

ORDINANCE NO. 15-2022

ORDINANCE OF THE BOROUGH OF MADISON AMENDING AND SUPPLEMENTING PART II OF THE MADISON BOROUGH CODE ENTITLED GENERAL LEGISLATION, TO INCLUDE CHAPTER 193 ENTITLED MEDICINAL CANNABIS DISPENSARY

WHEREAS, in 2020 New Jersey voters approved Public Question No. 1 which amended the State of 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”), 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, Madison has adopted legislation allowing up to (2) Medicinal Cannabis Dispensaries subject to certain requirements; and

WHEREAS, Section 31a of the “Act” authorizes municipalities to adopt by ordinance regulations governing the local licensing endorsement, location, manner and times of operation of Medicinal Cannabis Dispensaries and establish civil penalties for the violation of any such regulations;

NOW THEREFORE, BE IT ORDAINED, by the Borough Council of the Borough of Madison, County of Morris, State of New Jersey, as follows:

Section 1. The aforementioned recitals are incorporated in their entirety, as if restated herein.

Section 2. The current text of Part II of the Borough Code, entitled “General Legislation”, shall be hereby amended and supplemented to include, the following in its entirety:

Chapter 193 Medicinal Cannabis Dispensary

§ 193-1 Standards adopted; license required.

It shall be unlawful for any person or any corporate entity to operate a Medicinal Cannabis Dispensary without first having procured a License from the Borough Clerk’s Office and without having first paid the required license fee(s) for such establishment.

§ 193-2 License.

A. Application. Any person or persons, corporation or corporations desiring to conduct, maintain or operate a Medicinal Cannabis Dispensary within the Borough of Madison shall make application in writing to the Borough Clerk on forms to be provided by the Borough for a License to conduct and operate such business (herein “Dispensary Application”), as follows:

1. Applications shall be submitted to the Borough Clerk and the Borough Clerk will place the item on the Borough Council agenda within thirty (30) days of receipt.
2. The following documentation and information shall be provided in conjunction with the Dispensary Application:

- a. The name and complete contact information of the licensee, including but not limited to, the licensee's name, the principal place of business, a mailing address, the primary point of contact for the application, and the senior person responsible for management and operation of the proposed facility, which information shall be promptly updated as necessary;
- b. A copy of the current State-approved license, and to the extent permitted by law, a copy of the operating and security procedures required by the Act.
- c. An affidavit or certification affirming compliance with all requirements of state and local law and identifying any matters requiring variance or waiver relief;
- d. A general description of the proposed structure in which the facility will be located, including co-tenancy (if in a multi-tenant building), total square footage, description of ingress and egress, proposed exterior lighting plan, and building code compliance;
- e. A full floor plan showing the extent of the use contained in the enclosed building, location of products, active retail service area, storage of products, waiting/queuing area(s), and all safety and security measures in place;
- f. A depiction of the site design, including identifying any matters requiring variance or waiver relief;
- g. The proposed days and hours of operation, the anticipated building occupancy capacity, and the average number of customers and employees anticipated to frequent the facility on a daily basis;
- h. The anticipated parking demand and parking plan per the applicable Schedule of Off-Street Parking Requirements and available private parking supply;
- i. A traffic management plan depicting the on-site pedestrian and vehicular traffic circulation, stacking, and queuing, and demonstrating the manner in which the facility's traffic will be managed so as to minimize the impact on adjacent roadways and neighborhoods;
- j. A proposed signage plan;
- k. A plan for disposal of refuse including disposal of any cannabis or cannabis by-products which disposal method protects any portion thereof from being possessed or ingested by any person or animal, and which complies with applicable federal, state, and local regulations;
- l. A plan describing the mitigation measures and ventilation system that will be used to prevent any odor of cannabis off the premises;

- m. The name(s) and location(s) of the offsite cultivation facilities associated with a dispensary, if any;
 - n. Such other information or documentation as determined to be necessary to assess compliance with the requirements set forth or referenced herein.
- B. Completeness. The Borough Council shall review the Dispensary Application and, by resolution, may deem a Dispensary Application complete upon receipt of the required License fee along with all documentation and information described herein to the satisfaction of the Borough Council.

An applicant's failure to submit a fully completed Dispensary Application, along with the required License fee, after a period of forty-five (45) days from the original date of submittal shall constitute a basis for the Borough Clerk to deem the Dispensary Application expired.

C. Referrals.

1. Land Use. The Borough Clerk shall refer a completed Dispensary Application to the Zoning Officer and applicable land use board for Site Plan Approval consideration. The Borough Clerk shall send a written notice to all property owners within 200 feet of the proposed dispensary location indicating when the License vote is on the Council Agenda and the meeting details.
2. Police. The Borough Clerk shall refer a completed Dispensary Application to the Police Chief for review of safety and security plans. Applicants for a Medicinal Cannabis Dispensary shall coordinate with the Borough Chief of Police, or his designee, regarding the measures to be taken to ensure the security of the facility and the safety of the public and facility employees. Such measures may include, but are not limited to, facility access controls, surveillance systems, site lighting, on-site security personnel, and coordinating additional assistance from the Borough Police, if necessary. Said coordination shall occur in conjunction with any application for a zoning permit or variance relief for a Medicinal Cannabis Dispensary that has been deemed complete by the Zoning Officer, and shall be ongoing, as needed, to address any security or safety issues.

D. Reserve; revocation; extension.

1. Licensing for a Medicinal Cannabis Dispensary shall be on a reserve basis based on the order a fully completed Dispensary Application is obtained. Once an applicant obtains completeness from the Borough Council, the applicant shall be considered a "Reserve Licensee" until all requirements for a License are obtained.
2. A Reserve Licensee's failure to obtain all requirements for a License within ninety (90) days of being deemed complete by the Borough Council shall constitute a basis for the Borough Clerk to deem the Dispensary Application expired and revoke the reserve space.

The Reserve Licensee may seek one (1) thirty-day extension of the time in writing to the Borough Clerk. Any additional requests for extensions of time shall be subject to Borough Council approval.

3. No Dispensary Applications shall be received or reserved during a time when the maximum number of Medicinal Cannabis Dispensary Licenses permitted by the Borough Code have been issued.
- E. Issuance of License. Upon receipt of Site Plan Approval, if required, and an approval or satisfactory report from the Police Chief regarding safety and security compliance, the Borough Council may, by Resolution, authorize the Borough Clerk to issue a final License for a Medicinal Cannabis Dispensary to the Reserve Licensee.

The License shall be effective for the calendar year, expiring on the 31st day of December of the year issued, and may be renewable for succeeding calendar years thereafter by payment of the required fee and approval of the Borough Council.

As a condition of the License, the Borough Council shall require the Licensee to enter into a recordable developer's agreement with the Borough.

- F. Inspection. Subject to the requirements and limitations of State Law, the Borough of Madison shall have the reasonable right to inspect the premises of any approved Medicinal Cannabis Dispensary during its regular hours of operation to ensure compliance with local ordinances and regulations.
- G. Developer Agreement. A successful applicant will be required to execute a Developer Agreement drafted by the Borough Attorney incorporating all requirements listed herein, plus any additional obligations and requirements at the discretion of the Borough.

§ 193-3 License fees; renewal; late fees.

- A. A Medicinal Cannabis Dispensary shall pay to the Borough an annual, non-refundable License fee of \$40,000. If 20% of full-time employee hours are filled by residents of the Borough, the Medicinal Cannabis Dispensary shall receive a \$5,000 discount on the annual License fee. First-time applicants whose application is received on or after July 1 of the license year, will pay a one-time, reduced fee of \$20,000.
- B. Renewal. A Medicinal Cannabis Dispensary shall submit an annual License renewal application to the Borough Clerk's Office (herein "Dispensary Renewal Application"). The Dispensary Renewal Application shall be subject to Borough Council review and approval by the Borough Council.
- C. The \$40,000 fee for annual License renewals shall be due and payable on or before the first day of February in the year of renewal.
- D. Late fees. A late fee of \$500 shall be charged for annual License fees which are not paid on/or before February 1 of the license year. An additional \$100 shall be charged for each thirty-day period that the license fee is not paid after February 1 of the license year.

§ 193-4 Revocation, suspension or cancellation of licenses; hearing.

- A. Any license issued under the terms and provisions of this chapter may be suspended or revoked by the Mayor and Council of this municipality for the violation by the licensee of any provision of this chapter or Chapter XII of the New Jersey State Sanitary Code or whenever it shall appear that the Medicinal Cannabis Dispensary is conducted in a disorderly or improper manner or in violation of any law of the United States, the State of New Jersey or any ordinance of this municipality or that the purpose for which the license has been issued is being abused to the detriment of the public or is being used for a purpose foreign to that for which the license was issued.
- B. A license issued under the terms and provisions of this chapter shall not be revoked, canceled or suspended until a hearing thereon shall have been had by the Mayor and Council. Written notice of the time and place of such hearing shall be served upon the Medicinal Cannabis Dispensary at least three days prior to the date set for such hearing. Such notice shall also contain a brief statement of the grounds to be relied upon for revoking, canceling or suspending such license. Notice may be given either by personal delivery thereof to the person to be notified or be deposited in the United States Post Office in a sealed envelope, postage prepaid, addressed to such person to be notified at the business address appearing upon said license. At the hearing, the representatives of the Medicinal Cannabis Dispensary shall have an opportunity to be heard. Upon due consideration and deliberation, the complaint may be dismissed, or if the governing body concludes that the charges have been sustained and substantiated, it may revoke, cancel or suspend the license held;
- C. If any such license shall have been revoked, neither the holder thereof nor any person acting for him, directly or indirectly, shall be entitled to another license to carry on the same business within the Borough, unless the application for such license shall be approved by the Governing Body.

§ 193-5 Non-applicability.

No provision of this chapter shall be applied so as to impose any unlawful burden on either interstate commerce or any activity of the State or Federal government.

§ 193-6 Violations and penalties.

Any person, firm or corporation who shall violate any of the provisions of this chapter shall, upon conviction, be subject to the penalties provided by Article 1-15 of the Borough Code, and each violation of any of the provisions of this chapter and each day the same is violated shall be deemed and taken to be a separate and distinct offense.

Section 3. The Borough Clerk is directed to give notice at least ten (10) days prior to a hearing on the adoption of this Ordinance to the Borough of Madison Planning Board and to all other persons or entities entitled thereto pursuant to N.J.S.A. 40:55D-26 and N.J.S.A. 40:55D-64. The Planning Board is directed to make and transmit to the Borough Council, within thirty-five (35) days after referral, a report including identification of any provisions in the proposed Ordinance that are inconsistent with the Borough Master Plan and recommendations concerning any inconsistencies and any other matter as deemed appropriate.

Section 4. If any section, paragraph, subdivision, clause or provision of this Ordinance shall be judged invalid, such adjudication shall apply only to that section, paragraph, subdivision, clause or provision, and the remainder of this Ordinance shall be deemed valid and effective.

Section 5. All ordinances or parts of ordinances inconsistent with or in conflict with this Ordinance are hereby repealed to the extent of such inconsistency.

Section 6. This Ordinance shall take effect according to law.

ADOPTED AND APPROVED

ROBERT H. CONLEY, MAYOR

Attest:

ELIZABETH OSBORNE, Borough Clerk