

Ordinance

Ordinance No. 38

OF THE
CITY OF ATLANTIC CITY, N.J.

Date.7-21-2021.....
Date to Mayor..8-25-2021

Approved as to Form and Legality on Basis of Facts Set Forth

Factual contents certified to by

Assistant City Solicitor /s/ Karl Timbers

Business Administrator /s/ Anthony Swan

Prepared by the City Solicitor's Office

Council Members KURTZ & RANDOLPH Present the following Ordinance:

ORDINANCE AMENDING CHAPTER 176 OF THE ATLANTIC CITY CODE TO GOVERN LEGAL MARIJUANA OPERATIONS WITHIN THE CITY OF ATLANTIC CITY

WHEREAS, the City of Atlantic City 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 Atlantic City 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, through the Compassionate Use Medical Marijuana Act, permitted the adult use of marijuana in limited circumstances; and

WHEREAS, the State of New Jersey, through the recently enacted New Jersey Cannabis Regulated, Enforcement Assistance, and Marketplace Act, has permitted the personal use of cannabis for certain adults, subject to State regulation; 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 medical or recreational use marijuana under such State licenses require special attention in the form of an ordinance(s) tailored toward the City of Atlantic City, in order to preserve the public health, safety, and welfare of the City and its inhabitants; and

WHEREAS, the New Jersey Cannabis Regulated, Enforcement Assistance, and Marketplace Act permits municipalities to impose separate local licensing or endorsement requirements as part of its restrictions on the number of cannabis establishments, distributors, or delivery services, or their location, manner, or times of operations; and

WHEREAS, the City has determined that it is in the best interest of the City of Atlantic City to be proactive in establishing license or endorsement requirements, including fees, for local medical and recreational marijuana licenses in advance of the issuance of new or renewed medical and new recreational marijuana licenses by the State to facilitate opportunities for such businesses to establish operations and provide medical and recreational benefits in the City of Atlantic City.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Atlantic City that Chapter 176, Marijuana shall be amended, modified, or deleted as follows:

SECTION 1. Chapter 176. Marijuana

Chapter 176-2. Definitions.

CANNABIS CULTIVATOR

means any licensed person or entity that grows, cultivates, or produces cannabis in this State, and sells, and may transport, this cannabis to other cannabis cultivators, or usable cannabis to cannabis manufacturers, cannabis wholesalers, or cannabis retailers, but not to consumers. This person or entity shall hold a Class 1 Cannabis Cultivator license.

CANNABIS MANUFACTURER

means any licensed person or entity that processes cannabis items in this State by purchasing or otherwise obtaining usable cannabis, manufacturing, preparing, and packaging cannabis items, and selling, and optionally transporting, these items to other cannabis manufacturers, cannabis wholesalers, or cannabis retailers, but not to consumers. This person or entity shall hold a Class 2 Cannabis Manufacturer license.

CANNABIS WHOLESALER

means any licensed person or entity that purchases or otherwise obtains, stores, sells or otherwise transfers, and may transport, cannabis items for the purpose of resale or other transfer to either another cannabis wholesaler or to a cannabis retailer, but not to consumers. This person or entity shall hold a Class 3 Cannabis Wholesaler license.

CANNABIS DISTRIBUTOR

means any licensed person or entity that transports cannabis in bulk intrastate from one licensed cannabis cultivator to another licensed cannabis cultivator, or transports cannabis items in bulk intrastate from any one class of licensed cannabis establishment to another class of licensed cannabis establishment, and may engage in the temporary storage of cannabis or cannabis items as necessary to carry out transportation activities. This person or entity shall hold a Class 4 Cannabis Distributor license.

CANNABIS RETAILER

means any licensed person or entity that purchases or otherwise obtains usable cannabis from cannabis cultivators and cannabis items from cannabis manufacturers or cannabis wholesalers, and sells

these to consumers from a retail store and may use a cannabis delivery service or a certified cannabis handler for the off-premises delivery of cannabis items and related supplies to consumers. A cannabis retailer shall also accept consumer purchases to be fulfilled from its retail store that are presented by a cannabis delivery service which will be delivered by the cannabis delivery service to that consumer. This person or entity shall hold a Class 5 Cannabis Retailer license.

CANNABIS DELIVERY SERVICE

means any licensed person or entity that provides courier services for consumer purchases of cannabis items and related supplies fulfilled by a cannabis retailer in order to make deliveries of the cannabis items and related supplies to that consumer, and which services include the ability of a consumer to purchase the cannabis items directly through the cannabis delivery service, which after presenting the purchase order to the cannabis retailer for fulfillment, is delivered to that consumer . This person or entity shall hold a Class 6 Cannabis Delivery license.

MICROBUSINESS

means a person or entity licensed as a cannabis cultivator, cannabis manufacturer, cannabis wholesaler, cannabis distributor, cannabis retailer, or cannabis delivery service that may only, with respect to its business operations, and capacity and quantity of product:

- (1) employ no more than 10 employees;
- (2) operate a cannabis establishment occupying an area of no more than 2,500 square feet, and in the case of a cannabis cultivator, grow cannabis on an area no more than 2,500 square feet measured on a horizontal plane and grow above the plane not higher than 24 feet;
- (3) possess no more than 1,000 cannabis plants each month, except that a cannabis distributor’s possession of cannabis plants for transportation shall not be subject to this limit;
- (4) acquire each month, in the case of a cannabis manufacturer, no more than 1,000 pounds of usable cannabis;
- (5) acquire for resale each month, in the case of a cannabis wholesaler, no more than 1,000 pounds of usable cannabis, or the equivalent amount in any form of manufactured cannabis product or cannabis resin, or any combination thereof; and
- (6) acquire for retail sale each month, in the case of a cannabis retailer, no more than 1,000 pounds of usable cannabis or the equivalent amount in any form of manufactured cannabis product or cannabis resin, or any combination thereof.

Chapter 176-3. License required.

No person shall engage in or carry on any marijuana business, medicinal or recreational, in the City of Atlantic City, nor aid or assist as employee, clerk or otherwise in carrying on such business, or in using any wagon, vehicle, stand, store or other place or thing, nor sell or offer for sale any goods or thing for which a license is required by the terms of this article unless a license as herein provided for shall have been first obtained therefor from the State and the City. Both the State and local license(s) must be displayed prominently and posted in a conspicuous place within public view.

Chapter 176-4. Applications for licenses.

Application for local license shall be made to the City CFO, no local license shall be granted until the payment for the same shall have been made. Every local license shall specify by name the person to whom it shall be issued, the business for which it is granted and the location at which such business is to be carried on.

Chapter 176-5. Fees due and payable.

A.

All medicinal and recreational marijuana license fees shall be due and payable to the City Cashier at its office in the City Hall on or before the first day of February in each year, and all such licenses shall expire on the 31st day of January of the subsequent year.

B.

The medicinal and recreational marijuana license fees shall be due prior to the issuance of said license. The initial application fee shall serve as the initial license fee. The application fee for all Cannabis Licenses shall be \$25,000. In addition to the local annual license fee, there is required a local application fee, excluding licenses for microbusinesses, shall be \$25,000.00, payable in two checks, one for \$20,000 and one for \$5,000. If the application is not approved, the check for \$20,000 will be destroyed. If the application requires the approval of the Department of Health, there will be an additional fee of \$2,000. The lower portions of the application fees shall be nonrefundable.

C.

All fees for renewing of a current medicinal or recreational marijuana license are due on or before the expiration of the current license. In the event that the fees for renewals are not paid within 30 days of the date due, there shall be assessed a penalty of \$250 and \$250 for each thirty-day period thereafter that the fees are not paid. Further, the business or enterprise for which the fee had not been paid in a timely fashion shall be subject to closure.

Chapter 176-6. Fees Schedule for Marijuana Licenses.

A.

License fees shall be paid annually for conducting the businesses herein named at the places to be designated in the license certificate issued therefor as follows:

All annual local cannabis license fees shall be \$25,000.

All local cannabis license fees for microbusinesses shall be \$2,500.

Chapter 176-7. License certificate compliance; transfers.

A.

No license certificate shall be issued to any person who has not complied with the laws of the State of New Jersey or the ordinances of the City of Atlantic City. In the case any person licensed fails to comply with such laws or ordinances after due notice and opportunity to be heard, the Director of Licenses may revoke such license. No license provided by this article shall be transferred from one person to another person, and no license shall cover any other place of business than that for which it was issued.

Chapter 176-8. Fees imposed for purposes of revenue.

The fees herein provided for are imposed for revenue under the provisions of N.J.S.A. 40:52-2 and the determinations under that section of the statute by the appellate courts of the State of New Jersey.

SECTION 1. Any Ordinance or parts of any Ordinance inconsistent with the provisions of this Ordinance are hereby repealed to the extent to such inconsistency.

SECTION 2. This Ordinance shall become effective following adoption and publication as required by law.

8-E

DO NOT USE SPACE BELOW THIS LINE

RECORD OF COUNCIL VOTE ON FINAL PASSAGE

COUNCIL MEMBER	AYE	NAY	N.V	A.B.	MOT.	SEC.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	MOT.	SEC.
DELGADO	X						MORSHED	X					
DUNSTON	X						RANDOLPH	X				X	
FAUNTLEROY	X						SHABAZZ	X					
KURTZ	X					X	ZIA	X					
TIBBITT, PRESIDENT								X					
X-Indicates Vote NV-Not Voting AB-Absent MOT-Motion SEC-Second													

Adopted on first reading at a meeting of the Council of the City of Atlantic City, N.J. on ...JULY 21, 2021.....

Adopted on second and final reading after hearing on...AUGUST 25, 2021.....

Approved By.../s/.....MARTY SMALL, SR.Date...8/31/2021.....By Council.....Ride _____

 Mayor Aye Nay

This is a Certified True copy of the Original Ordinance on file in the City Clerk's Office.

/s/.....PAULA GELETEI, City Clerk

cr March 9, 2022 1:17 PM 8-E

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RECORD OF COUNCIL VOTE ON FIRST PASSAGE													
COUNCIL MEMBER	AYE	NAY	N.V	A.B.	MOT.	SEC.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	MOT.	SEC.
DELGADO	PRESENT						MORSHED				X		
DUNSTON	X						RANDOLPH	X					
FAUNTLEROY				X			SHABAZZ	X				X	
KURTZ	X					X	ZIA	X					
TIBBITT, PRESIDENT								X					
X-Indicates Vote NV-Not Voting AB-Absent MOT-Motion SEC-Second													

Adopted on first reading at a meeting of the Council of the City of Atlantic City, N.J. onJULY 21, 2021.....