

ORDINANCE 01-2024

**BOROUGH OF EATONTOWN,
COUNTY OF MONMOUTH, STATE OF NEW JERSEY**

**AN ORDINANCE AMENDING CHAPTER 89 "LAND USE", ARTICLE VII "AREA BULK AND USE REQUIREMENTS", SECTION 89-52
"CANNABIS CONDITIONAL USE REQUIREMENTS" AND ARTICLE III, CHAPTER 200 "LICENSES AND PERMITS" "CANNABIS
LICENSING AND TAXATION"**

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, 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") (P.L. 2021, c.16), 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 to cultivate, manufacture, wholesale, distribute, sell and deliver cannabis and cannabis related products; and

WHEREAS, Section 31a of the Act authorizes municipalities by ordinance to adopt 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, distributors or delivery services, and establishing civil penalties for the violation of any such regulations; and

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; 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 (or by August 22, 2021); and

WHEREAS, the Borough Council adopted Ordinance 19-2021 authorizing no more than two of each Class 1-Cannabis Cultivator facilities, Class 2-Cannabis Manufacturer facilities, Class 3-Cannabis Wholesaler facilities, Class 4-Cannabis Distributor facilities; and three Class-5 Retailer establishments inclusive of the existing Alternative Treatment Center which was deemed to concurrently hold a Class 5 Retail License pursuant to the Act.

WHEREAS, the Borough Council adopted Ordinance 16-2023 amending Ordinance 19-2021 expanding the eligible locations for Class 1 through 5 Cannabis operations, defined a "School" and the manner in which the distance to a School is measured, allowed microbusiness operations for Classes 1 through 4, and increased the number of Class 5 licenses from three to four (Ordinance 19-2021 and Ordinance 16-2023 shall be collectively referred to as the "Cannabis Ordinance"); and

WHEREAS, the Borough Council created a Cannabis Industry Subcommittee as an advisory committee to the Economic Development Committee given the significant interest from the cannabis industry to expand operations within the Borough and it has made certain recommendations to the Borough Council which it has evaluated and as a result, the Council believes it is in the best interest of the Borough to amend the Cannabis Ordinance to add a Class 5 microbusiness license and to clarify certain operational regulations.

NOW THEREFORE BE IT ORDAINED, by the Borough Council of the Borough of Eatontown that the Borough Code of the Borough of Eatontown be and is hereby amended as follows:

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[additions are underlined, and deletions are noted through strike-out]

SECTION 1. Chapter 89, Section 52 entitled "Cannabis Conditional Use Requirements" is hereby amended as follows:

Section 89-52 -Cannabis Conditional Use Requirements

Cannabis Class uses, (other than Alternative Treatment Centers) shall be permitted as a Conditional Use given the following conditions:

- A. Hours of Operation. Cannabis classes 3, 4 and 5 users are permitted the following hours of operation:
 - (1) Monday through Saturday: 9:00 am to 10:00 p.m.
 - (2) Sunday: 11:00 a.m. to 7:00 p.m.
- B Cannabis Class 1 and 2 users are permitted to operate twenty-four hours per day, seven days per week.
- ~~B.~~ C. Location. The permitted location of such uses shall be in accordance with the current NJ State requirements in addition to the following:
 - 1 ~~All Class 1, 2, 3 and 4 (non-Microbusiness facilities)~~ facilities, including Microbusinesses, shall be ~~permitted to be~~ located on Industrial Way West, and Industrial Way East to Wall Street. Class 1, 2, 3 and 4 Microbusiness facilities shall also be located on Meridian Road, Corbett Way, Christopher Way and James Way.
 - 2 Class 5, including Microbusiness Class 5 retail establishments, shall be permitted to be located on Route 36 and on Route 35 both south of the intersection with Route 36 and north of the intersection with Route 36 until the south corner of Clinton Avenue.
 - i. Class 5 cannabis retail ~~facilities~~ establishments (including Class 5 microbusiness establishments) shall be located a minimum of a 1,000 feet radius from any property line of a Class 5 retail facility to any property line of a School or Day-Care Center. This measurement shall not apply to properties on the opposite side of a divided State Highway.
 - ii. Class 5 cannabis retail ~~facilities~~ establishments (including Class 5 microbusiness establishments) shall also be located a minimum of a 1,000 feet radius from any property line of such facility to any property line of another Class 5 cannabis retail facility.
 - 3. [No change]
- ~~C.D.~~ [No changes].
- ~~D.E.~~ Quantity. The maximum permitted number of Class 5 Cannabis Retail establishments within the Borough of Eatontown is four (4) inclusive of the existing Alternative Treatment Center which is deemed to concurrently hold a Class 5 Retail License pursuant to the Act. There shall be no more than three of each Class 1-Cannabis Cultivator facilities, Class 2-Cannabis Manufacturer facilities, Class 3-Cannabis Wholesaler facilities, and Class 4-Cannabis Distributor facilities. Notwithstanding this limitation on the number of Class 1, 2 3, ~~and 4, and 5~~ Cannabis facilities and establishments, there shall be one additional Microbusiness permitted for each Class 1-Cannabis Cultivator facilities, Class 2-Cannabis Manufacturer facilities, Class 3-Cannabis Wholesaler facilities, ~~and Class 4-Cannabis Distributor facilities, and Class 5 -Cannabis Retail establishments.~~
- ~~E.F.~~ [No changes].

SECTION 2

Cannabis Licenses and Permits, Chapter 200-7 is hereby amended as follows:

- A. [No change].
- B. [No change].
- C. [No change].
- D. The annual license fees, type and maximum number of licenses for the cultivation, manufacture, wholesale, distribution retail sale and delivery of cannabis shall be as follows: The application fee for Class 1 through 5 non-

Microbusiness licenses shall be \$10,000 and \$2,500 per annum thereafter. The application fee for Class 1 through 5 Microbusiness shall be \$5000.00 and \$1250.00 per annum thereafter.

- E. [No change].
- F. In order to be eligible for the issuance of a license to operate a Class 1, 2, 3, 4 or 5 license, including a license to operate a Microbusiness authorized hereunder, the applicant shall provide the Borough with proof of the following:
1. [No change.]
 2. [No change].
 3. Proof of site control for the location proposed for the cannabis facility through either proof of ownership of the property, ~~or a lease or a Letter of Intent between the property owner and the cannabis licensee applicant evidencing the intent of the property owner to lease the property to the cannabis licensee applicant for at least six months, and the lease or Letter of Intent shall be renewed thereafter in at least 6 month intervals until a license is issued. the period the license is effective for~~
 4. [No change].

The remainder of all other sections and subsections of the Cannabis Ordinance not specifically amended by this Ordinance shall remain in full force and effect.

SECTION 3

All other Ordinances or parts thereof inconsistent with the provisions of this Ordinance are hereby repealed as to such inconsistency.

SECTION 4.

If any section, paragraph, subdivision, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudged and the remainder of this Ordinance shall be deemed valid and effective.

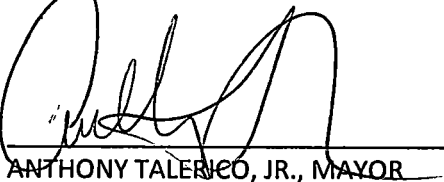
SECTION 5.

This Ordinance shall take effect upon its passage and publication according to law.

DATE INTRODUCED: MARCH 27, 2024

PUBLIC HEARING: APRIL 25, 2024

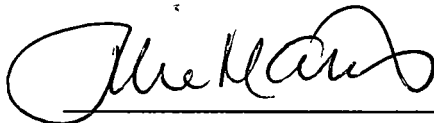
APPROVED:



ANTHONY TALERICO, JR., MAYOR

Date: 4-29-2024

ATTEST:



JULIE MARTIN, RMC, BOROUGH CLERK

Date: 4-29-2024

