

CITY OF LAMBERTVILLE

ORDINANCE NO. 16-21

**AN ORDINANCE OF THE CITY OF LAMBERTVILLE
IN HUNTERDON COUNTY, NEW JERSEY CREATING
CHAPTER 16 OF THE CITY CODE ENTITLED
“CANNABIS” AND AMENDING THE LAND USE
REGULATIONS TO PERMIT THE OPERATION OF
CLASS 5 CANNABIS RETAILER LICENSE WITHOUT
CONSUMPTION AREA AND PROHIBIT CLASSES 1, 2,
3, 4 AND 6 OF CANNABIS LICENSED
ESTABLISHMENTS WITHIN THE CITY AND
AMENDING CHAPTER 15 TO ESTABLISH A
CANNABIS TRANSFER TAX**

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 twenty-one 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 twenty-one 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, including:

- Class 1 Cannabis Cultivator license, for facilities involved in growing and cultivating cannabis;
- Class 2 Cannabis Manufacturer license, for facilities involved in the manufacturing, preparation, and packaging of cannabis items;
- Class 3 Cannabis Wholesaler license, for facilities involved in obtaining and selling cannabis items for later resale by other licensees;
- Class 4 Cannabis Distributer license, for businesses involved in transporting cannabis plants in bulk from one licensed cultivator to another licensed cultivator, or cannabis items in bulk from any type of licensed cannabis business to another;

- Class 5 Cannabis Retailer license, for locations at which cannabis items and related supplies are sold to consumers; and
- Class 6 Cannabis Delivery license, for businesses providing courier services for consumer purchases that are fulfilled by a licensed cannabis retailer in order to make deliveries of the purchased items to a consumer, and which service would include the ability of a consumer to make a purchase directly through the cannabis delivery service which would be presented by the delivery service for fulfillment by a retailer and then delivered to a consumer.

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 (*i.e.*, by August 22, 2021); and

WHEREAS, pursuant to section 31b of the Act, the failure to do so shall mean that for a period of five years thereafter, the growing, cultivating, manufacturing, selling, and reselling of cannabis and cannabis items shall be permitted uses in all industrial zones, and the retail selling of cannabis items to consumers shall be a conditional use in all commercial and retail zones; and

WHEREAS, at the conclusion of the initial and any subsequent five-year period following a failure to enact local regulations or prohibitions, the municipality shall again have 180 days to adopt an ordinance regulating or prohibiting cannabis businesses, but any such ordinance would

be prospective only and would not apply to any cannabis business already operating within the municipality; and

WHEREAS, the City Council of the City of Lambertville has determined that, due to present uncertainties regarding the potential future impacts that allowing one or more classes of cannabis business might have on New Jersey municipalities in general, and on Lambertville in particular, it is at this time necessary and appropriate, and in the best interest of the health, safety, and welfare of the City’s residents and members of the public who visit, travel, or conduct business in the City, and to provide the City an opportunity to evaluate the potential impacts of one or more classes of cannabis business, to amend the City’s zoning regulations to prohibit Classes 1, 2, 3, 4, and 6 cannabis licensed establishments within the City; and

WHEREAS, the City Council and the City of Lambertville has determined that the retail sale of cannabis items to consumers is encompassed within the definition “Retail Sales”, which is a permitted use in the Central Business District, the Service Commercial District and General Commercial District; and

WHEREAS, the Mayor and City Council finds it necessary pursuant to the Act to set forth conditions governing said cannabis retail use in the afore-mentioned zoning districts; and

WHEREAS, cannabis uses shall be prohibited in any district where not specifically permitted; and

WHEREAS, this ordinance shall not be construed to prohibit home growing of cannabis products in the event such is permitted by the New Jersey Legislature in the future; and

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Lambertville, County of Hunterdon and State of New Jersey, as follows:

SECTION 1: Preamble incorporated. The preamble to this ordinance is hereby incorporated as if fully restated herein.

SECTION 2: Chapter 15 Finance and Taxation of the Municipal Code of the City of Lambertville shall be amended to establish Section 15-2 Cannabis Transfer Tax as follows:

Section 15-2 Cannabis Transfer Tax

§15-2.1 Purpose.

It is the purpose of this Article to implement the provisions of the New Jersey Cannabis Regulatory, Enforcement, Assistance and Marketplace Modernization Act (“CREAMMA”), P.L. 2021, c.16 (approved February 22, 2021) which authorizes a municipality to impose Cannabis Transfer and User Taxes. All terms herein shall be defined in same as defined in N.J.S.A. 24:6I-33, section 3 of CREAMMA and Chapter 16 Cannabis.

§15-2.2 Cannabis Transfer Tax.

- a. There shall be a transfer tax imposed on the receipts from the sale of cannabis and cannabis items from the following licensed person or entity located in this municipality:
 - i. From one cannabis establishment to another cannabis establishment;
 - ii. From retail sales of cannabis items by a cannabis retailer to retail consumers who are 21 years of age or older;
 - iii. Or any combination thereof.
- b. The transfer tax rate shall be assessed at 2% of receipts from each sale by a cannabis retailer.
- c. The transfer tax shall be in addition to any other tax or fee imposed pursuant to statute or local ordinance or resolution by any government entity with regard to cannabis.
- d. Any transaction for which the transfer tax is imposed, is exempt from the tax imposed under the N.J.S.A. 54:32B-1 et seq., “Sales and Use Tax Act”.
- e. The transfer tax shall be stated, charged and shown separately on any sales slip, invoice, receipt or other statement or memorandum of the price paid or payable or equivalent value of the transfer for the cannabis or cannabis item.

§15-2.3 Cannabis User Tax.

- a. There shall be a user tax imposed on any concurrent license holder operating more than one cannabis establishment.
- b. The user tax rate shall be assessed at 2% on any concurrent license holder operating more than one cannabis establishment. The use tax shall be imposed on the value of each transfer or use of cannabis or cannabis items not otherwise subject to the transfer tax imposed pursuant to this Article, from the license holder’s establishment that is located in the municipality to any of the other license holder’s establishments, whether located in the municipality or another municipality.
- c. The user tax shall be in addition to any other tax or fee imposed pursuant to statute or local ordinance or resolution by any government entity with regard to cannabis. Any

transaction for which the user tax is imposed, is exempt from the tax imposed under the N.J.S.A. 54:32B-1 et seq., “Sales and Use Tax Act”.

- d. The user tax shall be stated, charged and shown separately on any sales slip, invoice, receipt or other statement or memorandum of the price paid or payable or equivalent value of the transfer for the cannabis or cannabis item.

§15-2.4 Collection of Cannabis Transfer and User Tax.

In accordance with the provisions of CREAMMA:

- a. Every cannabis establishment required to collect the transfer and user taxes imposed by this Chapter shall be personally liable for the transfer and user tax imposed, collected or required by this Chapter and CREAMMA.
- b. Any cannabis establishment collecting a transfer tax or user tax shall have the same right with respect to collecting the tax from another cannabis establishment or the consumer as if the tax was a part of the sale and payable at the same time. With respect to non-payment of the transfer tax or user tax by the cannabis establishment or consumer, as if the tax was part of the purchase price of the cannabis or cannabis item and payable at the same time, provided that the CFO of the municipality which imposes the transfer tax and user tax is joined as a party in any action or proceeding brought to collect the transfer tax or user tax.
- c. No cannabis establishment required to collect the transfer or user taxes imposed by this Chapter shall advertise or hold out to any person or to the public in general, in any manner, directly or indirectly, that the transfer tax or user tax will not be separately charged and stated to another cannabis establishment or the consumer or that the transfer tax or user tax will be refunded to the cannabis establishment or consumer.

§15-2.5 Remittance of Cannabis Taxes; Delinquencies.

- a. Each cannabis establishment collecting transfer and user taxes pursuant to this Chapter shall be remitted to the CFO of the municipality on a monthly basis.
- b. Every cannabis establishment required to collect transfer tax or user tax shall be personally liable.
- c. Delinquent taxes. If the transfer tax or user tax is not paid when due, the unpaid balance, and any interest accruing thereon, shall be a lien on the parcel of real property comprising the cannabis establishment’s premises.
- d. The lien shall be superior and paramount to the interest in the parcel of any owner, lessee, tenant, mortgagee, or other person, except the lien of municipal taxes, and shall be on a parity with and deemed equal to the municipal lien on the parcel for unpaid property taxes due and owing in the same year.
- e. The municipality shall file in the office of its tax collector a statement showing the amount and due date of the unpaid balance of cannabis taxes and identifying the lot and block number of the parcel of real property that comprises the delinquent cannabis

establishment's premises. The lien shall be enforced as a municipal lien in the same manner as all other municipal liens are enforced.

- f. The annual City permit issued pursuant to Chapter 16 shall not be renewed for the cannabis establishment should any transfer or user tax pursuant to this Chapter be delinquent.

SECTION 3: Chapter 16 Cannabis of the Municipal Code of the City of Lambertville is hereby established.

Chapter 16 Cannabis

§16-1 Purpose of Chapter.

Notwithstanding any Federal law to the contrary, this Chapter is enacted to regulate and govern the use of Cannabis and the number and types of permits issued in the City pursuant to the New Jersey Cannabis Regulatory Enforcement Assistance and Marketplace Act, N.J.S.A. 24:6I-32 et seq. ("CREAMMA") (the "Act"). The City is awaiting regulations for same by the Cannabis Regulatory Commission (CRC) and reserves the right to revise this Chapter pursuant to same.

§16-2 Definitions.

As used in this Chapter, words and phrases shall have the same meanings they have in the Act and as follows:

"Cannabis" shall mean all parts of the plant *Cannabis sativa* L., whether growing or not, the seeds thereof, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds, except those containing resin extracted from the plant, which are cultivated and, when applicable, manufactured in accordance with CREAMMA for use in cannabis products as set forth in that act, but shall not include the weight of any other ingredient combined with cannabis to prepare topical or oral administrations, food, drink, or other product. "Cannabis" does not include: medical cannabis dispensed to registered qualifying patients pursuant to the Honig Act and N.J.S.A. 18A:40-12.22 et al.; marijuana as defined in N.J.S.A. 2C:35-2 and applied to any offense set forth in chapters 35, 35A, and 36 of Title 2C of the New Jersey Statutes, N.J.S.A. 2C:35B-1 et seq., or marijuana as defined in N.J.S.A. 24:21-2 and applied to any offense set forth in the "New Jersey Controlled Dangerous Substances Act," N.J.S.A. 24:21-1 et al.; or hemp or a hemp product cultivated, handled, processed, transported, or sold pursuant to the "New Jersey Hemp Farming Act." N.J.S.A. 4:28-6 et al.

"Cannabis Consumption Area" shall mean a designated location operated by a licensed cannabis retailer for which both a State and local endorsement has been obtained, that is either: (1) an indoor, structurally enclosed area of the cannabis retailer that is separate from the area in which retail sales of cannabis items occurs; or (2) an exterior structure on the same premises as the cannabis retailer, either separate from or connected to the cannabis retailer, at which cannabis items obtained from the retailer may be consumed. This definition shall be consistent with the Recreational Marijuana Act and all amendments thereto.

“Cannabis Cultivator” shall mean any person or entity holding a Class 1 Cannabis Cultivator license issued by the State of New Jersey that grows, cultivates, or produces cannabis in the State of New Jersey, 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.

“Cannabis Delivery Service” shall mean any person or entity holding a Class 6 Cannabis Delivery license issued by the State of New Jersey 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.

“Cannabis Distributor” shall mean any person or entity holding a Class 4 Cannabis Distributor license issued by the State of New Jersey that transports cannabis in bulk intrastate from one licensed cannabis cultivator to another licensed cannabis cultivator, or transports 40 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.

“Cannabis Establishment” shall mean a cannabis cultivator, a cannabis manufacturer, or a cannabis wholesaler. For the purposes of City Code, “cannabis establishment” does not include cannabis retailers; not does it include Class 6 cannabis delivery service.

“Cannabis Item” shall mean any usable cannabis, cannabis product, cannabis extract, and any other cannabis resin. “Cannabis item” does not include: any form of medical cannabis dispensed to registered qualifying patients pursuant to the Honig Act and N.J.S.A. 18A:40-12.22 et al. or hemp or a hemp product cultivated, handled, processed, transported, or sold pursuant to the “New Jersey Hemp Farming Act,” N.J.S.A. 4:28-6 et al.

“Cannabis Manufacturer” shall mean any person or entity holding a Class 2 Cannabis Manufacturer license issued by the State of New Jersey, 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.

“Cannabis Retailer” shall mean any person or entity holding a Class 5 Cannabis license issued by the State of New Jersey 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.

“Cannabis Wholesaler” shall mean any person or entity holding a Class 3 Cannabis Wholesaler license issued by the State of New Jersey 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.

“Commission” or “CRC” shall mean the New Jersey Cannabis Regulatory Commission established pursuant to CREAMMA.

“Manufacture” shall mean the drying, processing, compounding, or conversion of usable cannabis into cannabis products or cannabis resins. “Manufacture” does not include packaging or labeling.

“Microbusiness” shall mean a person or entity license by the Cannabis Regulatory Commission 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 ten (10) employees;
2. Operate a cannabis establishment occupying an area no more than two thousand five hundred (2,500) square feet, and in the case of a cannabis cultivator, grow cannabis on an area no more than two thousand five hundred (2,500) square feet measured on a horizontal plan and grow above that plane not higher than twenty-four (24) feet;
3. Possess no more than one thousand (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 one thousand (1,000) pounds of useable cannabis;
5. Acquire for resale each month, in the case of a cannabis wholesaler, no more than one thousand (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 one thousand (1,000) pounds of usable cannabis, or the equivalent amount in any form of manufactured cannabis product or cannabis resin, or any combination thereof.

“Public Place” or “Quasi-public Place” shall mean any place to which the public has access that is not privately owned; or any place to which the public has access where alcohol consumption is not allowed, including, but not limited to, a public street, road, thoroughfare, school, sidewalk, bridge, alley, plaza, park, playground, shopping area, public transportation facility, vehicle used for public transportation, parking lot, public library, or any other public building, structure, or area.

ARTICLE I – CONSUMPTION, POSSESSION AND UNREGULATED SALE

§16-3 Prohibition in Public Places

No person shall consume, use, smoke, vape, aerosolize, imbibe or possess in any open container any cannabis or cannabis product in or upon public or quasi-public place.

§16-4 Prohibition in Vehicles

No person shall consume, use, smoke, vape, aerosolize, imbibe any cannabis or cannabis products in or upon any private vehicle while the vehicle is in motion or parked upon any such public or quasi-public place.

§16-5 Prohibition

No person shall smoke, vape, or aerosolize cannabis items in any place that any other law prohibits the smoking of tobacco, including N.J.S.A. 2C:33-13 and the “New Jersey Smoke-Free Air Act.” (N.J.S.A. 26:3D-55 et seq.)

§16-6 Prohibition of Unregulated Sale of Cannabis

- A. No person shall sell cannabis in the City of Lambertville without a state license and a City permit.
- B. No person shall gift cannabis in the City of Lambertville as part of a sale of another item or items.

§16-7 Nuisance

It shall be deemed a nuisance if a person who is consuming, using, smoking, vaping, aerosolizing or imbibing cannabis shall permit excessive odor or other pollution to extend beyond the person’s premises.

ARTICLE II – PERMITTING AND REGULATION

§16-8 Purpose.

This Article is enacted to regulate and to implement the provisions of the Act. The City is awaiting regulations for same by the CRC and may reserve the right to revise this Article pursuant to same. Permits granted pursuant to this Article shall be issued upon receipt of State License granted by the CRC.

§16-9 Classes Prohibited.

This ordinance prohibits the issuing of permits for Classes 1, 2, 3, 4 and 6.

- A. The City of Lambertville shall not issue any permits for Classes 1, 2, 3, 4 and 6 as defined in Section 16-2 of this ordinance and further identified by the State of New Jersey.

§16-10 State and City Licenses and Permits Required.

- A. To operate a Class 5 cannabis retailer pursuant to CREAMMA, a State license and City permit is required.

§16-11 Issuance of Licenses and Permits

- A. All applications for licenses and permits, all licenses and permits issued and all proceedings under this Article shall be in accordance with all applicable laws of the state.

- B. All licenses and permits required by this Article shall be issued by the Council, which shall also administer the provisions of this Article.
- C. No person shall retail cannabis without having obtained a license in accordance with CREAMMA and a license or permit in accordance with the provisions of this Article.

§16-12 Maximum Number of Permits.

- A. Number. The maximum number of permits in the City for Class 5 Cannabis Retailer licensed under CREAMMA, shall be four (4).
- B. Preference. The City has a preference for two (2) of the four (4) Class 5 Cannabis Retailer licenses to be issued to microbusinesses.
- C. A Permittee or entity may not hold more than one cannabis retailer permit within the City.
- D. Location of Permits.

Class 5 Cannabis Retailer(s) shall comply with the City's Zoning Ordinance and shall be allowed in the following districts:

1. Two (2) Class 5 Cannabis Retailer permits shall be allowed to operate in the CBD Central Business District.
2. One (1) Class 5 Cannabis Retailer permit shall be allowed to operate in the C-2 Service Commercial District.
3. One (1) Class 5 Cannabis Retailer permit shall be allowed to operate in the C-3 General Commercial District.

§16-13 Permit Fees

- A. The applicant shall submit all required nonrefundable fees for the application and year one of the conditional license pursuant to this Article.
- B. The applicant shall submit all annual registration fees required in accordance with this Article, which shall be refunded in the event the applicant does not receive a license.
- C. Cannabis Retailer
 1. Application and Year One: \$2,500
 2. Subsequent Annual Renewal Permit Fee: \$2,500

§16-14 Permit Process

- A. Application. Persons wishing to obtain a Class 5 Retailer permit shall file a permit application with the Clerk, on a standardized form established by the Clerk and available in the Clerk's office. The Clerk shall establish a reasonable application period and deadline for all applications. An application shall be

deemed incomplete, and shall not be processed by the Clerk 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 proposed for the cannabis retail store, which proof may consist of: a deed, a lease, a real estate contract contingent upon successful licensing, or a binding letter of intent by the owner of the premises indicating an intent to lease the premises to the entrant contingent upon successful licensing.
2. The applicant shall submit an affidavit and documentary proof of compliance with all 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 permitting by the applicant shall comply with all applicable municipal zoning laws and the location restrictions set forth in this Code.
4. The applicant shall submit, to the satisfaction of the Clerk, proof of financial capability to open and operate the cannabis establishment for which the applicant is seeking a permit. Standards for proof of financial capability shall be determined by the City's Chief Financial Officer.
5. 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 permit 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.
6. The applicant and the application shall otherwise comply with any and all qualification standards set forth in the State and City laws or regulations.

§16-15 Notification of Award and Conditional Municipal Permit

Notwithstanding the foregoing application process, a notification of award and conditional municipal permit shall entitle the recipient applicant to pursue a State permit or license in the appropriate classification for up to 12 months, which may be extended in the Clerk's discretion for an additional 6 months for good cause. No permit to operate shall be issued until the applicant has received a State permit and satisfied other prerequisites of municipal licensure. If the recipient of a notice of awarded and conditional permit has not received a State permit or license within 12 months from issuance, unless extended for good cause, the Clerk shall issue a new request for applications and evaluate all applicants for permits under the above criteria.

§16-16 Term of Permit and Permit Award

- A. Any local permit issued pursuant to this Chapter 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 Chapter.
- B. The Clerk may, at his/her/their discretion, adjust the renewal date of the local permit to correlate with an applicant's State licensing and renewal schedule.
- C. Renewal of any permit shall be governed by any code amendments, additional restrictions or changes in regulations adopted since the previous permit was issued or renewed.
- D. Transfer of ownership of any local permit or change of location of any permit or modification to expand a permitted premise shall be subject to the City Council approval and City Planning review and zoning approval. The appropriate escrows must be posted in order to review any application with the City's Land Use Boards.
- E. Except where the Clerk has received a complete renewal application along with the requisite fees, and has issued a permit renewal, it shall be unlawful for any person to operate after the date of permit expiration.

§16-17 Revocation of Permit or Licenses

Any permit or license issued under this Article may be suspended or revoked for violation of any provisions of the City Code of Ordinances, or any applicable statute or any of the rules or regulations promulgated by the CRC. Suspension or revocation of a permit or license shall be in addition to any other penalty which may be imposed for a violation of City Ordinances. No refund will be issued by the City for any suspended or revoked permit.

SECTION 4: Section Z-201 of the City Code shall be amended. Section Z-201, "Definitions" in Chapter Z, "Zoning" of the "Code of the City of Lambertville" ("Code" or "City Code") is hereby amended by adding thereto the following new definitions:

CANNABIS

All parts of the plant *Cannabis sativa* L., whether growing or not, the seeds thereof, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds, except those containing resin extracted from the plant, which are cultivated and, when applicable, manufactured in accordance with CREAMMA for use in cannabis products as set forth in that act, but shall not include the weight of any other ingredient combined with cannabis to prepare topical or oral administrations, food, drink, or other product. "Cannabis" does not include: medical cannabis dispensed to registered qualifying patients pursuant to the Honig Act and N.J.S.A. 18A:40-12.22 et al.; marijuana as defined in N.J.S.A. 2C:35-2 and applied to any offense set forth in chapters 35, 35A, and 36 of Title 2C of the New Jersey Statutes, N.J.S.A. 2C:35B-1 et seq., or marijuana as defined in N.J.S.A.

24:21-2 and applied to any offense set forth in the “New Jersey Controlled Dangerous Substances Act,” N.J.S.A. 24:21-1 et al.; or hemp or a hemp product cultivated, handled, processed, transported, or sold pursuant to the “New Jersey Hemp Farming Act.” N.J.S.A. 4:28-6 et al.

CANNABIS CONSUMPTION AREA

A designated location operated by a licensed cannabis retailer for which both a State and local endorsement has been obtained, that is either: (1) an indoor, structurally enclosed area of the cannabis retailer that is separate from the area in which retail sales of cannabis items occurs; or (2) an exterior structure on the same premises as the cannabis retailer, either separate from or connected to the cannabis retailer, at which cannabis items obtained from the retailer may be consumed. This definition shall be consistent with the Recreational Marijuana Act and all amendments thereto.

CANNABIS CULTIVATOR

Any person or entity holding a Class 1 Cannabis Cultivator license issued by the State of New Jersey that grows, cultivates, or produces cannabis in the State of New Jersey, 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.

CANNABIS DELIVERY

The transportation of cannabis items and related supplies to a consumer. “Cannabis delivery” also includes the use by a licensed cannabis retailer of any third party technology platform to receive, process, and fulfill orders by consumers, which third party shall not be required to be a licensed cannabis establishment, distributor, or delivery service, provided that any physical acts in connection with fulfilling the order and delivery shall be accomplished by a certified cannabis handler performing work for or on behalf of the licensed cannabis retailer, which includes a certified cannabis handler employed or otherwise working on behalf of a cannabis delivery service making off-premises deliveries of consumer purchases fulfilled by that cannabis retailer.

CANNABIS DELIVERY SERVICE

Any person or entity holding a Class 6 Cannabis Delivery license issued by the State of New Jersey 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.

CANNABIS DISTRIBUTOR

Any person or entity holding a Class 4 Cannabis Distributor license issued by the State of New Jersey that transports cannabis in bulk intrastate from one licensed cannabis cultivator to another licensed cannabis cultivator, or transports 40 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.

CANNABIS ESTABLISHMENT

A cannabis cultivator, a cannabis manufacturer, a cannabis wholesaler, or a cannabis retailer.

CANNABIS MANUFACTURER

Any person or entity holding a Class 2 Cannabis Manufacturer license issued by the State of New Jersey, 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.

CANNABIS RESIN

The resin extracted from any part of the plant *Cannabis sativa* L., including cannabis extract and resin extracted using non-chemical processes, processed and used in accordance with CREAMMA. “Cannabis resin” does not include: any form of medical cannabis dispensed to registered qualifying patients pursuant to the “Jake Honig Compassionate Use Medical Cannabis Act.” P.L.2009, c.307 (C.24:6I-1 et al.) and P.L.2015, c.158 (C.18A:40-12.22 et al.); hashish as defined in N.J.S.2C:35-2 and applied to any offense set forth in chapters 35, 35A, and 36 of Title 2C of the New Jersey Statutes, or P.L.2001, c.114 (C.2C:35B-1 et seq.), or as defined in section 2 of P.L.1970, c.226 (C.24:21-2) and applied to any offense of the “New Jersey Controlled Dangerous Substances Act,” P.L. 1970, c.226 (C.24:21-1 et al.); or hemp or a hemp product cultivated, handled, processed, transported, or sold pursuant to the “New Jersey Hemp Farming Act,” P.L.2019, c.238 (C.4:28-6 et al.).

CANNABIS RETAILER

Any person or entity holding a Class 5 Cannabis license issued by the State of New Jersey 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.

CANNABIS WHOLESALER

Any person or entity holding a Class 3 Cannabis Wholesaler license issued by the State of New Jersey 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.

MICROBUSINESS

A person or entity licensed by the Cannabis Regulatory Commission 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 ten (10) employees;
2. Operate a cannabis establishment occupying an area no more than two thousand five hundred (2,500) square feet, and in the case of a cannabis cultivator, grow cannabis on an area no more than two thousand five hundred (2,500) square feet measured on a horizontal plan and grow above that plane not higher than twenty-four (24) feet;
3. Possess no more than one thousand (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 one thousand (1,000) pounds of useable cannabis;
5. Acquire for resale each month, in the case of a cannabis wholesaler, no more than one thousand (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 one thousand (1,000) pounds of usable cannabis, or the equivalent amount in any form of manufactured cannabis product or cannabis resin, or any combination thereof.

SECTION 5: Section Z-104 of the City Code shall be amended. Section Z-104, "Prohibited Uses" in Chapter Z, "Zoning" of the City Code is hereby amended to read as follows (new text is underlined thus; deleted text is in brackets [thus]):

§ Z-104 Prohibited Uses.

A. All uses not expressly permitted in this Ordinance are hereby prohibited.

B. In addition, the following uses are expressly prohibited in all districts:

(1) The operation of any Class 1, 2, 3 cannabis establishments or Class 4 cannabis distributors or Class 6 cannabis delivery services as said terms are defined in this chapter and in section 3 of P.L. 2021, c. 16, but not the delivery of cannabis items and related supplies within the City by a cannabis delivery service located outside the City.

SECTION 6: Section Z-406.3 of the City Code shall be amended to permit Cannabis Retailer as a conditional use within the Central Business District. Section Z-406.3, “Conditional Uses” in Chapter Z, “Zoning” of the City Code is hereby amended to read as follows (new text is underlined thus; deleted text is in brackets [thus]):

§Z-406.3 Conditional Uses.

The following conditional uses may be permitted in the Central Business District:

- A. Conversion of existing buildings for apartment use conforming to the criteria of §406.8 and §517.
- B. Structured parking conforming to the criteria of §406.9 and §517.
- C. Taverns and bars conforming to the criteria of §406.10 and §517.
- D. Conversion of second floor and higher floors to non-residential use provided that the gross floor area of the building shall not be less than 1,800 square feet and the criteria of §517 are met.
- E. Cannabis retailer conforming to the criteria of §406.13 and §517.

SECTION 7: Section Z-406.13 of the City Code shall be created to identify the standards for the Cannabis Retailer conditional use within the Central Business District. Section Z-406.13, “Conditions for Cannabis Retailer” in Chapter Z, “Zoning” of the City Code is hereby created to read as follows:

§Z-406.13 Conditions for Cannabis Retailer

- A. The regulations of this Section are subject to the enabling authority of the State of New Jersey, by and through the Cannabis Regulatory Commission, and are subject to compliance with all statutes and/or regulations promulgated and 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. A cannabis retailer shall be located at least five hundred (500) feet from a school or comply with a greater distance buffer from a school as may be required by State or Federal Law.
- C. A cannabis retailer shall not be located within six hundred (600) feet to any other Class 5 Cannabis Retailer.

- D. A cannabis retailer shall not be permitted within a single-family detached dwelling, a single-family semi-detached dwelling or a townhouse dwelling.
- E. A cannabis retailer may operate between the hours of 9:00 A.M. and 7:00 P.M. Monday through Saturday and between the hours of 10:00 A.M. and 5:00 P.M. on Sunday.
- F. No more than six (6) ounces of cannabis or cannabis product may be sold to a specific customer at a given time.
- G. Use or consumption of cannabis or cannabis products in any manner shall not be permitted within the Cannabis Retailer's facility, whether in the building or on its grounds or parking lots. Cannabis Consumption Areas are not permitted.
- H. All Cannabis Retailers shall be enclosed in heated/air-conditioned permanent buildings, not trailers, outdoors, movable kiosks, etc.
- I. Any Cannabis Retailer shall only have one (1) primary public access point, which shall be directly adjacent to the right-of-way or parking area of the building. Access should not be through common entrances with other uses.
- J. Drive-through facilities are not permitted.
- K. All cannabis retailers shall be secured in accordance with 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 within the facility at all times during operating hours.
- L. Police must have full access to the video surveillance system.
- M. Video surveillance shall be retained a minimum of seven (7) days or pursuant to State and Federal law, whichever is greater.
- N. Cannabis Retailers' interiors shall provide a secure location for storage of products with minimum products in any customer service area.
- O. People shall not be permitted to congregate outside of a Cannabis Retailer, loiter or wait in line to access the Cannabis Retailer. The facility shall have a plan in place if interior capacity is exceeded, i.e., numbers are given and customers wait in their vehicles until called.
- P. Signs shall be limited to location identification/name of business. Signs shall not promote consumption of any cannabis product. Signage design shall not include artistic or photographic renderings of cannabis plants or paraphernalia. Neon signs shall be prohibited.

SECTION 8: Section Z-407.3 of the City Code shall be amended to permit Cannabis Retailer as a conditional use within the C-2 Service Commercial District. Section Z-407.3, "Conditional Uses" in Chapter Z, "Zoning" of the City Code is hereby amended to read as follows (new text is underlined thus; deleted text is in brackets [thus]):

§Z-407.3 Conditional Use.

The following conditional [use] uses may be permitted when authorized by the Planning Board:

A. Service Stations.

Service stations in accordance with the following criteria:

1. No service station shall have an entrance or exit for vehicles within 200 feet along the same side of a street as any school, public playground, church, hospital, public building or institution, except where such property is in another block or on another street which the lot in question does not abut.
2. No service stations shall be permitted where any oil draining pit or visible appliance for any purpose (other than filling pumps and air pumps) is located within 20 feet of any street line or within 50 feet of any residential district, unless such appliance or pit is within a building. Gasoline pumps and air pumps within the required front yard space shall be no closer than 15 feet to the street line.
3. No junked motor vehicle or part thereof, scrap metal, or motor vehicles incapable of normal operation upon the highways shall be permitted on the premises of any service station. It shall be deemed prima facie evidence of violation of this Ordinance if more than three motor vehicles incapable of operation are located at any time upon any premises not within a closed and roofed building and if any scrap metal or other junk is stored upon and premises not within a closed and roofed building excepting, however, that a number not exceeding six motor vehicles may be located upon any service station premises outside of a closed or roofed building for a period of time not to exceed 48 hours and providing that said motor vehicles are awaiting repair by the owners thereof.
4. Any service station shall be located within the C-2 Service Commercial District.

B. Cannabis Retailer.

Cannabis Retailers in accordance with the following criteria:

1. The regulations of this Section are subject to the enabling authority of the State of New Jersey, by and through the Cannabis Regulatory Commission, and are subject to compliance with all statutes and/or regulations promulgated and 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.
2. A cannabis retailer shall be located at least five hundred (500) feet

from a school or comply with a greater distance buffer from a school as may be required by State or Federal Law.

3. A cannabis retailer shall not be located within six hundred (600) feet to any other Class 5 Cannabis Retailer.
4. A cannabis retailer may operate between the hours of 9:00 A.M. and 7:00 P.M. Monday through Saturday and between the hours of 10:00 A.M. and 5:00 P.M. on Sunday.
5. No more than six (6) ounces of cannabis or cannabis product may be sold to a specific customer at a given time.
6. Use or consumption of cannabis or cannabis products in any manner shall not be permitted within the Cannabis Retailer's facility, whether in the building or on its grounds or parking lots. Cannabis Consumption Areas are not permitted.
7. All Cannabis Retailers shall be enclosed in heated/air-conditioned permanent buildings, not trailers, outdoors, movable kiosks, etc.
8. Any Cannabis Retailer shall only have one (1) primary public access point, which shall be directly adjacent to the right-of-way or parking area of the building. Access should not be through common entrances with other uses.
9. Drive-through facilities are not permitted.
10. All cannabis retailers shall be secured in accordance with 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 within the facility at all times during operating hours.
11. Police must have full access to the video surveillance system.
12. Video surveillance shall be retained a minimum of seven (7) days or pursuant to State and Federal law, whichever is greater.
13. Cannabis Retailers' interiors shall provide a secure location for storage of products with minimum products in any customer service area.
14. People shall not be permitted to congregate outside of a Cannabis Retailer, loiter or wait in line to access the Cannabis Retailer. The facility shall have a plan in place if interior capacity is exceeded, i.e., numbers are given and customers wait in their vehicles until called.
15. Signs shall be limited to location identification/name of business. Signs shall not promote consumption of any cannabis product. Signage design shall not include artistic or photographic renderings

of cannabis plants or paraphernalia. Neon signs shall be prohibited.

SECTION 9: Section Z-407.6 of the City Code shall be amended to establish off-street parking requirements for the Cannabis Retailer conditional use within the C-2 Service Commercial District. Section Z-407.6, “Minimum Off-Street Parking Requirements” in Chapter Z, “Zoning” of the City Code is hereby amended to read as follows (new text is underlined thus; deleted text is in brackets [thus]):

§Z-407.6 Minimum Off-Street Parking Requirements.

- A. See § 509.
- B. Funeral homes shall provide at least six spaces for each viewing room.
- C. Professional building shall provide two spaces for each room in the building but in no case less than five spaces.
- D. Television and radio appliance stores, tire sales, automobile and hardware stores shall provide one space for each 800 square feet of gross floor area or fraction thereof.
- E. Automobile agencies and lumber yards shall provide one space for each 800 square feet of office and retail gross floor area plus one space for each 2,000 square feet devoted to warehouse and storage facilities.
- F. Motels shall provide 3/4 space for each room, plus one space for each three seats in an associated restaurant, plus five spaces for employees.
- G. Restaurants and diners shall provide one space for each three seats.
- H. Other offices and government buildings shall provide one space for each vehicle owned and/or operated by the use plus one space for each 3,000 square feet or gross floor area used for warehousing, shipping or receiving plus one space for every 700 square feet of gross floor area used for other purposes.
- I. Cannabis Retailers shall provide one space for each 300 square feet.

SECTION 10: Section Z-408 of the City Code shall be replaced in its entirety to permit Cannabis Retailer as a conditional use within the C-3 General Commercial District. Section Z-408, “C-3 General Commercial” in Chapter Z, “Zoning” of the City Code is hereby replaced in its entirety as follows:

§Z-408 C-3 General Commercial

§Z-408.1 Principal Permitted Uses on the Land and in Buildings.

- A. Offices.
- B. Parks and playgrounds.
- C. Buildings used exclusively by federal, state, county and local governments.

- D. The wholesaling and retailing of goods or services including the warehousing or storage of goods provided such activities and inventories are conducted entirely within an enclosed structure or are conducted in open yard areas which are adequately screened from view from adjacent lots or roads.
- E. See Non-Conforming Uses, Buildings or Lots.
- F. Light industry as defined under Article II, Definitions.

§Z-408.2 Accessory Uses and Buildings Permitted.

Those uses customarily incidental to the principal uses.

§Z-408.3 Conditional Uses.

The following conditional use may be permitted when authorized by the Planning Board:

A. Cannabis Retailer.

Cannabis Retailers in accordance with the following criteria:

1. The regulations of this Section are subject to the enabling authority of the State of New Jersey, by and through the Cannabis Regulatory Commission, and are subject to compliance with all statutes and/or regulations promulgated and 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.
2. A cannabis retailer shall be located at least five hundred (500) feet from a school or comply with a greater distance buffer from a school as may be required by State or Federal Law.
3. A cannabis retailer shall not be located within six hundred (600) feet to any other Class 5 Cannabis Retailer.
4. A cannabis retailer may operate between the hours of 9:00 A.M. and 7:00 P.M. Monday through Saturday and between the hours of 10:00 A.M. and 5:00 P.M. on Sunday.
5. No more than six (6) ounces of cannabis or cannabis product may be sold to a specific customer at a given time.
6. Use or consumption of cannabis or cannabis products in any manner shall not be permitted within the Cannabis Retailer's facility, whether in the building or on its grounds or parking lots. Cannabis Consumption Areas are not permitted.
7. All Cannabis Retailers shall be enclosed in heated/air-conditioned permanent buildings, not trailers, outdoors, movable kiosks, etc.

8. Any Cannabis Retailer shall only have one (1) primary public access point, which shall be directly adjacent to the right-of-way or parking area of the building. Access should not be through common entrances with other uses.
9. Drive-through facilities are not permitted.
10. All cannabis retailers shall be secured in accordance with 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 within the facility at all times during operating hours.
11. Police must have full access to the video surveillance system.
12. Video surveillance shall be retained a minimum of seven (7) days or pursuant to State and Federal law, whichever is greater.
13. Cannabis Retailers' interiors shall provide a secure location for storage of products with minimum products in any customer service area.
14. People shall not be permitted to congregate outside of a Cannabis Retailer, loiter or wait in line to access the Cannabis Retailer. The facility shall have a plan in place if interior capacity is exceeded, i.e., numbers are given and customers wait in their vehicles until called.
15. Signs shall be limited to location identification/name of business. Signs shall not promote consumption of any cannabis product. Signage design shall not include artistic or photographic renderings of cannabis plants or paraphernalia. Neon signs shall be prohibited.

§Z-408.4 Height Limits.

No structure shall exceed 40 feet in height except as provided in Article VI, Standards for Review of Applications.

§Z-408.5 Area and Yard Requirements.

- A. The minimum lot size shall be 40,000 square feet. The minimum lot width shall be 150 feet and a minimum lot depth of 200 feet.
- B. No building or structure shall be located closer than 25 feet to any street right-of-way.
- C. The minimum side yard shall be 20 feet, but in no event shall either side yard be less than the height of the building or structure. The minimum rear yard shall be 20 feet which may include parking spaces.
- D. Total building or structure coverage shall not exceed 50% of the lot coverage provided all parking and other yard requirements are met.

- E. A transition or buffer strip not less than 10 feet wide consisting of conifers shall be provided along all lot lines which form a common boundary with any residential district. The conifers shall be a minimum of five feet in height when newly planted and shall be planted at intervals of 10 feet or less.

§Z-408.6 Minimum Residential Floor Area.

Not applicable in this district.

§Z-408.7 Minimum Off-Street Parking Requirements.

- A. See §509
- B. Off-street parking spaces shall be located within 200 feet of the use it is intended to serve.
- C. One space shall be provided for each 700 square feet of general commercial or office use and one space for each 3,000 square feet of wholesale use.
- D. One space shall be provided for each 300 square feet of Cannabis Retailer use.

§Z-408.8 Signs.

- A. Same as C-2 District.

§Z-408.9 Minimum Off-Street Loading.

- A. Same as C-2 District.

SECTION 11: Referral to Planning Board. Following introduction and prior to adoption, the Clerk shall cause a copy of this ordinance to be referred to the City of Lambertville Planning Board for review pursuant to *N.J.S.A. 40:55D-26*.

SECTION 12: Repealer. All ordinances and resolutions or parts thereof inconsistent with this ordinance are repealed.

SECTION 13: Severability. If any section, paragraph, subsection, clause or provision of this ordinance shall be adjudged by the courts to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause, or provision so adjudged, and the remainder of this ordinance shall be valid and enforceable.

SECTION 14: Effective Date. This ordinance shall take effect twenty days from the date of its adoption and upon filing with the Hunterdon County Planning Board, as required pursuant to *N.J.S.A. 40:69A-181* and *N.J.S.A. 40:55D-16*.

First Reading and Introduction: July 6, 2021
Referred to Planning Board: July 7, 2021
Second Reading and Public Hearing: July 22, 2021