

AN ORDINANCE AMENDING AND SUPPLEMENTING VARIOUS SECTIONS OF “THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF HIGHTSTOWN” RELATING TO CANNABIS LICENSING.

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, the Hon. Philip 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 cannabis 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, as follows:

- 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 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 31(a) of the Act authorizes municipalities by ordinance to adopt regulations governing the number of cannabis establishments in the six classes set out above that are 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 Borough Council of the Borough of Hightstown (the “Borough”), in the County of Mercer and State of New Jersey, previously decided that additional study of cannabis business was warranted and thus initially voted to opt out of permitting any cannabis businesses, excepting the delivery of cannabis products as allowed by the Act, through the enactment of Ordinance 2021-06; and

WHEREAS, having further studied the issues at hand, including the receipt of input from the Planning Board, the Borough Council subsequently found it necessary and appropriate, and in the best interests of the health, safety and welfare of the Borough’s residents and members of the public, to opt in with regard to cannabis licensing in certain limited respects, and to permit certain classes of cannabis-related businesses, land use and development within the geographic boundaries of the Borough, pursuant to the terms and conditions set forth in Ordinance 2023-20, as adopted on December 18, 2023; and

WHEREAS, upon further review, the Borough Council has determined to expand its cannabis licensing to include Class 5 Cannabis Retailer Licenses as set forth in the Act, and to revise the cannabis licensing requirements of “The Revised General Ordinances of the Borough of Hightstown” (also referenced as the “Borough Code”) as set forth herein.

NOW, THEREFORE, BE IT ORDAINED, by the Borough Council of the Borough of Hightstown, in the County of Mercer, and State of New Jersey, as follows:

Section 1. Article 4-13, entitled “Cannabis Licensing,” of “Part 1, of Chapter “4, “General Licensing,” of the Borough Code is hereby amended and supplemented in the following respects:

Chapter 4. General Licensing

Article 4-13. Cannabis Licensing

§ 4-13-1 Purpose.

Notwithstanding any Federal law to the contrary, the purpose of this chapter is to provide the Borough with a means to authorize, regulate and govern the location and operation of Cannabis operations within the geographic boundaries of the Borough and the number and types of licenses issued in the Borough pursuant to the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act, N.J.S.A. 24:61-32 et seq. (“CREAMMA”).

§ 4-13-2 Definitions.

[Added 12-18-2023 by Ord. No. 2023-20]

- A. As used in this article, the following terms shall have the meanings as defined in the "New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act,"^[1] also referenced herein as the "Act" or "P.L. 2021, c. 16," as it may be amended or superseded, and are included herein for purposes of general acknowledgment and ease of use:

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 CREEMMA 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

seq.; 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 marihuana 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 seq.; 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 seq.

CANNABIS CONSUMPTION AREA

A designated location operated by a licensed cannabis retailer or license 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 or license holder that is separate from the area in which retail sales of cannabis items or the dispensing of medical cannabis occurs; or (2) an exterior structure on the same premises as the cannabis retailer or license holder, either separate from or connected to the cannabis retailer or permit holder, at which cannabis items or medical cannabis either obtained from the retailer or license holder, or brought by a person to the consumption area, may be consumed.

CANNABIS CULTIVATOR

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 usable cannabis to cannabis manufacturers, cannabis wholesalers, or cannabis retailers, but not to consumers. This person or entity shall hold a Class 1 Cannabis Cultivator license from the State of New Jersey.

CANNABIS DELIVERY SERVICE

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 from the State of New Jersey.

CANNABIS DISTRIBUTOR

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 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. This person or entity shall hold a Class 4 Cannabis Distributor license from the State of New Jersey.

CANNABIS ESTABLISHMENT

A cannabis cultivator, cannabis manufacturer, or cannabis wholesaler, but not a cannabis distributor, cannabis retailer, or a cannabis delivery service.

CANNABIS ITEM

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 seq. 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 seq.

CANNABIS MANUFACTURER

Any licensed person or entity that processes cannabis items in this State by purchasing or otherwise obtaining usable cannabis, manufacturing, preparing, or packaging cannabis items, and selling, and optionally transporting, these items to other cannabis manufacturers, cannabis wholesalers, or cannabis retailers, but not to consumers. This person or entity shall hold a Class 2 Cannabis Manufacturer license from the State of New Jersey.

CANNABIS RETAILER

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 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 Retailer license from the State of New Jersey.

CANNABIS WHOLESALER

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 from the State of New Jersey.

COMMISSION or CRC

The New Jersey Cannabis Regulatory Commission.

MANUFACTURE

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

PUBLIC PLACE or QUASI-PUBLIC PLACE

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, swimming pool, shopping area, public transportation facility, vehicle used for public transportation, parking lot, public library, or any other public building, structure, or area.

- B. All other terms as defined in the Act are hereby incorporated herein by reference and shall have the meanings set forth in the Act, as may be amended or superseded.
- C. In addition, the following terms shall have the meanings indicated:

GIFTING

The sale of any object containing cannabis or a cannabis product wherein the cannabis itself is assigned no or a below-market-price sales price.

§ 4-13-3 Nonlicensed cannabis businesses and individual proprietors and gifting prohibited.

[Added 12-18-2023 by Ord. No. 2023-20]

The cultivation, manufacturing, preparation, packaging, wholesaling, distributing, retailing, delivery and other related enterprise consisting in whole or in part of cannabis growing, harvesting, drying, producing, marketing and selling by nonlicensed businesses or individuals is hereby prohibited throughout the Borough of Hightstown. No licensed cannabis enterprise and no nonlicensed business or individual may undertake the gifting of cannabis in the Borough of Hightstown. In addition to any criminal penalties which may be applicable, the Borough shall impose a civil penalty for the violation of any of the provisions of this section in accordance with § 4-13-7.

No person shall gift cannabis as part of a sale of another item or items and shall be abated pursuant to all available remedies. Gifting is the knowing circumvention of the state’s cannabis laws by “gifting” cannabis in exchange for non-cannabis-related purchases such as overpriced cookies, brownies, jars, stickers and any other items.

§ 4-13-4 Licensed use applicability.

[Added 12-18-2023 by Ord. No. 2023-20]

The use of any cannabis license shall only be in strict accordance with the land use and location requirements of Chapter 28 of the Revised General Ordinances of the Borough of Hightstown. Consequently, the Borough of Hightstown may or may not establish locations for the use and operation of the six types of cannabis business licenses and operations as set forth in the Act. Should the Borough of Hightstown establish more than one type of cannabis license, nothing herein shall prohibit a single owner from owning more than one such license, provided such ownership is not prohibited by state statute or rule.

§ 4-13-5 Local licensing authority.

[Added 12-18-2023 by Ord. No. 2023-20]

- A. The Borough Council is hereby designated to act as the local licensing authority for the Borough of Hightstown for all cannabis businesses within the Borough. The Borough Clerk shall act as the receiver of any communications from the State Cannabis Regulatory Commission and shall promptly convey any item of information with regard to the licensing of cannabis businesses by the state or in which state law requires any review or approval by the Borough of any action to the Borough Council.
- B. Under no circumstances shall a local license for a cannabis business issued by the Borough Council be effective until or unless the state has issued the requisite licenses to operate such a facility. It is the intent of this article that no cannabis business may lawfully operate in the Borough of Hightstown without the issuance of a state license and full regulatory oversight of the cannabis business by the Cannabis Regulatory Commission or other state licensing authority as required by law as well as oversight and issuance of a license by the Borough.
- C. Municipal licensing for cannabis businesses shall follow the nomenclature of the "New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act"^[1] as indicated in the definitions

in this article.

[1] *Editor's Note: See N.J.S.A. 24:6I-31 et seq.*

§ 4-13-6 Licensing and Regulations

A. Purpose

This section is enacted to regulate and implement the provisions of the Acts. Licenses granted pursuant to this section shall be issued to applicants upon a showing of proof of receipt of a State license granted by the Cannabis Regulatory Commission. All provisions in this section are in addition to everything stated in N.J.A.C. 17:30-9-10.

B. Maximum Number of Licenses and Fees

Subject to the provisions of Chapter 28, the Borough may issue up to and including the following number of licenses, which shall require the associated license application and annual renewal fee:

License	Class	Maximum Number of Licenses to be Issued	Nonrefundable Application Fee	Nonrefundable Initial License Fee	Nonrefundable Annual License Renewal Fee
Cannabis cultivator	1	1	\$10,000	\$10,000	\$10,000
Cannabis manufacturer	2	1	\$10,000	\$10,000	\$10,000
Cannabis wholesaler	3	1	\$10,000	\$10,000	\$10,000
Cannabis distributor	4	1	\$10,000	\$10,000	\$10,000
Cannabis retailer	5	2	\$10,000	\$10,000	\$10,000
Cannabis delivery	6	0	N/A	N/A	N/A

NOTE:

For any class of cannabis license referenced in the schedule above in which the number "0" is specified under the column entitled "Maximum Number of Licenses to be Issued," the Borough hereby continues to opt out relating to that class of cannabis license under the Act, as originally declared in Ordinance No. 2021-06.

The amount of the non-refundable application fee, initial license fee, annual renewal license fee and number of licenses may be modified from time to time by a subsequent duly adopted resolution of the Borough

Council.

C. Cannabis Advisory Committee

1. **The Borough Cannabis Advisory Committee (hereinafter referred to as "CAC")** as appointed below, will act as the body for local review for the Borough for all cannabis establishments. However, the authority and responsibility to activate, suspend, and revoke such licenses shall remain with the Borough Council. From this point forward, any reference to the Borough Cannabis Advisory Committee in this document shall be denoted as "CAC." Under all circumstances in which state law requires communication to the Borough by the CAC or any other state agency with regard to the licensing of cannabis establishments by the state, or in which state law requires any review or approval by the Borough of any action taken by the state licensing authority, the exclusive authority for receiving such communications and granting such approvals shall be communicated through the Borough Clerk's Office upon recommendation by the CAC and authorized by the Borough's governing body.

- The Borough Administrator (or their designee).
- The Chief of Police (or their designee).
- Up to two other Borough employees, designated by the Borough Administrator.

2. Roles and Duties of the CAC:

- a. The CAC shall be supported by the Special Cannabis Counsel, Borough Attorney and the Borough Planning and Zoning Office. The CAC may utilize additional resources as necessary to effectuate the responsibilities of the CAC. The CAC shall be supported by other legal and planning professionals, including but not limited to, Special Cannabis Counsel. The applicants shall deposit and fund an escrow in the amount of \$5,000.00 for the costs of said professionals. If the Borough hires one or more consultants to evaluate a first-time or renewal application for a license, the applicant will be responsible for the review fees of the Borough's hired consultant(s). To the extent that the escrow is exhausted, the applicant shall provide any replenishment amount required by the CAC within ten (10) days of a replenishment request by the CAC.
- b. Of the members of the CAC, no member shall be affiliated with or related to a New Jersey adult use cannabis business or medical cannabis establishment or prospective licensee.
- c. Duties of the CAC will be to advise the governing body as to the issuance of cannabis business licenses within the Borough of Hightstown. The CAC's work shall be based on the information contained in the application submitted to the clerk and shall be made consistent with the criteria outlined in this chapter, in addition to the issuance of detailed application criteria made available in the application.
- d. No member of the CAC may hold interest in or be related to an applicant.
- e. Meetings of the CAC shall not be subject to the Open Public Meetings Act.

D. Hours of Operation

1. The hours of operation of vehicles on the premises of a cannabis business with a gross vehicle weight rating of 25,000 pounds or greater for Classes 2 through 4 licensees shall be limited from 7:00 a.m. to 7:00 p.m., inclusive, unless, as part of a site plan application and for good cause shown and mitigation of noise, appropriate access and site layout, an extended period, not to exceed 14 hours total in any day is approved by the Planning Board.
2. The hours of operation of cannabis retailers shall be limited from 9:00 a.m. to 10:00 p.m. daily.
3. Such hours shall be construed to mean Eastern Standard Time or Eastern Daylight Savings Time, whichever is in effect within the Borough of Hightstown.

E. Consumption and Unregulated Sale

1. **Prohibition of Cannabis Consumption Areas:** Cannabis consumption areas are strictly prohibited in the Borough. The consumption of cannabis items through smoking, vaping, aerosolizing or other means (e.g., edibles) is prohibited within or on the grounds of any licensed cannabis establishments of any permitted class of license within the Borough of Hightstown.
2. **Prohibition of Unregulated Sale:**
 - a. No person shall sell cannabis or medical cannabis in the Borough without a State license and a Borough license.
 - b. No person shall gift cannabis or medical cannabis in the Borough as part of a sale of another item or items.

F. Resolution of Support

1. The Borough Council shall act on the recommendations made by the CAC within 45 days of the Committee issuing its recommendations. The Council may issue a resolution of support or choose not to issue a resolution of support for a municipal cannabis license. The Borough Council shall not issue resolutions of support exceeding the number of local cannabis licenses permitted under the Borough of Hightstown Cannabis License and Fee Schedule.
2. When multiple applicants apply for a license, the Borough Council will consider the CAC's recommendations but is not required to follow them.
3. After obtaining a resolution of support, the applicant must proceed through the Borough's land use approval process, securing all necessary Planning Board approvals, site plan approvals, or variances as required. Simultaneously, the applicant must finalize licensing with the New Jersey Cannabis Regulatory Commission (CRC) and comply with all state regulations. Operations cannot commence until both local land use approvals and state licensing are secured.
4. A resolution of support issued by the Borough Council pursuant to N.J.A.C. 17:30-5.1(g)1 shall expire within 12 months unless the business secures at least one annual state-issued cannabis license for operation within Hightstown. The Borough Council may grant up to two six-month extensions for good cause, including delays in approvals from state, county, or other agencies. Each extension request shall require a \$2,500 fee. If the applicant does not secure a state license within this timeframe, unless extended, the Borough Clerk shall reopen the application process and evaluate new applicants under the established criteria.

G. Additional licensing regulations.

1. Signage:

(a) External Signage, including window signage, must be limited to text identifying the business and the logo for the business, provided that said logo does not include a cannabis plant leaf and/or outward glorification of cannabis consumption, where applicable.

(b) All of the Borough sign regulations must be complied with.

2. Visible Restrictions; No cannabis products, plants, accessories, or paraphernalia shall be visible from any public places, including public sidewalks, streets, or rights-of-way. Cannabis products must not be visible from outside the premises, including any public space.

3. Security Requirements: Licensees shall comply with N.J.A.C. 17:30-9.10 and any additional requirements as imposed by the Chief of Police.

a. Surveillance System

i. Cannabis establishments must be monitored at all times by a closed-circuit television (CCTV) surveillance system. The security cameras must operate 24 hours per day, seven days per week and cover:

(1) All cannabis dispensing areas

(2) Storage areas

(3) All doors and windows with access to the cannabis establishment

(4) Parking areas (if applicable)

(5) Any other areas deemed necessary by the Chief of Police or their designee.

ii. The system must allow for the surveillance of both interior and exterior areas and must have sufficient quality, color rendition, and resolution to enable the clear identification of individuals.

iii. The surveillance system must use Internet Protocol (IP) cameras that provide real-time footage accessible over the internet. Operators must provide the local police department with access to this footage in case of an emergency.

iv. The surveillance recordings must be retained for no less than 30 days. The recordings shall be made available to the local police department within 24 hours of a written request.

b. Perimeter and Lighting

The outside areas of the premises and the perimeter must be properly lit in accordance with Borough regulations, and N.J.A.C. 17:30-9.10.

c. Security Contact Information

The local police department must be provided with the name and phone number of a designated staff member to contact during any suspicious activity, whether during or after operating hours.

d. Security Staff

A security staff member must be present on the premises during all hours of operation to ensure safety and compliance with regulations.

e. Cultivation Security

All cannabis cultivation activities must take place in an enclosed, locked facility to ensure security and prevent unauthorized access.

f. State Law Compliance

Cannabis establishments must comply with all security requirements established by state law and regulations. These may be updated over time, and licensees must coordinate with the local police department to maintain compliance.

4. Emergency power. All licensed cannabis establishments shall have a backup power capable of maintaining, at a minimum, all electronic security systems and odor control systems in the event of a power failure for a period of at least 48 hours.
5. Enclosed building. All cultivation, manufacturing, storage, distribution and retail activities, as may be permitted within the Borough, shall take place within an enclosed building. Any facility that is not the sole occupant of its building shall have no internal doorways, windows, or utility chases in common with other spaces in the building and shall have a separate HVAC system (which incorporates odor control) solely for the cannabis business.
6. Pollen and seed control. Any licensed cannabis business with the exception of retail shall implement measures to prevent cross-pollination and to prevent cannabis pollen and seeds from leaving the premises, which may include, but is not limited to, use of pollen screens, ultraviolet light and other methods, to ensure that employees, customers, vendors and other persons on site do not leave the premises while carrying any cannabis pollen or seeds knowingly or unknowingly.
7. Fencing. All fencing or walls installed for security purposes shall be at least six feet in height. Such security structure may be extended in height as approved on a site plan by the Planning Board.
8. Site management. Any cannabis business shall properly store and dispose of all waste generated on the site, including chemical and organic waste, in accordance with all applicable laws and regulations. No cannabis business shall dispose of cannabis or cannabis products unless they have been made unusable and unrecognizable.
9. Noise. All cannabis business facilities shall operate in compliance with state, county, and local noise laws and regulations, except in emergency situations requiring the use of a backup generator.
10. Odor. All cannabis business facilities shall utilize available technology to filter and recirculate air so that odors are not discernible by a reasonable person beyond the property line. Such determination shall be supported by such exhibits, submissions and expert testimony in a development application before the Planning Board for site plan approval to which the approving authority may attach reasonable conditions. The Planning Board may engage such experts as needed to evaluate the submissions made by the applicant in accordance with the procedures set forth in N.J.S.A. 40:55D-1 et seq.

11. Site plan and other necessary land use approvals. All applicants for a license to operate a cannabis business within the Borough shall be required to apply for and obtain site plan approval and any other necessary land use approvals from the Planning Board.
12. Sales restricted to persons over age 21. No sales of cannabis items shall be permitted to persons who are under the age of 21 years.

H. Application for local license.

Persons wishing to obtain any permitted classification of cannabis license within the Borough shall file a license application with the Borough Clerk on a standardized form established by the Borough and available in the Borough Clerk's office or other suitable locations as determined by the Borough. An application shall be deemed incomplete, and shall not be processed by the Borough, until all documents and application fees are submitted. To be deemed complete, all applications shall be submitted to the Borough Clerk's Office and shall be accompanied by the items referenced below along with any additional requirements listed on the application. The following regulations shall apply:

1. The applicant shall submit proof that the applicant has or will have lawful possession of the premises proposed for the cannabis establishment, 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, antidiscrimination 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 applicant shall submit all required nonrefundable fees for the application in accordance with the Borough of Hightstown Cannabis License and Fee Schedule.
4. The applicant and the application shall otherwise comply with any and all qualification standards set forth in the state and Borough laws or regulations.
5. Completed applications shall include a business plan outlining the proposed operations of the cannabis business.
6. The applicant shall ensure that the location proposed for licensing complies with all applicable municipal zoning laws and the location restrictions set forth in the land development portion of the Borough of Hightstown Municipal Code. A letter from the appropriate zoning official indicating that the location proposed for licensing by the applicant complies with all applicable Borough zoning laws and the location restrictions set forth herein and set forth in the land development portion of the Borough of Hightstown. The \$100 fee for the determination letter from the zoning official must be paid prior to the application being submitted.

7. All applications shall be evaluated by the (CAC). The CAC shall evaluate all applications and issue to the Borough Council a recommendation as to the issuance of a resolution of support, a resolution of support with conditions or a rejection of the application. The recommendation shall be made after consideration and evaluation of the following criteria:

- (a) The applicant's owners' or principals' qualifications and experience operating in highly regulated industries, including cannabis, health care, pharmaceutical manufacturing, or retail pharmacies, with preference to experience operating such businesses within the State of New Jersey and where the value of the owners' experience shall outweigh the experience of nonowner principals.
- (b) The applicant's qualifications and experience related to public safety and security, including any of the applicant's owners' or principals' experience in securing controlled substances or valuable items. The applicant shall submit a summary of the applicant's plans for storage of products and currency, physical security, video surveillance, security personnel, and visitor management as well as training plans.
- (c) The complete and notarized financial interest section, including the names and residences of all persons financially interested in the business and the nature and extent of this interest; and, if a corporation, the names, residences, and citizenship of the officers, directors, and stockholders.
- (d) The status of the applicant's control over the premises at the proposed location, and specifically whether the applicant owns or has executed an agreement to lease or purchase the site.
- (e) The description of the proposed location, including the surrounding area and the suitability or advantages of the proposed location.
- (f) Any other information that the applicant may wish to highlight and bring to the Borough's attention regarding the proposed cannabis business operation and/or the owners, principals or employees of the business.

8. The Borough Council shall act on the recommendations made by the CAC within 45 days of the CAC issuing its recommendations to issue a resolution of support, resolution of support with conditions, or to not issue a resolution of support of a municipal cannabis license under the terms of Subsection H hereinbelow. The Borough Council shall not issue resolutions of support in excess of the number of local cannabis licenses permitted in accordance with the Borough of Hightstown Cannabis License and Fee Schedule. When there are multiple applicants for one license, the Borough Council shall consider the recommendations of the CAC but is not required to follow the Committee's recommendation.

9. After securing a Resolution of Support from the Borough, the applicant must proceed through the land use approval process in accordance with the Borough's zoning and site plan requirements. Upon receiving the State Annual License and Planning Board Approval, the applicant must submit both to the Borough along with the non-refundable initial license fee. The Borough then issues the local cannabis license allowing operations to begin. This includes obtaining all necessary Planning Board approvals, site plan approvals, or variances as required. Simultaneously, the applicant must finalize licensing with the New Jersey Cannabis Regulatory Commission (CRC) and ensure compliance with

all state regulatory requirements. The applicant cannot begin operations until both local land use approvals, local cannabis licensing, and state licensing have been secured.

10. Notwithstanding the foregoing competitive application process, a notification of a resolution of support shall entitle the recipient applicant to pursue a state license in the appropriate cannabis class and land use approval for up to 12 months, which may be extended at the Borough Council's discretion for up to two additional periods of six months each for good cause. No license to operate shall be issued until the applicant has received a state annual license, local cannabis license, land use approval and satisfied other prerequisites of municipal licensure. If the recipient of a resolution of support has not received a state license within 12 months from issuance, unless extended for good cause, the Borough Administrator shall issue a new request for applications and evaluate all applicants for licensure under the above criteria.

11. Host community benefits agreement. In keeping with the intent of the CREAMM Act to encourage community partnership and responsible business practices, the Borough may offer applicants for cannabis licensure the opportunity to enter into a voluntary Host Community Benefits Agreement. This agreement may memorialize the applicant's commitment to supporting locally beneficial initiatives, such as workforce development, education, or public health, as mutually agreed upon by the parties. While participation in a Host Community Benefits Agreement is voluntary and not a condition of zoning approval, licensure, or commencement of operations, the Borough encourages such collaboration as a means of fostering positive community engagement and shared benefits."

I. Terms of local cannabis license and cannabis license renewals.

1. Before the occupancy of a building or buildings where the local cannabis license will be used to operate the cannabis business, the license holder shall obtain site plan approval, along with any and all other land use approvals deemed necessary, from the Hightstown Planning Board, along with any additional outside governmental agency approval(s) which may be necessary.

2. Any local license issued pursuant to this article shall be valid for a period of one year from the date of issuance and shall be renewed in accordance with the provisions of this article.

3. The Borough Council may, at their discretion, adjust the renewal date of the local license to correlate with an applicant's state licensing and renewal schedule.

4. Renewal of any license shall be governed by any code amendments, additional restrictions or changes in regulations adopted since the previous license was issued or renewed.

5. Transfer of ownership of any local license or change of location of any license or modification to expand a licensed premises shall be subject to joint Borough Council and Planning Board review and approval as well as a new license application.

6. Except where the Borough Clerk has received a complete renewal application along with the requisite fees, and the Borough has issued a license renewal, it shall be unlawful for any person to manufacture, sell, distribute, transfer, transport, or otherwise remove cannabis or cannabis products from the premises of any licensee after the expiration date recorded on the face of the license, except

for the closure of the business.

§ 4-13-7 Enforcement and penalties.

[Added 12-18-2023 by Ord. No. 2023-20]

- A. The Code Enforcement Officer is the primary enforcer of municipal cannabis regulations, inspections, and violations, with assistance from designees such as the Police Department, Health Department, or Fire Marshal where applicable.
- B. Jurisdiction. Violations of this article shall be adjudicated in the Hightstown Municipal Court. This article shall not affect the judicial proceedings of any other aspect of cannabis use in the Borough of Hightstown.
- C. Penalties. Convictions shall result in the following penalties:
1. First offense and subsequent offenses. A mandatory fine shall be imposed in an amount not to exceed \$2,000 per day per violation. In addition to the mandatory fine, the following penalties may be imposed in the discretion of the Municipal Court Judge:
 - a. Imprisonment in the Mercer County Jail for any term not exceeding 90 days; or
 - b. Imposition of a period of community service for a period not exceeding 90 days.
 2. Each and every day such violation continues it shall constitute a separate and distinct offense.
 3. Summary suspension. Notwithstanding the foregoing, when the Borough Administrator has been notified of a third conviction by a licensee or has reasonable grounds to believe that a licensee has engaged in deliberate and willful violation of any applicable law or regulation, or that the public health, safety, and/or general welfare has been jeopardized and requires immediate action, or in circumstances where the licensee has failed to reimburse the municipality for outside third-party financial consultant fees in a timely manner as set forth in § 31-1-5A of the Borough Code, the Borough Administrator, in consultation with the CAC, may recommend to the Hightstown Borough Council to enter a summary suspension order which immediately suspends the licensee's license to operate and schedule a hearing as follows:
 - a. The summary suspension order shall be in writing, shall state the reasons therefor, and shall schedule a hearing not less than 10 nor more than 30 days from the date of the order. The order shall be served upon the licensee immediately.
 - b. The Hightstown Borough Council along with the CAC shall conduct the hearing. The licensee shall be permitted to appear at the hearing, along with counsel, if so desired. The licensee must notify the Borough Administrator at least five days' prior to the hearing if the licensee plans to bring counsel to the hearing. At the conclusion of the hearing, the Hightstown Borough Council may lift the suspension order and reinstate the license in cases where the licensee has taken sufficient immediate actions to rectify the violation(s) which were the cause of the summary suspension order. Alternatively, the Hightstown Borough Council may impose any fines, conditions, restrictions, suspensions, revocations or

combination thereof as warranted.

- c. Inactive licenses. Following the commencement of operations by a cannabis business, the Borough Council may suspend or revoke any license if the licensed premises has been inactive or unoccupied by the licensee for at least six months.
4. State license. The Borough Council may suspend or revoke any locally issued license if the corresponding state license for the subject location is expired, surrendered, suspended, or revoked.

Section 2. Section 28-3-13, entitled “DTC Downtown Core,” of Article 28-3, “Districts Established; Zoning Map,” of Chapter 28, “Zoning,” of the Borough Code is hereby amended and supplemented as follows:

Chapter 28. Zoning

Article 28-3. Districts Established; Zoning Map

§ 28-3-13. DTC Downtown Core.

[1991 Code §§ 223-20, 223-21; Ord. No. 93-852; Ord. No. 860; Ord. No. 2013-13; Ord. No. 2019-13]

The purpose and intent is to eliminate the CC-1 Central Commercial District and the CC-2 Central Commercial District and to establish a new district known as the DTC Downtown Core.

- A. Permitted Uses. In the DTC Downtown Core, the following uses, and no others, shall be permitted:
 1. Principal Uses:
 - a. Retail sales and services within a completely enclosed building.
 - b. Personal and business services within a completely enclosed building.
 - c. Offices.
 - d. Public facilities, including public parking facilities.
 - e. Child care centers.
 - f. Bars and taverns.
 - g. Restaurants and other places to eat and drink, but not including establishments with drive-throughs.
 - h. Banks and financial institutions.
 - i. Newspaper and other publishing facilities.
 - j. Apartment dwellings as upper floor use of buildings containing above permitted principal uses.

- k. Art galleries and artist studios.
- 2. Accessory Uses and Structures:
 - a. Signs in accordance with Chapter 29.
 - b. Parking facilities.
 - c. Fences, walls and landscaping.
 - d. Amusement machines, subject to the licensing and regulation provisions of Chapter 4, General Licensing, Article 4-7, Amusement Machines, of the Code of the Borough of Hightstown.
 - e. Satellite dishes, subject to the restrictions and requirements set forth in § 28-10-19.
 - f. Accessory uses and structures customarily incidental and on the same lot as a principal or conditional use.
- 3. Conditional Uses. The following uses shall be permitted when authorized as a conditional use by the Planning Board when meeting their associated criteria:
 - a. Cannabis retail, subject to the following criteria:
 - i. Such use shall operate fully within an enclosed building.
 - ii. Excepting emergency egress doors, each entrance and exit, including loading docks doors, shall be designed to prevent interior air from escaping out of doors unless properly treated as required under §4-13-6G through air locks, negative pressurization or other means of preventing untreated air from exiting the building.
 - iii. All criteria set forth in the licensing regulations at §4-13-6 shall apply.

B. Other Restrictions. [*Editor's Note: For brevity, the language of the existing Code is not recited hereafter, as all existing language and subsections which are currently in effect under §28-3-13B are not being revised as part of the within Ordinance and shall remain unchanged.*]

Section 3. Section 28-3-14, entitled "H-C Highway Commercial District," of Article 28-3, "Districts Established; Zoning Map," of Chapter 28, "Zoning," of the Borough Code is hereby amended and supplemented as follows:

Chapter 28. Zoning

Article 28-3. Districts Established; Zoning Map

§ 28-3-14. H-C Highway Commercial District.

[1991 Code §§ 233-24, 233-25; Ord. No. 93-852; Ord. No. 860; Ord. No. 2013-13; Ord. No. 2014-16;

Renumbered - Ord. No. 2019-15]

A. Permitted Uses. In the H-C Highway Commercial District, the following uses, and no others, shall be permitted:

1. Principal Uses.

- a. Any principal use permitted in the DTC Downtown Core District.
- b. Retailing and service establishments with incidental outdoor operations.
- c. Movie theater, bowling alley, gymnasiums, tennis centers, roller skating rinks and similar recreational and cultural facilities conducted within an enclosed building.
- d. Lumber yards.
- e. Heating oil distribution facilities.
- f. Motor vehicle body and repair shops, subject to the conditions of § **28-10-13**.

2. Accessory Uses and Structures.

[Amended 12-18-2023 by Ord. No. 2023-20]

- a. Off-street parking and loading facilities.
- b. Private garages and storage buildings.
- c. Fences, walls and landscaping.
- d. Amusement machines: as permitted in the DTC Downtown Core District.
- e. Satellite dishes, subject to the restrictions and requirements set forth in **28-10-19**.
- f. Signs in accordance with Chapter **29**.
- g. Accessory uses and structures customarily incidental to and on the same lot as a principal or conditional use.

3. Conditional Uses. The following uses shall be permitted when authorized as a conditional use by the Planning Board when meeting their associated criteria:

[Added 12-18-2023 by Ord. No. 2023-20]

- a. Cannabis cultivation, manufacturing, wholesaling, distribution or retail, subject to the following criteria:
 - i. With the exception of cannabis retail, such use or uses shall be located on a tract of land comprising at least 10 contiguous acres. The vertically integrated operation of cannabis cultivation and cannabis manufacturing shall be permitted on the same tract of land.

- ii. Such use shall operate fully within an enclosed building.
- iii. Excepting emergency egress doors, each entrance and exit, including loading docks doors, shall be designed to prevent interior air from escaping out of doors unless properly treated as required under § 4-13-6 through air locks, negative pressurization or other means of preventing untreated air from exiting the building.
- iv All criteria set forth in the licensing regulations at § 4-13-6 shall apply.

b. Subject to approval of the State Cannabis Regulatory Commission, nothing herein shall prohibit multiple licensees within each permitted class from operating simultaneously on the same tract of land, provided that each licensee otherwise satisfies the conditional use criterion herein and any requirements of the state with respect to the co-location of cannabis businesses on the same tract of land or within the same building.

B. Other Restrictions. [*Editor's Note: For brevity, the language of the existing Code is not recited hereafter, as all existing language and subsections which are currently in effect under §28-3-14B are not being revised as part of the within Ordinance and shall remain unchanged.*]

Section 4. Section 28-3-15, entitled "DTG Downtown Gateway," of Article 28-3, "Districts Established; Zoning Map," of Chapter 28, "Zoning," of the Borough Code is hereby amended and supplemented as follows:

Chapter 28. Zoning

Article 28-3. Districts Established; Zoning Map

§ 28-3-15. DTG Downtown Gateway.

[1991 Code §§ 233-22, 233-23; Ord. No. 93-852; Ord. No. 2003-25; Ord. No. 2019-14; Renumbered - Ord. No. 2019-15]

The purpose and intent is to eliminate the R-PO Residential Professional Office District and to establish a new district known as the DTG Downtown Gateway.

A. Permitted Uses. In the DTG Downtown Gateway, the following uses, and no others, shall be permitted:

- 1. Principal Uses.
 - a. Detached single-family dwellings or duplex.
 - b. Restaurants and other places to eat and drink, but not including establishments with drive-throughs.
 - c. Retail sales and services within a completely enclosed building.
 - d. Personal and business services within a completely enclosed building.

- e. Performing arts companies.
 - f. Offices.
 - g. Child care centers.
 - h. Tutoring centers.
 - i. Financial institutions.
 - j. Apartment dwellings as upper floor use or rear part of buildings containing adjacent and/or above principal uses.
 - k. Art galleries and artist studios.
2. Accessory Uses and structures.
- a. Carports, accessory garages and/or open parking spaces with necessary driveways for vehicles belonging to residents on the premises and their guests.
 - b. Noncommercial solariums and home swimming pools, provided that suitable protective fencing for swimming pools are in accordance with § 28-10-6.
 - c. Signs in accordance with Chapter 29.
 - d. Fences, walls and landscaping in accordance with § 28-10-5 as they pertain to Residential Districts.
 - e. Subject to lot coverage requirements, no more than two storage sheds are permitted on a lot in accordance with § 28-10-5.
 - f. Satellite dishes, subject to the restrictions and requirements set forth in § 28-10-19.
 - g. Accessory uses and structures customarily incidental and on the same lot as a principal or conditional use.
3. Conditional Uses. The following uses shall be permitted when authorized as a conditional use by the Planning Board when meeting their associated criteria:
- a. Cannabis retail, subject to the following criteria:
 - i. Such use shall operate fully within an enclosed building.
 - ii. Excepting emergency egress doors, each entrance and exit, including loading docks doors, shall be designed to prevent interior air from escaping out of doors unless properly treated as required under §4-13-6G through air locks, negative pressurization or other means of preventing untreated air from exiting the building.
 - iii. All criteria set forth in the licensing regulations at §4-13-6 shall apply.

- B. Other Restrictions. [*Editor's Note: For brevity, the language of the existing Code is not recited hereafter, as all existing language and subsections which are currently in effect under §28-3-14B are not being revised as part of the within Ordinance and shall remain unchanged.*]

Section 5. Section 28-3-16, entitled "R-O Research Office District," of Article 28-3, "Districts Established; Zoning Map," of Chapter 28, "Zoning," of the Borough Code is hereby amended and supplemented as follows:

Chapter 28. Zoning

Article 28-3. Districts Established; Zoning Map

§ 28-3-16. R-O Research Office District.

[Ord. No. 93-852; Ord. No. 2013-13; Renumbered - Ord. No. 2019-15]

A. Permitted Uses.

1. Permitted Principal Uses.

- a. Scientific and research laboratories.
- b. Warehousing and storage of products within a completely enclosed building, but not to include toxic or hazardous materials.
- c. Computer centers.
- d. Pharmaceutical operations, non-manufacturing.
- e. Business and professional offices.
- f. Day care centers.

2. Permitted Accessory Uses.

- a. Off-street parking and loading facilities.
- b. Cafeterias or other similar food service facilities located within a building and operated for the exclusive use of site occupants.
- c. Recreational facilities.
- d. Assembly rooms for meetings associated with the site business use.
- e. Incidental motor freight operations such as deliveries, but not to include motor freight terminals.
- f. Satellite dishes, subject to the restrictions and requirements set forth in § 28-10-19.

- g. Accessory uses and structures customarily incidental and on the same lot as a principal or conditional use.
- h. Signs in accordance with Chapter 29.

3. Conditional Uses. The following uses shall be permitted when authorized as a conditional use by the Planning Board when meeting their associated criteria:

- a. Cannabis retail, subject to the following criteria:
 - i. Such use shall operate fully within an enclosed building.
 - ii. Excepting emergency egress doors, each entrance and exit, including loading docks doors, shall be designed to prevent interior air from escaping out of doors unless properly treated as required under §4-13-6G through air locks, negative pressurization or other means of preventing untreated air from exiting the building.
 - iii. All criteria set forth in the licensing regulations at §4-13-6 shall apply.

B. Other Restrictions.

1. Lot Area. A lot area of not less than four acres shall be required.
2. Lot Width. A lot width of not less than 100 feet shall be required.
3. Front Yard Setback. No portion of any building shall be located nearer to any street line than 100 feet.
4. Side Yard Setback. There shall be two side yards, each with a width of at least 50 feet.
5. Rear Yard Setback. There shall be a rear yard not less than 50 feet deep. In the case of a lot extending through from street to street, the front yard requirement shall be observed on both streets.
6. Maximum Floor Area Ratio. Maximum floor area ratio shall be 30% for all uses, except that the portion of use devoted to storage and warehousing may be calculated at 40%.
7. Lot Coverage. 20% by buildings with a maximum total impervious coverage of 50%.
8. Building Height. Three stories, with a maximum height of 45 feet.
9. Landscaping and Buffers. All portions of lots not used for buildings or other site improvements shall be suitably landscaped with lawns, trees, shrubbery, etc. All preserved critical land areas shall be left in their natural state and suitably buffered. Portions of lots which adjoin any residential zone shall provide a fifty-foot landscaped buffer screen area, which is to be improved with a variety of landscaping to provide for a year-round screen visually separating the site from the adjacent residential zoned properties. The buffer area may contain landscaped berms and suitable fencing,

but the fencing shall be only incorporated to supplement required landscaping.

10. Parking Requirements. As provided in § 28-10-11.
11. Off-street Loading Requirements. As required in § 28-10-11.

Section 6. Chapter 31, entitled “Taxation of Cannabis Sales,” of the “Revised General Ordinances of the Borough of Hightstown” is hereby amended and supplemented as follows:

Chapter 31. Taxation of Cannabis Sales

Article I. Transfer and User Taxes

§ 31-1-1. Title.

[12-18-2023 by Ord. No. 2023-20]

This chapter shall be known as the "Taxation of Cannabis Sales."

§ 31-1-2. State enablement.

[12-18-2023 by Ord. No. 2023-20]

- A. Legislation. 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"),^[1] which legalizes the recreational use of cannabis 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.
[1] Editor's Note: See N.J.S.A. 24:6I-31 et seq.
- B. The Act establishes six marketplace classes of licensed businesses, including:
 1. Class 1 cannabis cultivator license for facilities involved in growing and cultivating cannabis;
 2. Class 2 cannabis manufacturer license for facilities involved in the manufacturing, preparation, and packaging of cannabis items;
 3. Class 3 cannabis wholesaler license for facilities involved in obtaining and selling cannabis items for later resale by other licensees;
 4. 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;
 5. Class 5 cannabis retailer license for locations at which cannabis items and related supplies are sold to consumers; and

6. 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.
- C. A cannabis business is defined as any business that holds one or more State of New Jersey issued license for Class 1 through Class 6 cannabis business and a vertically integrated cannabis business is defined as any cannabis business that holds more than one cannabis license.
- D. Section 40a(1) of the Act permits a municipality to adopt an ordinance imposing a transfer tax on the sale of cannabis or cannabis items by a cannabis establishment that is located in the municipality on receipts from the sale of cannabis by a cannabis cultivator to another cannabis cultivator; receipts from the sale of cannabis items from one cannabis establishment to another cannabis establishment; 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, and to set its own rate or rates, but in no case exceeding 2% of the receipts from each sale by a cannabis cultivator; 2% of the receipts from each sale by a cannabis manufacturer; 1% of the receipts from each sale by a cannabis wholesaler; and 2% of the receipts from each sale by a cannabis retailer.
- E. Section 40a(2) of the Act requires a municipality enacting a transfer tax to also enact a user tax.

§ 31-1-3. Definitions.

[12-18-2023 by Ord. No. 2023-20]

- A. As used in this chapter, the following terms shall have the meanings indicated:

CANNABIS

Shall mean the same as that term is defined in Section 3 of P.L. 2021, c. 16 N.J.S.A. 24:6I-33).

CANNABIS CULTIVATOR

Shall mean the same as that term is defined in Section 3 of P.L. 2021, c. 16 (N.J.S.A. 24:6I-33).

CANNABIS ESTABLISHMENT

Shall mean the same as that term is defined in Section 3 of P.L. 2021, c. 16 (N.J.S.A. 24:6I-33).

CANNABIS ITEMS

Shall mean the same as that term is defined in Section 3 of P.L. 2021, c. 16 (N.J.S.A. 24:6I-33).

CANNABIS MANUFACTURER

Shall mean the same as that term is defined in Section 3 of P.L. 2021, c. 16 (N.J.S.A. 24:6I-33).

CANNABIS RETAILER

Shall mean the same as that term is defined in Section 3 of P.L. 2021, c. 16 (N.J.S.A. 24:6I-33).

CANNABIS WHOLESALER

Shall mean the same as that term is defined in Section 3 of P.L. 2021, c. 16 (N.J.S.A. 24:6I-33).

CONSUMER

Shall mean the same as that term is defined in Section 3 of P.L. 2021, c. 16 (N.J.S.A. 24:6I-33).

PREMISES

Shall mean the same as that term is defined in Section 3 of P.L. 2021, c. 16 (N.J.S.A. 24:6I-33).

TAXPAYER BUSINESS

Shall mean for the purposes of this chapter any cannabis business defined in this subsection.

- B. All other terms as defined in the "New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act," [1] also referenced herein as the "Act" or "P.L. 2021, c. 16," are hereby incorporated herein by reference and shall have the meanings set forth in the Act, as may be amended or superseded.

[1] Editor's Note: See N.J.S.A. 24:6I-31 et seq.

§ 31-1-4. Establishment of transfer and user taxes.

[12-18-2023 by Ord. No. 2023-20]

A. Transfer tax.

1. There is hereby imposed a transfer tax in the amount of 2% on receipts from the sale of cannabis as follows:
 - a. From the sale of cannabis by a cannabis cultivator to another cannabis establishment.
 - b. From the sale of cannabis items from one cannabis manufacturer to another cannabis establishment.
 - c. From the sale of cannabis items from a cannabis retailer to the consumer.
2. There is hereby imposed a transfer tax in the amount of 1% on receipts of the sale of cannabis as follows:
 - a. From the sale of cannabis items from one cannabis wholesaler to another cannabis establishment.

- B. Collection of transfer tax. Such tax shall be collected or paid, and remitted to the municipality by the cannabis establishment from the cannabis establishment purchasing or receiving the cannabis or cannabis item, or from the consumer at the point of sale, on behalf of the municipality by the cannabis retailer selling the cannabis item to that consumer. 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. No cannabis establishment required to collect a transfer tax imposed hereunder 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 will be refunded to the

cannabis establishment or the consumer.

- C. User tax. There shall also be imposed a user tax, at the equivalent transfer tax rates, on any concurrent license holder, as permitted by Section 33 of P.L. 2021, c. 16 (N.J.S.A. 24:6I-46), operating more than one cannabis establishment. The user 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 Subsections **A** and **B** of this section, 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. The value of each transfer or use of cannabis for user tax computation shall equal the statewide average retail price of an ounce of usable cannabis for consumer purchase, as determined by the Cannabis Regulatory Commission, less 10% or the third-party dispensary wholesale price, whichever is less. The value of each transfer or use of cannabis items for user tax computation shall equal the third-party dispensary wholesale price.
- D. Relationship to other taxes. A transfer tax or user tax imposed pursuant to this section 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," P.L. 1966, c. 30 (N.J.S.A. 54:32B-1 et seq.). The transfer tax or user tax shall be paid by the cannabis establishment purchasing or receiving any cannabis or cannabis item from any cannabis cultivator or cannabis manufacturer or cannabis wholesaler licensed by the municipality, and shall be collected and remitted to the municipality by the cannabis establishment licensed by the municipality. The transfer tax or 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.
- E. Tax liability. Every cannabis establishment required to collect a transfer tax or user tax imposed pursuant to this chapter shall be personally liable for the transfer tax or user tax imposed, collected, or required to be collected under this section. Any cannabis establishment shall have the same right with respect to collecting the transfer tax or user tax from another cannabis establishment or the consumer as if the transfer tax or user tax was a part of the sale and payable at the same time, or with respect to nonpayment of the transfer tax or user tax by the cannabis establishment or consumer, as if the transfer tax or user tax was a part of the purchase price of the cannabis or cannabis item, or equivalent value of the transfer of the cannabis or cannabis item, and payable at the same time; provided, however, that the chief financial officer of the Borough of Hightstown which imposes the transfer tax or user tax shall be joined as a party in any action or proceeding brought to collect the transfer tax or user tax. No cannabis establishment required to collect a transfer tax or user tax imposed by pursuant to 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 the consumer.

§ 31-1-5. Administration of transfer and user taxes.

[12-18-2023 by Ord. No. 2023-20]

- A. Unless otherwise determined by the Borough Council, the chief financial officer of Hightstown is charged with the administration and enforcement of the provisions of this chapter, and is empowered to prescribe, adopt, promulgate and enforce rules and regulations relating to any matter pertaining to the administration

and enforcement of this chapter, including provisions for the reexamination and corrections of declarations and statements, and of payments alleged or found to be incorrect, or as to which an overpayment is claimed or found to have occurred, and to prescribe forms necessary for the administration of this chapter. The Borough Council may determine at any time, in its sole discretion, to retain an outside third-party financial consultant (the "outside consultant") to exercise all of the duties and responsibilities of the chief financial officer as set forth above, with the exception of the power of enforcement, levying of fines and penalties and entering into agreements with the State of New Jersey. In the event that the Borough Council retains such an outside consultant, the fee schedule for the outside consultant shall be presented, for informational purposes only, to the cannabis business before such audit and other work is undertaken. The cannabis business shall be responsible for reimbursement to the Borough of the fees incurred by the Borough to the outside consultant for services rendered in its examination of the business's accounts for the determination of tax to be paid. A copy of the invoice shall be sent to the cannabis business by the municipality after the municipality is billed for the outside consultant's work. The cannabis business shall reimburse the municipality for the outside consultant's fees and expenses within 60 days thereafter. Failure to timely reimburse the municipality shall invoke § 4-13-7 of the Borough Code. Should a cannabis business fail or refuse to provide adequate information to the chief financial officer or the outside consultant to determine the amount of tax due, the chief financial officer or the outside consultant may use information provided from other sources (i.e., the NJ Cannabis Regulatory Commission or NJ Department of Treasury) to determine the amount of tax liability, and the licensee shall be subject to the penalties set forth in § 4-13-7 of the Borough Code.

- B. It shall be the duty of the chief financial officer or the outside consultant, as applicable, to collect and receive the taxes, fines, and penalties imposed by this chapter. It shall also be the duty of the chief financial officer or the outside consultant, as applicable, to keep a record showing the date of such receipt. The chief financial officer is authorized to enter into agreements with the State of New Jersey to obtain information to facilitate administration of the taxes. The chief financial officer is authorized to issue a ruling upon written request of a taxpayer or upon his or her own volition.
- C. The chief financial officer or the outside consultant, as applicable, is hereby authorized to examine the books, papers and records of any taxpayer to verify the accuracy of any declaration or financial statement, or if no declaration or financial statement was filed, to ascertain the tax due. Every taxpayer is hereby directed and required to give to the chief financial officer, or to the outside consultant, as applicable, the means, facilities and opportunity for such examinations and investigations, as are hereby authorized or otherwise permitted by law.
- D. In the event that the transfer tax or user tax imposed pursuant to this chapter is not paid when due by a cannabis establishment, the unpaid balance, and any interest accruing thereon, shall be a lien on the parcel of real property comprising the cannabis establishment's premises in the same manner as all other unpaid municipal taxes, fees, or other charges. 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 chief financial officer or outside consultant, as applicable, shall file in the office of its tax collector a statement showing the amount and due date of the unpaid balance 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. Returns and records filed by a licensee, and the records and files of the chief financial officer or the outside consultant, as applicable, respecting the administration of the transfer and user tax, shall be considered confidential and privileged and neither the chief financial officer nor any employee or outside consultant engaged in the administration thereof or charged with the custody of any such records or files, nor any former officer or employee, nor any person who may have secured information therefrom shall divulge, disclose, use for their own personal advantage, or examine for any reason other than a reason necessitated by the performance of official duties any information obtained from the said returns, records or files or from any examination or inspection of the premises or property of any person, or to an officer of a public entity for a reason authorized by N.J.S.A. 54:50-9. Neither the chief financial officer nor any employee or outside consultant engaged in such administration or charged with the custody of any such returns, records or files shall be required to produce any of them for the inspection of any person or for use in any action or proceeding except when the records or files or the facts shown thereby are directly involved in an action or proceeding to collect or challenge the assessment of transfer or user taxes hereunder, or where the determination of the action or proceeding will affect the validity or amount of the claim of the Borough hereunder, or in any lawful proceeding for the investigation and prosecution of any violation of this Chapter 31 or of the criminal provisions of the State Uniform Tax Procedure Law[1] or of any state tax law, or where production is required pursuant to the New Jersey Open Public Records Act (N.J.S.A. 47:1A-1 et seq.) or the Common Law, or the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act[2] (P.L. 2021, c. 16) or other applicable law.

[1] Editor's Note: See N.J.S.A. 54:48-1 et seq.

[2] Editor's Note: See N.J.S.A. 24:6I-31 et seq.

§ 31-1-6. Recordkeeping; tax payments; financial statements.

[12-18-2023 by Ord. No. 2023-20]

- A. Requirement to keep records. Taxpayers liable for the transfer and/or user tax are required to keep such records as will enable the filing of true and accurate financial statements of the tax, and such records shall be preserved for a period of not less than three years from the filing date or due date, whichever is later, in order to enable the chief financial officer or any agent designated by him to verify the correctness of the declarations or financial statements filed. If records are not available in the Borough of Hightstown to support the financial statements which were filed or which should have been filed, the taxpayer will be required to make them available to the chief financial officer either by producing them at a location in the municipality or by paying for the expenses incurred by the chief financial officer or his agent in traveling to the place where the records are regularly kept.
- B. Tax payments and financial statements. All cannabis establishments operating in the Borough of Hightstown shall be required to file a transfer and/or user tax statement with the chief financial officer to report their sales during each calendar quarter and the amount of tax in accordance with the provisions of this chapter. Financial statements shall be filed and payments of tax imposed for the preceding calendar quarter shall be made on or before the last day of April, July, October, and January, respectively. A taxpayer who has overpaid the transfer tax, or who believes it is not liable for the tax, may file a written request on an amended financial statement with the chief financial officer for a refund or a credit of the tax.

Section 7. Repealer. Any article, section, paragraph, subsection, clause, or other provision of the Code of the Borough of Hightstown, inconsistent with the provisions of this ordinance, is hereby repealed to the extent of such inconsistency, only.

Section 8. Severability. If any section, paragraph, subsection, clause, or provision of this ordinance shall be adjudged by a court of competent jurisdiction 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 deemed valid and effective.

Section 9. Enactment. This ordinance shall become effective immediately after publication in the manner provided by law.

Section 10. Continuation and codification. This ordinance shall be a part of the “Revised General Ordinances of the Borough of Hightstown,” as through codified and fully set forth herein. The Borough Clerk shall have this ordinance codified and incorporated in the official copies of the Borough Code. The Borough Clerk and Borough Attorney are authorized and directed to change any chapter, article and/or section number of the “Revised General Ordinances of the Borough of Hightstown,” in the event that the codification of this ordinance reveals that there is a conflict between the numbers and the existing Code, and in order to avoid confusion and accidental repeal of existing provisions not intended to be repealed.

Introduction: May 19, 2025

Adoption: June 16, 2025

ATTEST:


MARGARET RIGGIO, RMC, CMC
MUNICIPAL CLERK


SUSAN BLUTH
MAYOR