

Township Of Commercial

ORDINANCE NO. 2021-606

AN ORDINANCE PROVIDING FOR THE SETTING OF MUNICIPAL STANDARDS AND QUALIFICATIONS, APPLICATIONS AND FEES AND ADMINISTRATION FOR THE LICENSING OF MEDICAL AND PERSONAL USE OF CANNABIS ESTABLISHMENTS IN THE TOWNSHIP OF COMMERCIAL PURSUANT TO THE NEW JERSEY CANNABIS REGULATORY, ENFORCEMENT ASSISTANCE, AND MARKETPLACE MODERNIZATION ACT.

**WHEREAS**, the Township of Commercial in the county of Cumberland, New Jersey (the "Township"), a municipal corporation of the State of New Jersey (the "State"), has heretofore provided for the amendment of its land use ordinance by repealing certain provisions related to medical marijuana that were adopted in 2019 and replacing them with land use regulations for both medical and adult use cannabis and now wishes to create additional regulations and licensing requirements for such regulated cannabis establishments that are permitted by the New Jersey Cannabis Regulatory Enforcement Assistance and Marketplace Modernization Act (the "act"); and

**WHEREAS**, the Township finds, given the Schedule I status of cannabis under the federal Controlled Substance Act, complexities with access to banking and the level of cash transactions in cannabis-related businesses, and other concerns associated with cannabis related businesses, that only qualified operators should be permitted to safely operate strictly regulated cannabis facilities in the municipality on a limited basis and subject to reasonable time, manner and place restrictions, in order to balance patients' and consumers' interests and the creation of jobs and economic opportunity within the Township with public safety; and

**WHEREAS**, it is in the best interest of the Township to proactively establish licensing requirements for regulated cannabis establishments and imposing regulatory fees to support enforcements activities.

**NOW THEREFORE, BE IT ORDAINED BY THE MUNICIPAL COMMITTEE OF THE TOWNSHIP OF COMMERCIAL, NEW JERSEY AS FOLLOWS:**

**SECTION 1.** The Statements of the Preamble are incorporated herein as though fully set forth at length.

**SECTION 2. Cannabis Establishments (as defined in the Act)**

Cannabis establishments shall be permitted, within the Township, only if the following requirements are complied with:

- a. The regulations of this section 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 Section is inconsistent with the statutes and/or regulations of the State of New Jersey, the State statutes and/or regulations shall prevail.

- b. Prior to the operation of any cannabis establishment, a permit or license must be obtained by the State of New Jersey and from the Township of Commercial for the applicable type(s) of cannabis establishment. No cannabis establishment shall be permitted to operate without state licenses.
- c. Permitted uses shall, at all times, comply with the terms and conditions of the licensee's cannabis establishment permits and license issued by the State of New Jersey and the Township of Commercial.
- d. Odor. Cannabis establishment shall have equipments to mitigate odor. A building for a cannabis establishment shall be equipped with ventilation system with carbon filters sufficient in type and capacity to mitigate cannabis odors emanating from the interior of the premises.
- e. Noise. Outside generators and other mechanical equipments 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.
- f. Security. All cannabis establishments shall be secured in accordance with the State of New Jersey statutes and regulations; shall have a round-the-clock video surveillance system, 365 days a year; and shall have trained security personnel onsite at all time during hours.
- g. Hours. No cannabis retailer may open to customers for business before 8:00 am or remain open to customers for business after 10:00 pm.
- h. Prohibition in Public Places. Consumption of cannabis, and cannabis products and items, in and by any form or manner, shall be prohibited in any public place within the Township of Commercial, "public place" being defined in the Township of Commercial Use Ordinance, as amended for medical and adult use cannabis, and as defined in the Act, as well as in the definition of "indoor public place" set forth in N.J.S.A. 26:3D-57, and, notwithstanding any provisions to the contrary, to include any place privately owned or operated on a for-profit or non-profit basis, which is generally accessible to the public.

### **SECTION 3. Licensing, applications, Qualifications and Standards.**

The regulations 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 shall prevail.

#### **Licensing**

##### **a. Local licensing authority.**

1. The Township Business Committee (the "Committee") is hereby designated to act as the local licensing authority for the Township for all cannabis establishments. Under all circumstances in which State law requires communication to the Township by the Cannabis Regulatory Commission or any other State agency with regard to the licensing of cannabis establishments by the State, or in which State law requires any review or approval by the Township of any action taken by the State licensing authority for receiving such communications and obtaining/granting such approvals shall be exercised by the Committee.

2. Under no circumstances shall a local license for a cannabis establishment issued by the Administrator be effective until or unless the State has issued the requisite permits or licenses to operate such a facility. It is the intent of this Ordinance that no cannabis establishment may lawfully operate in the Township of Commercial without the issuance of a State permit or license and full regulatory oversight of the Cannabis Regulatory Commission or other authorized state licensing authority as well as oversight and issuance of a license by the Township.

b. Classification of licenses. The Township, subject to land use approval and State licensure, may issue the following municipal licenses to operate a cannabis establishment:

Class I: Cannabis Cultivator License  
Class II: Cannabis Manufacturer License  
Class III: Cannabis Wholesaler License  
Class IV: Cannabis Distributor License  
Class VI: Cannabis Delivery License

c. Maximum number of licenses. The Township may issue an unlimited number of Class I, II, III, IV, and VI Cannabis Licenses, and one (1) call V Retail Cannabis License in connection with a current State/City permitted medical cannabis dispensary. Licensure in all classes may be, but are not required to be, held by the same entity or individual, but an entity may not hold more than one cannabis retailer license. Any license conditionally issued by the Township is contingent upon the locally licensed entity's or individual's subsequent receipt of a State permit or license of the same class or type of regulated cannabis activity.

## Applications

a. Persons wishing to obtain any classification of cannabis license shall file a license application with the Township Committee, on a standardized form established by the Committee and available in the Clerk's office. The Committee shall establish a reasonable application period and deadline for all applications. An application shall be deemed incomplete, and shall not be processed by the Committee, 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 that the applicant has or will have lawful possession of the premises indicating an intent to lease the premises to the applicant contingent upon successful licensing.
2. The applicant shall submit an affidavit and documentary proof of compliance with all the 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.
3. The location proposed for licensing by the applicant shall comply with all applicable municipal zoning laws and the location restrictions set forth in or otherwise to be established pursuant to this Ordinance or other controlling law.
4. The applicant shall submit, to satisfaction of the Administrator, proof of financial capability to open and operate the cannabis establishment for which the applicant is seeking a license. Standards for proof of financial capability shall be determined by the Administrator.
5. The applicant shall submit all required nonrefundable fees for the application and conditional license in accordance with the following fee schedule:

Class I:	\$1,000 Cannabis Cultivator License
Class II:	\$1,000 Cannabis Manufacturing License
Class III:	\$1,000 Cannabis Wholesaler License
Class IV:	\$1,000 Cannabis Distributor License
Class V:	\$1,000 Cannabis Retailer License
Class VI:	\$1,000 Cannabis Delivery License

6. The applicant shall submit all annual registration fees required in accordance with the following fee schedule, which shall be paid upon the receipt of a license approval:

Class I:	\$15,000 per year Cannabis Cultivator License
Class II:	\$15,000 per year Cannabis Manufacturing License
Class III:	\$15,000 per year Cannabis Wholesaler License
Class IV:	\$15,000 per year Cannabis Distributor License
Class V:	\$15,000 per year Cannabis Retailer License
Class VI:	\$15,000 per year Cannabis Delivery License

#### **Qualifications/Standards**

a. In addition to complying with any State requirement related to good character and criminal background, any person proposed to have an ownership interest in the license shall not have had any cannabis license or permit revoked for a violation affecting public safety in the State of New Jersey or a subdivision thereof within the preceding five (5) years.

1. The applicant and the application shall otherwise comply with any, and all qualification standards set forth in the State and Township laws or regulations.
2. In the event there are multiple applicants for a license, the Committee shall evaluate all applicants and issue a notification of award after consideration and evaluation in accordance with the State permitted criteria and ranking, under criteria that include:
  - (a) Applicant's owners' or principals' qualifications and experience operating in highly regulated industries, including cannabis, healthcare, pharmaceutical manufacturing, and retail pharmacies, with preference to experience operating such businesses within the State of New Jersey and where the value of owners' experience shall outweigh the experience of non-owner principals;
  - (b) Applicant's qualifications and experience related to public safety and security, including any of the applicant's owners' or principals' experience in law enforcement and drug enforcement, and summary of the applicant's plans for storage of products and currency, physical security, video surveillance, security personnel, and visitor management;

- (c) Applicant's or its owners' experience conducting or supporting or plans to conduct institutional review board-approved research involving human subjects that is related to medical cannabis or substance abuse, where the value of past or ongoing clinical research shall outweigh plans to conduct such research, and whether the applicant has a research collaboration or partnership agreement in effect with an accredited U.S. school of medicine or osteopathic medicine with experience conducting cannabis-related research;
- (d) Applicant's or its owners' demonstrated commitment or sufficient experience as responsible employers, defined as the applicant entity being a party to a labor peace agreement or the applicant entity or its parent company being a party to a collective bargaining agreement in the regulated cannabis industry for at least one year prior to application for a Cannabis Establishment license, in an effort to create well-paying jobs with employee benefits in the municipality;
- (e) Summary of the applicant's environmental impact and sustainability plan; whether the applicant entity or its parent company has any recognitions from or registrations with federal or New Jersey state environmental regulators for innovation in sustainability; and whether the applicant entity or its parent company holds any certification under international standards demonstrating the applicant has an effective environmental management system or has a designated sustainability officer to conduct internal audits to assess the effective implementation of an environmental management system;
- (f) Applicant's ties to the host community, demonstrated by at least one shareholder's proof of residency in Commercial Township for one (1) or more years in the past five (5) years or at least one shareholder's continuous ownership of business based in Commercial Township for three (3) or more years in the past ten (10) years; and
- (g) Applicant's demonstrated commitment to diversity in its ownership composition and hiring practices and whether the applicant entity or its parent company holds any certifications as a NJ minority-owned, women-owned, or veteran-owned business.

## **Term**

### **b. Term of license and license renewals.**

1. Any local license issued pursuant to this Ordinance shall be valid for a period of one (1) year from the date of issuance and shall be renewed in accordance with the provisions of this Ordinance.
2. The Committee may, at his/her discretion, adjust the renewal date of the local license to correlate with an applicant's State licensing and renewal schedule.
3. Renewal of any license shall be governed by any code amendments, additional restrictions or changes in regulations adopted since the previous license was issued or renewed.
4. Any change of location of any license or modification to expand a licensed premise shall be subject to Township Planning review and zoning approval.
5. Except where the Committee has received a complete renewal application along with the requisite fees, and has issued a license renewal, it shall be unlawful for any person to manufacture, sell distribute, transfer, transport, or otherwise remove cannabis or cannabis products from the premises of any license after the expiration date recorded on the face of the license.

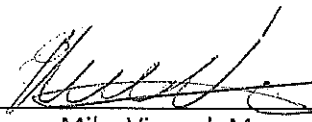
**SECTION 4.** Any and all ordinances or parts thereof in conflict or inconsistent with this Ordinance are hereby repealed, but only to the extent of such conflict or inconsistency, it being the legislative intent that all such ordinances or part of ordinances now existing or in effect unless the same are in conflict or inconsistent with any provision of this Ordinance shall remain in effect.

**SECTION 5.** The provisions of this Ordinance are declared to 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.

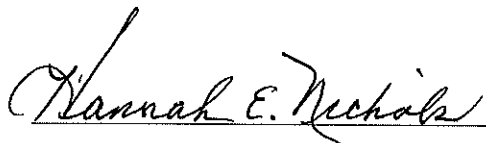
**SECTION 6.** This Ordinance shall take effect upon passage and publication as provided by law.

Passed first reading:

Passed final reading:

  
Mike Vizzard, Mayor

ATTEST:

  
Hannah Nichols, Township Clerk