

CANNABIS ESTABLISHMENTS

PRESENTATION TO THE JC PLANNING BOARD

6/8/2021

LEGALIZATION

- Governor Murphy signed into law legislation legalizing and regulating cannabis use and possession for adults 21 years and older, **A-21** (P.L.2021,c.16)
- **Opt-In or Opt-Out Timeline:**
 - Municipalities have 180 days (until August 21, 2021) to take action to either prohibit or limit the number of cannabis establishments, distributors, or delivery services; the location, manner, and times of operation, local licensing, and establishing civil penalties for violation of ordinances

LEGALIZATION

- **No Action Result:**

- If municipalities do not take action within 180 days, any class of cannabis establishment or distributor will be permitted to operate in the municipality, and depending on the type of establishment, be considered a permitted use in certain zones.

- **5-Year Periods:**

- A municipality that fails to enact an ordinance prohibiting the operation of one or more classes of cannabis establishments, before August 21, 2021, is precluded from passing an ordinance banning the operation for a period of 5 years. After this 5-year period, a municipality has another 180-day window to prohibit or limit cannabis operations, but this action only applies prospectively. Those who initially opt-out can opt-in at any time.

LEGALIZATION

- **Local Cannabis Tax:**

- Municipalities can enact by ordinance a local cannabis tax that cannot exceed 2% for cannabis cultivator, manufacturer, and/or retailer; and 1% for wholesalers. The tax percentage is based on the receipts for each sale and is paid directly to the municipality in the manner prescribed by the municipality. Any delinquencies are treated the same as delinquent property taxes. The tax cannot apply to delivery services to consumers or transfers for the purpose of bulk transportation.

- **Delivery Rights:**

- A municipality cannot prohibit the delivery of cannabis items and related supplies by a delivery service within their jurisdiction.

- **More information**

- Check NJ League of Municipalities website. Link below.

Source: <https://www.njlm.org/969/Cannabis-Legalization>

CITY PLANNING'S TIMELINE

- **June 8th and June 22nd meetings:**

- Staff proposes addressing zoning for cannabis establishments on two separate meetings.
- We recommend introduction on the 8th with comments and questions from commissioners
- Then on June 22nd we recommend opening to public comment and board action

- **August 21st deadline**

- Anticipate 1st reading introduction to JC Council on July 14th
- A special meeting of the council is being organized thereafter for a second reading
- Other efforts in addition to the proposed amendments to the LDO may include licensing, taxation and civil penalties.

- **Email Comments:**

- Can be sent to mward@jcnj.org and cityplanning@jcnj.org
- Please email us your comments by June 17th

AMENDMENTS PROPOSED

State Licenses / Classes

Local Considerations

Conditional Use

Class 1 to 4 Regulations

Microbusiness Class 1, 3 and 4 Regs

Class 5 Regulations

Retailer Reference Map

STATE LICENSES / CLASSES

- **Cannabis Establishments:**
 - Class 1 – Cannabis Cultivator
 - Class 2 – Cannabis Manufacturer
 - Class 3 – Cannabis Wholesaler
 - Class 4 – Cannabis Distributor
 - Class 5 – Cannabis Retailer
 - Class 6 – Cannabis Delivery

STATE LICENSES / CLASSES

- **Cannabis Establishments:**

- Class 1 – Cannabis Cultivator
- Class 2 – Cannabis Manufacturer
- Class 3 – Cannabis Wholesaler
- Class 4 – Cannabis Distributor
- Class 5 – Cannabis Retailer
- Class 6 – Cannabis Delivery



**Industrial
by nature**



**Main Street
by nature**

N/A

STATE LICENSES / CLASSES

- **Cannabis Establishments:**

- Class 1 – Cannabis Cultivator
 - Grows, cultivates, or produces cannabis in New Jersey, and sells.
 - Sells and may transport to other cannabis growers, processors, wholesalers or retailers, but not consumers.
- Class 2 – Cannabis Manufacturer
- Class 3 – Cannabis Wholesaler
- Class 4 – Cannabis Distributor
- Class 5 – Cannabis Retailer

STATE LICENSES / CLASSES

- **Cannabis Establishments:**

- Class 1 – Cannabis Cultivator
 - Class 2 – Cannabis Manufacturer
 - Class 3 – Cannabis Wholesaler
 - Class 4 – Cannabis Distributor
 - Class 5 – Cannabis Retailer
- Processes cannabis items in New Jersey by purchasing or otherwise obtaining usable cannabis, manufacturing, preparing, and packaging cannabis items, and selling.
 - Optionally transporting these items to other cannabis processors, wholesalers or retailers, but not to consumers.

STATE LICENSES / CLASSES

- **Cannabis Establishments:**

- Class 1 – Cannabis Cultivator
 - Class 2 – Cannabis Manufacturer
 - Class 3 – Cannabis Wholesaler
 - Class 4 – Cannabis Distributor
 - Class 5 – Cannabis Retailer
- Purchases or otherwise obtains, stores, sells, or otherwise transfers.
 - 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.

STATE LICENSES / CLASSES

- **Cannabis Establishments:**

- Class 1 – Cannabis Cultivator
 - Class 2 – Cannabis Manufacturer
 - Class 3 – Cannabis Wholesaler
 - Class 4 – Cannabis Distributor
 - Class 5 – Cannabis Retailer
- Transports cannabis items in bulk intrastate from one licensed cannabis establishment to another licensed establishment.
 - May engage in temporary storage as necessary to carry out transportation activities.

STATE LICENSES / CLASSES

- **Cannabis Establishments:**

- Class 1 – Cannabis Cultivator
- Class 2 – Cannabis Manufacturer
- Class 3 – Cannabis Wholesaler
- Class 4 – Cannabis Distributor
- **Class 5 – Cannabis Retailer**
 - Purchases or otherwise obtains usable cannabis from cannabis cultivators and cannabis items from cannabis manufacture or cannabis wholesalers, and sells these to consumers from a retail store.
 - May use a cannabis delivery service for the off-premises delivery of cannabis items and related supplies to consumers.
 - Must accept consumer purchases to be fulfilled by cannabis delivery services.

LOCAL CONSIDERATIONS

- Regarding Zoning, State law permits municipalities to regulation location, number of establishments, which classes/licenses, hours of operation, and manner
- **Core Considerations:**
 - Build in public meetings and notice
 - Promote equity and entrepreneurship
 - Recognize concern and existing conditions
 - Balance demand and over saturation
 - Encourage competition and collocation

LOCAL CONSIDERATIONS

- **Build in Public Meetings and Notice**

- All Cannabis Establishments are permitted as a **conditional use** per the Municipal Land Use Law.
- This requires that all applications go before a **land use board** and complete **public notice**.

- **Promote equity and entrepreneurship**

- Utilized Microbusiness category, as defined by state law, to promote equity and entrepreneurship
- **Microbusiness** - means a person or entity licensed as a cannabis establishment that shall meet the following requirements:
 - **100 percent** of the ownership interest in the microbusiness shall be held by current New Jersey residents who have resided in the state for at least the past two consecutive years;
 - At least **51 percent** of the owners, directors, officers, or employees of the microbusiness shall be residents of the municipality in which the microbusiness is located, or to be located;
 - Employ no more than **10 employees**;
 - 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 that plane not higher than 24 feet;
 - **Operation/Product Caps**: Possess or acquire no more than 1,000 cannabis plants each month or 1,000 pounds of usable cannabis.

LOCAL CONSIDERATIONS

- **Promote equity and entrepreneurship**

- Submittal Requirements. Several requirements of the state application are required as part of an application to a JC land use board. The following submittal requirements were chosen:
 - A **community impact plan** summarizing how the applicant intends to have a positive impact on the community in which the proposed cannabis establishment is to be located; which shall include an **economic impact plan** and a description of outreach activities.
 - A written description of the applicant's record of **social responsibility**, philanthropy, and ties to the proposed host community.
 - A **workforce development and job creation plan**, which may include information on the applicant's history of job creation and planned job creation at the proposed cannabis establishment; education, training and resources to be made available for employees; any relevant certifications, and an optional diversity plan.
 - Submit attestation signed by a bona fide labor organization stating that the applicant has entered into a **labor peace agreement**. This requirement shall not apply to applicants for a conditional permit or for an entity that is a certified microbusiness.

LOCAL CONSIDERATIONS

- **Recognize concern and existing conditions**
 - Cannabis Consumption Areas:
 - At this time, the City is **opting out** of Cannabis Consumption Areas until local licensing are promulgated
 - Cannabis Consumption Areas can be summarized as **onsite** consumption areas. They are limited to Class 5 licenses and **need annual** State and local endorsement if they are permitted.
 - School Buffer:
 - Recognize concerns and incorporated a school buffer of **200 feet** from the main entry of a cannabis retailer.
 - Recommended 200 feet, but it **could be decreased**, since there are high concentration of schools excluding large areas of commercial areas.

CLASS 1 TO 4 REGULATIONS

Cannabis Establishments subject to a Class 1, 2, 3 or 4 licenses shall be permitted conditional uses, as regulated herein, in all industrial zones, light industrial zones or industrial overlays as well as the Highway Commercial Zone (HC) along Tonnele Avenue.

- Separation Distances. Cannabis establishments shall not be 200 feet or less from one another; except that a certified microbusiness has no separation distance requirements.
- Cannabis Establishments shall not be collocated with any residential use in the same structure or on the same lot.
- No outdoor cultivation shall be allowed within 30 feet of any property line.
- Barb wire or razor wire is prohibited.
- Compliance with the general provisions of this Section.
- The signage, bulk, coverage, design standards, loading, and parking regulations and standards of the zone in which the subject property is located shall apply. For the purposes of this Section, in instances where signage, bulk, coverage, design, loading, and parking regulations and standards are regulated by use or differentiated by use, the standards and regulations that are most restrictive or least intense shall apply to cannabis establishments.
- Submittal requirements. *(see prior slide on promoting equity)*

MICROBUSINESS CLASS 1, 3, 4 REGS

Cannabis Establishments subject to a Class 1, 3, 4 licenses and certified as a microbusiness shall be permitted conditional uses, as regulated herein, in Commercial/Automotive (C/A) or Highway Commercial (HC) Zones.

- Cannabis Establishments shall not be colocated with any residential use in the same structure or on the same lot.
- Outdoor cultivation is prohibited.
- Barb wire or razor wire is prohibited.
- Compliance with the general provisions of this Section.
- The signage, bulk, coverage, design standards, and parking regulations and standards of the zone in which the subject property is located shall apply. For the purposes of this Section, in instances where signage, bulk, coverage, design, and parking regulations and standards are regulated by use or differentiated by use, the standards and regulations that are most restrictive or least intense shall apply to cannabis establishments.
- Submittal requirements. (*see prior slide on promoting equity*)

CLASS 5 (RETAILER) REGULATIONS

Cannabis Establishments subject to a **Class 5 (Cannabis Retailer)** license shall be a permitted conditional use, as regulated herein.

- The establishment shall be located wholly or partially within one or more of the **following zoning districts**:
 - Neighborhood Commercial (NC), Palisade Avenue Mixed Use Multi-Family Attached Housing District (R-2D), Commercial/Automotive (C/A), Highway Commercial (HC), Waterfront Planned Development (WPD), Central Business District (CBD), and Office/Residential (O/R).
 - Any district, zone, overlay, or subdistrict of a Redevelopment Plan where retail sales of goods and services is a permitted principal use.

CLASS 5 (RETAILER) REGULATIONS

Cannabis Establishments subject to a **Class 5 (Cannabis Retailer)** license shall be a permitted conditional use, as regulated herein.

- **Separation Distances and Location Maximums.**
 - School Buffer
 - Neighborhood Commercial (NC) location maximum
 - PATH Station location maximum
 - Separation distance everywhere else
- **Other.**
 - Compliance with the general provisions of this Section.
 - Compliance with zoning standards (*see prior slide for Class 1 to 4*) .
 - Submittal requirements (*see prior slide on promoting equity*).

CLASS 5 (RETAILER) REGULATIONS

School Buffer.

- The main entry door of any Cannabis Establishment (including microbusinesses) shall be at least 200 feet from any school identified on the City's Official Drug Free School and Park Zones Map, pursuant to Section 151-1 of the Jersey City Municipal Code and pursuant to regulations and definitions in N.J.S.A. 2C:35-7 et seq., and N.J.S.A. 2C:35-7.1 et seq.. A copy of said map may be made available by the Division of Engineering or City Clerk.

CLASS 5 (RETAILER) REGULATIONS

Neighborhood Commercial (NC) Location Maximums.

- For lots wholly or partially within a Neighborhood Commercial (NC) zone, there shall not be more than **two (2)** cannabis establishments on the same block and **at least one (1)** of the two (2) shall be a certified **microbusiness**. A block includes all lots fronting on both sides of a right-of-way between intersections. Corner lots are on two blocks.

CLASS 5 (RETAILER) REGULATIONS

Path Station Location Maximum.

- For lots wholly or partially within 800 feet of a PATH Station in Jersey City, there shall not be more than **two (2)** cannabis establishments on the same block and **at least one (1)** of the two (2) shall be a certified **microbusiness**. A block includes all lots fronting on both sides of a right-of-way between intersections. Corner lots are on two blocks.
- The official location of a Station is determined by the NJ Office of Information Technology, Office of GIS (NJOGIS) and published under the title “NJ TRANSIT, PATH, PATCO and SEPTA Passenger Rail Station points, 2018 (NAD83, NJSP feet)” and available for download at <https://njogis-newjersey.opendata.arcgis.com/>.

CLASS 5 (RETAILER) REGULATIONS

Separation distance everywhere else.

- *For lots 800 feet or more from a PATH Station in Jersey City or outside of a Neighborhood Commercial (NC) zone, Cannabis Establishments shall be separated from one another by a distance of **at least 600 feet**.*

RETAILER REFERENCE MAP

QUESTIONS

- **Next Meeting:**

- This topic will be discussed further at June 22nd meeting

- **Email Comments:**

- Can be sent to mward@jcnj.org and cityplanning@jcnj.org
- Please email us your comments by June 17th

- **August 21st deadline:**

- Anticipate 1st reading introduction to JC Council on July 14th
- A special meeting of the council is being organized thereafter for a second reading
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