legislature of the State of New Jersey recognizes the need to eliminate the illegal market for marijuana and provide relief to those who have been, or will continue to be adversely affected by the disparate arrest rates resulting from illegal marijuana sales, through a statewide legislative effort providing for decriminalization and record expungement; and

WHEREAS, the Legislature of the State of New Jersey also recognizes the need to utilize tax revenue from legalized marijuana business operations to support drug treatment and education efforts, and community reinvestment initiatives; and

WHEREAS, the City has determined that the State Legislature has adequately addressed, and will continue to adequately address, the majority of statewide public health, safety, and welfare concerns which may arise from the legal adult use of marijuana; and

WHEREAS, the City has determined that State licensed businesses that legally cultivate, process, sell, and/or distribute marijuana under such State licenses require special attention in the form of an ordinance tailored toward the City of Trenton, in order to preserve the public health, safety, and welfare of the City and its inhabitants; and

WHEREAS, this Ordinance, which is meant to comprehensively amend applicable sections of the City’s Code and Redevelopment Area Plans, shall rely upon and be interpreted in accordance with the statutes, rules, and regulations enacted by the New Jersey Legislature and the various State Agencies, Authorities, and Departments governing the legal adult use of marijuana in the State of New Jersey; and

SECTION II: LAND USE & ZONING

WHEREAS, the City of Trenton has enacted a new Master Plan, the “Trenton 250 Master Plan,” which reflects the broad variety and intensity of uses present within the City of Trenton; and

WHEREAS, the Trenton 250 Master Plan also contemplates an increase in the number of zoning district classifications, beyond the nine (9) classifications of zoning districts currently governing the City; and

WHEREAS, the City is also governed by 42 separate redevelopment areas, that provide for certain permitted land uses and building requirements which supersede those outlined within the Land Development Ordinance; and

WHEREAS, the City is in the process of drafting a Land Development Ordinance which mirrors those zoning classifications and districts as outlined within the Trenton 250 Master Plan, and reduces the need for the extensive use of redevelopment areas; and

WHEREAS, the various redevelopment area boundaries, permitted uses, and building requirements outlined within the City’s redevelopment area plans more closely mirror those uses contemplated within the Trenton 250 Master Plan; and

WHEREAS, the City desires to alter the scope of permitted uses and building requirements in areas which are largely governed by redevelopment area plans, and therefore finds that the amendment of the permissible uses and building requirements is more effectively accomplished through the revision of those redevelopment area plans; and

WHEREAS, the City further finds that enacting a comprehensive ordinance as presented herein is the most effective way to permit and govern the legal adult use marijuana business operations permitted by the State of New Jersey, while maintaining consistency with the City’s current zoning structure; and

WHEREAS, Pursuant to §315–76 of the Trenton City Land Development Ordinance (“LDO”), and as permitted by the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A–7(c), *et seq.*, the specific regulations adopted by the City governing a Redevelopment Area are to supersede those governing the underlying zoning district;

WHEREAS, the Act shall not alter the boundaries of any Redevelopment Area or Zoning District, and shall only constitute amendment to the permissible uses therein; and

WHEREAS, Sections III, IV, and V of this Act shall constitute an amendment to the following Redevelopment Area Plans:

Enterprise Avenue Area Redevelopment Plan (as amended January 2005): Section B(2)(a), “Permitted Land Uses,” and Section B(2)(b), “Lot Size, Area, and Building Requirements.”

Route One Industrial Area Redevelopment Plan (as amended June 1997): Section B(2)(a), “Permitted Land Uses,” and Section B(2)(b), “Lot Size, Area, and Building Requirements.”

New York Avenue Redevelopment Plan (as amended February 2008): Section B(2)(a), “Permitted Land Uses,” and Section B(2)(b), “Building Requirements.”

Coalport Redevelopment Plan (as amended September 2000): Section B(2)(a), “Permitted Land Uses,” and Section B(2)(b), “Building Requirements.”

Pennington Avenue Redevelopment Plan (as amended September 2000): Section B(2)(a), “Permitted Uses,” and Section B(2)(b), “Building Requirements.”

Marine Terminal Redevelopment Plan (as enacted January 1973): Section B(II)(a), “Permitted Land Uses,” and Section B(II)(b), “Building Requirements.”

WHEREAS, Sections IV, V, and VI of this Act shall constitute an amendment to the following Redevelopment Area Plans:

Canal Banks Redevelopment Plan (as amended September 2005): Section B(2)(b)(4), “Permitted Land Uses – Business A (BA),” and Section B(3), “Building and Rehabilitation Requirements.”

Roebing Complex Redevelopment Plan (as amended November 1997): Section B(2), “Permitted Uses,” and Section D, “Building Requirements.”

WHEREAS, the City finds that the amendments proposed herein are consistent with the objectives of the respective plans, the current scope of permissible uses, and with the Trenton 250 Master Plan; and

NOW THEREFORE BE IT ORDAINED, by the City Council for the City of Trenton, that this Act shall amend the above Redevelopment Plans in the manner stated within Sections III through VI to permit certain uses and establish site standards as follows:

SECTION III: STATE LICENSED MARIJUANA MANUFACTURING, CULTIVATION, PROCESSING, DISTRIBUTION, AND DISPENSARIES PERMITTED

- (A) Any business duly licensed by the State of New Jersey to conduct legal adult use marijuana operations, as defined by State law, may operate within the Plan Area so long as: (i) the entity maintains its State license in good standing; (ii) the entity maintains is Trenton City Business License in good standing; and (iii) the entity otherwise remains in full compliance with the laws and regulations established by the State of New Jersey and the applicable Agency, Authority, and/or Department governing the licensed activity, as may be amended.
- (B) No doctors' and/or physicians' offices shall be located on the same site as any State Licensed Alternative Treatment Centers, and no recommendations from a doctor and/or physician for medical marijuana shall be issued on-site at any State Licensed Alternative Treatment Centers within the City of Trenton.
- (C) No Business License to operate within the City of Trenton shall be granted or renewed without such evidence as may be required by the City Clerk's Office to determine that the entity maintains all valid State and/or Departmental licenses and approvals, and that all such licenses and/or approvals remain in good standing at the time of registration.

SECTION IV: SITE STANDARDS FOR LICENSED MARIJUANA BUSINESS OPERATIONS

- (A) There shall be no on-site sales of alcohol or tobacco products, and no on-site consumption of food, alcohol, tobacco, or marijuana by patrons.
- (B) Hours of public operation shall be limited to 7:00AM through 11:00PM daily. No licensed marijuana business shall be open to the public between the hours of 11:01PM and 6:59AM on any day.
- (C) For any licensed cultivation, processing, or similar operation, the facility shall provide an air treatment system with sufficient odor absorbing ventilation and exhaust systems such that any odors generated inside the facility are not detectable by a person of reasonable sensitivity anywhere on adjacent property, within public rights of way, or within any other unit located within the same building as the licensed facility if the use only occupies a portion of a building.
- (D) For any licensed cultivation, processing, manufacturing, or similar operation, the facility shall provide for noise mitigation features designed to minimize disturbance from machinery, processing and/or packaging operations, loading, and other noise

generating equipment or machinery. All licensed facilities must operate within applicable State decibel limitations.

- (E) To the extent not already required by the entity's State license, all sites must be equipped with security cameras covering all exterior parking and loading areas, points of entry, and interior spaces which are either open to the public or used for the storage or processing of marijuana products. Footage must be maintained for the duration required under State law.
- (F) All licensed facilities must provide the Trenton City Police Department with access to security footage immediately upon request by the Department.
- (G) To the extent not already required by the entity's State license, all licensed facilities must provide at least one security guard (or more if required by the State) during all times the facility is open to the public. At a minimum, the security guard shall be a State Certified Security Officer whose certification is in good standing.
- (H) For any licensed cultivation operation, the facility must mitigate lighting spillover into any residential neighborhoods, and must comply with all applicable State lighting limitations.
- (I) As applicable and to the fullest extent possible, all licensed facilities must provide for adequate buffering as otherwise required by the Trenton City Land Development Ordinance.

SECTION V: ON-SITE SIGNAGE

- (A) No State licensed marijuana business shall display signage containing text and/or images intended to promote excessive consumption of legal marijuana products.
- (B) Signage shall otherwise comply with the requirements of Article XXV (Signs) of the Trenton City Land Development Ordinance, and Chapter 233 (Signs) of the Trenton City Code, to the extent permissible by applicable State laws and regulations governing signage standards for licensed marijuana businesses.

SECTION VI: LICENSED MEDICAL MARIJUANA DISPENSARIES PERMITTED

- (A) Any dispensary duly licensed by the State of New Jersey, as defined by State law, may operate within the Plan Area so long as: (i) the entity maintains its State license in good standing; (ii) the entity maintains its Trenton City Business License in good standing; and (iii) the entity otherwise remains in full compliance with the laws and regulations established by the State of New Jersey and the applicable Agency, Authority, and/or Department governing the licensed activity, as may be amended.

- (B) No Business License to operate within the City of Trenton shall be granted or renewed without such evidence as may be required by the City Clerk's Office to determine that the entity maintains all valid State and/or Departmental licenses and approvals, and that all such licenses and/or approvals remain in good standing at the time of registration.

SECTION VII: LOCAL HIRING, MINORITY BUSINESSES, SET ASIDES

BE IT FURTHER ORDAINED by the City Council of the City of Trenton that Chapter 146 of the City Code shall be amended, modified, or deleted as follows, with new matter being underlined thus, deletions crossed out ~~thus~~, and any and all other sections or subsections not explicitly altered herein remaining as written:

§146-20A (Local Hiring, Minority Businesses, Set Asides)

(A) For all State licensed marijuana business operations, the annual licensing fees established within Section 146-20 of the City Code shall be reduced by the following amounts for the applicable year if the business entity can demonstrate that it falls within one or more of the following categories:

(1) Any business that can provide a Minority Business Enterprise Certification from the State of New Jersey shall be entitled to a 25% reduction of the licensure fee, or remaining fee if a reduction has already been applied under this section.

(2) Any business that can provide a Women's Business Enterprise Certification from the State of New Jersey shall be entitled to a 25% reduction of the licensure fee, or remaining fee if a reduction has already been applied under this section.

(3) Any business that can provide proof that at least 1/3 of its employees are residents of the City of Trenton shall be entitled to a 25% reduction of the licensure fee, or remaining fee if a reduction has already been applied under this section.

(a) In order to receive a reduction under this section, the business entity must provide adequate proof of employment and residency, in the form of payroll history (amounts redacted) and proof of residency demonstrating at least nine (9) months of both residency and active employment.

(b) The City reserves the right to contact any employees referenced in order to verify employment and residency.

(4) Any business that can provide proof that at least one (1) ancillary service contract has been awarded to a business located within the City of Trenton shall be entitled to a 25% reduction of the licensure fee, or remaining fee if a reduction has already been applied under this section.

(a) In order to receive a reduction under this section, the business entity must provide proof of an ancillary service

contract valued over \$500 for services performed for the business the previous year, and proof of payment.

(b) The City of Trenton shall confirm that the ancillary service company is a business entity located within the City of Trenton, and possesses a valid business license in good standing.

(c) Ancillary services shall include, but shall not be limited to, mechanical services, auto repair services, custodial services, office furniture and/or supplies, IT services, and construction and/or repair services.

(B) If any State licensed marijuana business is able to satisfy three (3) of the above four (4) categories, their annual licensing fee shall be waived for that year.

SECTION VIII: LICENSING & FEES

BE IT FURTHER ORDAINED by the City Council of the City of Trenton that Chapter 146 of the City Code shall be amended, modified, or deleted as follows, with new matter being underlined thus, deletions crossed out ~~thus~~, and any and all other sections or subsections not explicitly altered herein remaining as written:

§146–11 (License Provisions)

...

(F) In order to be granted a business license for the operation of any State Licensed Medical Marijuana facility within the City of Trenton, the following conditions must be satisfied:

(1) Completion of all forms, checklists, and other submissions as may be required by the City Clerk’s Office;

(2) Payment of all applicable local fees, including inspection and licensing fees;

(2) Demonstration that all applicable State licenses have been obtained;

(3) Passage of all applicable State and local inspections required to be completed prior to the beginning of operations and/or renewal of any State and/or local license;

(4) Emergency contact information to be utilized by police, fire, and EMT personnel in the event of an on-site emergency; and,

(5) Submission of a full copy of the Application for State Licensure, via hard copy or digitally, with pages prominently marked

“CONFIDENTIAL” as appropriate for purposes of compliance with New Jersey’s Open Public Records Act (NOTE: pages not marked as confidential will be disclosed in response to an applicable OPRA request).

§146–20 (License Schedule)

...

(B) (6) Merchants and retail sales: \$300.

...

(d) Distributors, excluding State Licensed Marijuana Distributors, and including import/export with no retail establishment: \$300.

(18) Wholesalers, excluding State Licensed Marijuana Wholesalers, per location: \$500.

...

(20) State Licensed Marijuana Cultivation, Manufacturing & Processing, Wholesale & Distribution

(a) Cultivation, per location: \$10,000

(b) Manufacturing & Processing, per location: \$10,000

(c) Wholesale & Distribution, per location: \$10,000

(21) State Licensed Marijuana Dispensary

(a) Dispensaries, per location: \$5,000

(22) Vertically Integrated Facility: \$15,000

SECTION IX: PUBLIC NUISANCES PROHIBITED

BE IT FURTHER ORDAINED by the City Council of the City of Trenton that Chapter 171 of the City Code shall be amended, modified, or deleted as follows, with new matter being underlined thus, deletions crossed out ~~thus~~, and any and all other sections or subsections not explicitly altered herein remaining as written:

§ 171-11 (Nuisances Defined and Prohibited)

...

H. Any person owning, leasing, occupying, or having possession of any parcel within the City causing or allowing such parcel to be used for the

cultivation of marijuana, unless (i) the person is authorized by State law to grow marijuana, and (ii) such authorized person is complying with all State and local licensing, registration, and inspection requirements.

I. With respect to the legal operation of any State licensed adult use marijuana facility, the following is hereby declared to be an unlawful public nuisance:

(1) Odors which are disturbing to people of reasonable sensitivity who may be residing near or present on nearby property, including areas open to the public.

(2) Repeated dispatches to the property by law enforcement.

(3) Disruption to and/or obstruction of the free passage of persons and/or vehicles in the immediate vicinity of the property.

(4) Any other condition or act which may be deemed a violation of this Chapter.

SECTION X: OFF-SITE SIGNAGE & ADVERTISING

BE IT FURTHER ORDAINED by the City Council of the City of Trenton that Chapter 233 of the City Code shall be amended, modified, or deleted as follows, with new matter being underlined thus, deletions crossed out ~~thus~~, and any and all other sections or subsections not explicitly altered herein remaining as written:

Article IV: Off-Site Signage of State Licensed Marijuana Businesses

§233–19 Purpose.

(A) It is the intent of this Article to place reasonable restrictions upon the off-site advertisement of commercial marijuana businesses and products, as a reasonable and necessary means to promote and protect the general welfare of the children and minors of the City of Trenton.

§233–20 Off-Site Advertising Signage Limited.

(A) No State licensed marijuana business shall place or cause to be placed any off-site advertising signage, in a Prohibited Area within the City of Trenton as defined by this Article, which advertises the business and/or directs the public toward the business and/or promotes consumption of commercial cannabis products.

(B) No advertising signage shall be placed in a Prohibited Area within the City of Trenton, as defined by this Article, advertising and/or directing patrons to any State licensed marijuana business operation, and/or promoting consumption of commercial cannabis products.

(C) As used within this Article, a “Prohibited Area” includes:

- (1) Any area in which, under State law, any State licensed marijuana business would be prohibited from operating based upon its proximity to a school, church, place of religious worship, park, daycare, drug rehabilitation center, or similar facility as may be provided for under State law.
- (2) Any area in which, under State and/or Federal law, the sale of intoxicating beverages is prohibited based upon its proximity to a school, church, place of religious worship, park, daycare, drug rehabilitation center, or similar facility as may be provided for under State or Federal law.

SECTION XI: ADMINISTRATION OF ORDINANCE

BE IT FURTHER ORDAINED that the City Clerk and/or his or her designee is hereby granted the administrative authority to amend the numbering of sections and sub-sections herein to ensure correct sequencing with the existing ordinances in the event of any conflicts discovered during codification; and

BE IT FURTHER ORDAINED that if any term, part, or provision of this Ordinance is determined to be illegal, unconstitutional, invalid, or otherwise unenforceable by a court of competent jurisdiction, this determination shall not affect the validity of the remaining terms of and provisions of this Ordinance. To the extent any provision of the Trenton City Code is found to conflict with this Ordinance, this Ordinance shall be deemed controlling; and

BE IT FURTHER ORDAINED that the City Departments implicated in or by this Ordinance are hereby authorized to enact and adopt rules, policies, and procedures to assist with implementing and enforcing this Ordinance, to the fullest extent permitted by law; and

BE IT FURTHER ORDAINED that this Ordinance shall take effect immediately upon final passage.