

**CITY OF LONG BRANCH
NOTICE OF PENDING ORDINANCE**

The Ordinance published herewith was introduced and passed upon first reading at a meeting of the governing body of the City of Long Branch in the County of Monmouth, State of New Jersey held on November 10, 2021. This ordinance is scheduled for public hearing on December 8, 2021 at 7:30 p.m. During the week prior to and up to and including the date of such meeting, copies of said ordinance will be made available at the Clerk's office to the member of the general public who shall request the same.

**CITY OF LONG BRANCH
ORDINANCE NO. 22-21**

**AN ORDINANCE BY THE CITY OF LONG BRANCH IN MONMOUTH COUNTY
NEW JERSEY REGULATING THE OPERATION OF ANY CLASS OF CANNABIS
LICENSED BUSINESSES BY AMENDING CHAPTER 345 OF CODE OF THE CITY
OF LONG BRANCH ENTITLED “ZONING” AND BY CREATING NEW CHAPTERS
104 ENTITLED “CANNABIS, LICENSED BUSINESSES” AND CHAPTER 307
ENTITLED “ESTABLISHMENT OF CANNABIS TRANSFER AND USER TAX IN THE
CITY OF LONG BRANCH”**

WHEREAS, in 2020 New Jersey voters approved Public Question No. 1, which amended the New Jersey Constitution to allow for the legalization of a controlled form of marijuana called “cannabis” for adults at least 21 years of age; and

WHEREAS, on February 22, 2021, Governor Murphy signed into law P.L. 2021, c. 16, known as the “New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act” (the “Act”), which legalizes the recreational use of marijuana by adults 21 years of age or older, and establishes a comprehensive regulatory and licensing scheme for commercial recreational (adult use) cannabis operations, use and possession; and

WHEREAS, the Act establishes six marketplace classes of licensed businesses, 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 Distributor 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 purchases 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 operation of such establishments, distributors or delivery services, and establishing civil penalties for the violation of any such regulations; and

WHEREAS, the City Council of the City of Long Branch has determined that, due to present and potential future impacts that allowing cannabis business might have on New Jersey municipalities in general, and on the City of Long Branch in particular, it is at this time necessary and appropriate, to amend the Ordinances of the City of Long Branch, Chapter 345 Zoning and to regulate cannabis business licenses and establish a transfer tax and user tax on the sale of cannabis or cannabis items;

NOW THEREFORE, BE IT ORDAINED, by the City Council of the City of Long Branch, in the County of Monmouth, State of New Jersey, as follows:

Deletions are noted by ~~strike throughs~~

Additions are indicated in **bold underline**

Language that remains unchanged is not highlighted in any way

SECTION I

Chapter 345, “Zoning”, is hereby amended by amending the following Sections to read as follows:

Chapter 345, Zoning”, Article I General Provisions, is hereby amended as follows:

§ 345-3 Definitions., by adding the following new definitions:

CANNABIS CONSUMPTION AREA shall mean a designated location either operated by a licensed retailer for adult use or a permit holder for dispensing medical cannabis for which both a State and local endorsement has been obtained, that is either (1) an indoor structurally enclosed area of the cannabis retailer for adult use or permit holder that is separate from the area in which retail sales of cannabis items for adult use or the dispensing of medical cannabis occurs; or (2) an exterior structure on the same premises as the cannabis retailer or permit holder, either separate from or connected to the cannabis retailer or permit holder,

at which cannabis items or medical either obtained from the retailer or permit holder, or brought by a person to the consumption area may be consumed.

CANNABIS CULTIVATOR shall mean any licensed person or entity that grows, cultivates or produces cannabis in this State, and sells and may transport this cannabis to other cannabis cultivators or useable cannabis to cannabis manufacturers, cannabis wholesalers or cannabis retailers, but not to consumers. This person or entity shall hold a Class 1 Cannabis Cultivators license.

CANNABIS DELIVERY SERVICE shall mean any licensed person or entity 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. This person or entity shall hold a Class 6 Cannabis Delivery license.

CANNABIS DISTRIBUTOR shall mean any licensed person or entity that transports cannabis in bulk intrastate from one licensed cannabis cultivator to another licensed cannabis cultivator or transports cannabis items in bulk intrastate from any one class of licensed cannabis establishments 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. This person or entity shall hold a Class 4 Cannabis Distributors license.

CANNABIS MANUFACTURER shall mean any licensed person or entity 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 the other cannabis manufacturers, cannabis wholesalers, or cannabis retailers, but not to consumers. This person or entity shall hold a Class 2 Cannabis Manufacturers license.

CANNABIS RETAILER shall mean any licensed person or entity that purchases or otherwise obtains usable cannabis from cannabis cultivators and cannabis items from cannabis manufacturers or cannabis wholesalers, and sells these to the 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. This person or entity shall hold a Class 5 Cannabis Retail license.

CANNABIS WHOLESALER shall mean any licensed person or entity 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. This person or entity shall hold a Class 3 Cannabis Wholesaler license.

SECTION II

Chapter 345, “Zoning”, Article IV, “Zone District Use Regulations”, Article VII, “Conditional Uses” and Article X, “Redevelopment Plan” are hereby amended as follows:

Article IV Zone District Use Regulations.

§345-30 C-1 Central Commercial District.

A. Permitted uses. Permitted uses shall be as follows:

(1) Retail trade stores as follows:

[(a) to (j) no changes]

(k) Class 5 Licensed Retailer without a Cannabis Consumption Area

§345-31 C-3 Neighborhood Commercial District.

A. Permitted uses. Permitted uses shall be retail uses of a neighborhood convenience nature of the following types:

[(1) to (24) no changes]

(25) Class 5 Licensed Retailer without a Cannabis Consumption Area

§345-34. I – Industrial Zone District.

[A. Permitted Uses. (1) through (13), no changes]

(14) The following Classes of Cannabis Licensed businesses shall be permitted:

Class1- Licensed Cannabis Cultivator

Class 2- Licensed Cannabis Manufacturer

Class 3- Licensed Cannabis Wholesaler

Class 4- Licensed Cannabis Distributor

Class 5 Licensed Retailer without a Cannabis Consumption Area

Class 6- Licensed Cannabis Delivery Service

§345-36 MB Manufacturing and Business District.

[A. Permitted Uses. (10 through (4), no changes]

(5) The following Classes of Cannabis Licensed businesses shall be permitted:

Class 1- Licensed Cannabis Cultivator

Class 2- Licensed Cannabis Manufacturer

Class 3- Licensed Cannabis Wholesaler

Class 4- Licensed Cannabis Distributor

Class 5 Licensed Retailer without a Cannabis Consumption Area

Class 6- Licensed Cannabis Delivery Service

§345-39 Transit Village District (TVD).

[D. Permitted Uses. (1) Mixed Use Core Subdistrict (a) through (v), no changes]

(w) Class 5 Licensed Retailer without a Cannabis Consumption Area

Article VII Conditional Uses

§345-67.1 C-3 District West End Design Overlay District (WEDO)

[A. through C. no changes]

D. Class 5 Licensed Retailer without a Cannabis Consumption Area shall be permitted.

Article X Redevelopment Plan

§345-101 Redevelopment Design Standards.

[A. through H. no changes]

- I. Class 5 Licensed Cannabis Retailers, without a Cannabis Consumption Area, shall only be permitted in the Oceanfront Broadway Redevelopment Area (Broadway Sector) and Oceanfront Broadway Redevelopment Area (Broadway Gateway Sector) of the Redevelopment Plan.**

I-J. If any paragraph, section, clause or application of this section, or of the provisions referenced and incorporated herein shall be found to be unconstitutional or otherwise invalid, such findings shall not affect any remaining section, clause, paragraph or application, which shall be severable and shall continue in full force and effect notwithstanding such a finding of invalidity.

SECTION III.

Chapter 104, “Cannabis, Licensed Businesses” is hereby created as follows:

§ 104 Cannabis, Licensed Businesses.

§ 104-1 Cannabis Licensed Businesses.

A. Limitation on Number of Licenses.

Within the geographic boundaries of the City of Long Branch, the maximum number of licensed Cannabis Businesses shall be no more than one (1) for each Class of Cannabis Licensed Businesses (Classes 1, 2, 3, 4, 5, and 6).

B. Limitation on Location.

An Class 5 licensed Cannabis Retailer shall not be permitted within 1,000 feet of any existing Class 5 licensed premises or any school, park or house of worship. The distance shall be measured in the same manner as that required by statute for the measuring of businesses between licensed retail sale of alcoholic premises, schools and churches

C. Hours of Sale.

Hours of operation for Class 5 Cannabis Retailer Licenses shall be limited to 9 A.M. to 10 P.M.

D. Prohibition of Certain Activities.

It is hereby established that no person shall smoke, vape or otherwise consume any cannabis products on a public street, highway, avenue, alley or road of the City; or upon any public or quasi-public parking lots or garages or any other parking facilities in the City; or on any public grounds, parks, sidewalks, beaches, marine basins, beachfronts or boardwalks, promenade or quasi-public areas; or in any automobile, or other vehicle or in any other means of transportation on the public streets, highways, alleys, avenues, grounds, sidewalks, beaches, parks, marine basins, beachfronts or boardwalks, promenade or quasi-public areas in the City.

SECTION IV

BE IT FURTHER ORDAINED THAT A NEW CHAPTER 307 IS HEREBY CREATED ENTITLED “ESTABLISHMENT OF CANNABIS TRANSFER TAX AND USER TAX IN THE CITY OF LONG BRANCH”

Establishment of Cannabis Transfer Tax and User Tax in Long Branch.

- A. The cannabis transfer tax in Long Branch shall be fixed at a uniform percentage rate of two percent (2%) on all sales or transfers of cannabis products from any of the cannabis establishments that are located within the geographical boundaries of the City. This tax shall be imposed on:**
- 1. Receipts from the sale of cannabis by a cannabis cultivator to another cannabis cultivator;**

2. Receipts from the sale of cannabis items from one cannabis establishment to another cannabis establishment;
 3. Receipts from the retail sales of cannabis items by a cannabis retailer to retail consumers who are 21 years of age or older; or any combination thereof.
- B. A one percent (1%) transfer tax shall be collected from receipts from each sale by a cannabis wholesaler located within the geographical boundaries of the City.
- C. A user tax is hereby also established at the same rate (2%) of the transfer tax contained herein and 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 P.L. 2021, c. 16, from the license holder's establishment that is located in the City to any of the other license holder's establishments, whether located in the City or another municipality.

The transfer tax or user tax imposed by this ordinance shall be in addition to any other tax imposed by law. Any transaction for which the transfer tax or user tax is imposed, or could be imposed pursuant to this section, other than those which generate receipts from the retail sales by cannabis retailers, shall be exempt from the tax imposed under the "Sales and Use Tax Act" (N.J.S.A. 54:32B-1 et seq). The transfer tax or user tax will be assessed and collected pursuant to established State law and Administrative rules and regulations regarding same.

SECTION IV. Each clause, section or subsection of this ordinance shall be deemed a separate provision to the intent that if any such clause, section or subsection should be declared invalid, the remainder of the ordinance shall not be affected.

SECTION V. All ordinances or parts of ordinances inconsistent with this ordinance are hereby repealed as the extent of such inconsistency.

SECTION VI. This ordinance shall take effect immediately upon adoption and publication according to law.