

**ORDINANCE OF THE BOROUGH OF GIBBSBORO
AMENDING CHAPTER 400, ENTITLED, “ZONING”, IN THE BOROUGH OF
GIBBSBORO, COUNTY OF CAMDEN, NEW JERSEY**

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 Distributer license, for businesses involved in transporting cannabis plants in bulk from on 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 the operation of such establishments, distributors or delivery services, and establishing civil penalties for the violation of any such regulations.

NOW THEREFORE, BE IT ORDAINED, by the Borough Council of the Borough of Gibbsboro, in Camden County, State of New Jersey, that Chapter 400, Zoning, be amended as follows:

Section 1. § 400-3.B, Definitions, is hereby amended to add the following definitions:

CANNABIS

"Cannabis" means 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 the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act., P.L.2021, c.16 (C. 24:6L-1 et seq.) for use in cannabis products, and medical cannabis intended for consumption by 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.); but shall under no circumstance include marijuana as defined in N.J.S.2C:35-27 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 marihuana as defined in section of P.L.1970, c.226 (C.24:21-2) and applied to any offense set forth in 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 CULTIVATOR

"Cannabis cultivator" means 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. A cannabis cultivator that is also licensed to sell cannabis and cannabis products to the public outside Gibbsboro shall nevertheless be permitted to engage in cannabis cultivation in the Gibbsboro. A Cannabis Cultivator requires a Class 1 New Jersey license to operate.

CANNABIS DELIVERY

"Cannabis Delivery" means 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. A Cannabis Delivery service requires a Class 6 New Jersey license to operate.

CANNABIS DISTRIBUTER

"Cannabis Distributer" means any licensed person or entity involved in transporting cannabis plants in bulk from on licensed cultivator to another licensed cultivator, or cannabis items in bulk from any type of licensed cannabis business to another. A Cannabis Distributer requires a Class 4 New Jersey license to operate.

CANNABIS ITEM

"Cannabis item" means any usable cannabis, cannabis product, cannabis extract, and any other cannabis resin including any form of medical cannabis intended for consumption by registered qualifying patients pursuant to the "Jake Honig Compassionate Use Medical Cannabis 5 Act," P.L.2009, c.307 (C.24:6I-1 et al.) and P.L.2015, c.158 6 (C.18A:40-12.22 et al.).

CANNABIS MANUFACTURE

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"Cannabis manufacture" means the drying, processing, compounding, or conversion of usable cannabis into cannabis products or cannabis resins.

CANNABIS MANUFACTURER

"Cannabis manufacturer" means any licensed person or entity that processes cannabis items 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. A cannabis manufacturer that is also licensed to sell cannabis and cannabis products to the public in locations outside Gibbsboro shall nevertheless be permitted to engage in cannabis manufacturing in Gibbsboro. A Cannabis Manufacturer requires a Class 2 New Jersey license to operate.

CANNABIS PRODUCT

"Cannabis product" means a product containing usable cannabis, cannabis extract, or any other cannabis resin, and other ingredients intended for human consumption or use, including a product intended to be applied to the skin or hair, edible cannabis products, ointments, and tinctures.

CANNABIS RETAILER

"Cannabis Retailer" means any licensed person or entity operating location(s) at which cannabis items and related supplies are sold to consumers. A Cannabis Retailer entity requires a Class 5 New Jersey license to operate.

CANNABIS WHOLESALER

"Cannabis Wholesaler" means any licensed person or entity involved in obtaining and selling cannabis items for later resale by other licensees. A Cannabis Wholesaler requires a Class 3 New Jersey license to operate.

MANUFACTURE

To undertake the mechanical or chemical transformation of materials and substances into new products, including the assembling of components parts, the creation of products and the blending of pellets, viscous liquids and liquids.

Section 2. § 400-8, Prohibited Uses, is hereby amended to add the following paragraph:

F. Cannabis Cultivator (NJ Class 1), Cannabis Manufacturer (NJ Class 2), , Cannabis Wholesaler (NJ Class 3), Cannabis Distributer (NJ Class 4), Cannabis Retailer (NJ Class 5), and Cannabis Delivery (NJ Class 6), businesses and enterprises are hereby prohibited in the AR-1, AR-2, R-10, R-15, R-40, RLM, R-TH, PO, OR, OTP, and SCO districts.

Section 3. §§ 400-71 through 400-75 are hereby repealed and replaced as follows:

§ 400-71. Conditional uses. Conditional use regulations for specific and general principal and accessory uses are hereby established in §400-71 A-F of this Chapter. Any requirement in the applicable zoning district in which these conditional uses are permitted that is not modified by the criteria below shall remain in full force and effect. Any conditional use shall be reviewed and

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approved in accordance with the issuance of conditional use permits as set forth in §324-12 of the Code of the Borough of Gibbsboro.

A. Utilities. Utilities that provide essential services to residences, businesses, and institutions shall be permitted in any zoning district, provided such use adheres to the following criteria, except as exempted from such review pursuant to §400-7B:

- (1) The utility does not produce electricity or other forms of power.
- (2) The utility does not include a service yard for maintenance and/or extension of the utility system.
- (3) The minimum lot size for a sanitary sewerage or drainage system pumping station, electrical sub-station, telephone switching station or similar use shall be no less than 30 feet by 30 feet in area and dimension.
- (4) Aboveground structures shall be fenced in accordance with the streetscape fencing design standards of the Borough.
- (5) Landscape screening of the facility shall be required unless the Board of Jurisdiction determines that due to site conditions such landscape screening is unnecessary for aesthetic purposes.

B. Hospitals, philanthropic or eleemosynary uses. Hospital, philanthropic or eleemosynary uses and structures, except correctional institutions, may be permitted in any residential zone, provided that the following standards and conditions are complied with:

- (1) The lot upon which such use and structure is proposed shall conform to the following standards and requirements:
 - (a) Minimum lot area: 10 acres.
 - (b) Minimum front, rear and side yard areas: 50 feet.
 - (c) Maximum building coverage: 25% of lot area.
 - (d) Maximum lot coverage: 65% of lot area.
 - (e) Minimum side and rear yard perimeter landscape buffer: 50 feet.
- (2) The height of structures to be constructed may exceed the maximum height requirements of this chapter; provided, however, that the front, rear and side yard requirements set forth above shall be increased by one foot for each foot by which the height of the structure exceeds the maximum height which would be otherwise permitted by this chapter, but in no case shall any proposed structure exceed 50 feet in height.

C. Quasi-public buildings and recreation areas. Quasi-public buildings and recreation areas, including rod and gun clubs, clubhouses, parks, playgrounds, swimming pools, tennis courts and other such activities operated by nonprofit membership organizations, may be permitted in any R-40, R-15, or RLM Residential Zone, provided that the following standards and conditions are complied with:

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- (1) It is ascertained by the Planning Board that the proposed use is a bona fide nonprofit organization operated solely for the recreation and enjoyment of the members of the organization.
 - (2) It is ascertained by the Planning Board that the proposed use in the proposed location will not adversely affect the safe and comfortable enjoyment of property rights or otherwise adversely affect the value of adjacent properties, that the design of any structures erected in connection with such use are in keeping with the general character of the residential area and that sufficient landscaping, including trees, shrubs and lawns, is provided to serve as a buffer between said use and adjoining residential properties and to ensure an attractive appearance for the use.
 - (3) The property proposed to be occupied by such use shall have a minimum lot area of three acres. Not more than 20% of the land area shall be occupied by buildings and structures, not including parking lots and infrastructure, and no more than 30% of the land area shall be impervious surface.
 - (4) No building, structure or active recreation facilities shall be located within 100 feet of an adjacent residential property line and in the case of a rod and gun club, no firing range shall be aimed at a residential use within 1,500 feet of the firing positions.
 - (5) The maximum membership limit of said organization shall be fixed at the time of application and shall be commensurate with the amount of land to be used and the exact nature of the use. No further expansion of the membership shall be made unless additional land is acquired and supplemental application is made to the Planning Board.
 - (6) The membership rolls shall be fixed annually on the first day of July, and a complete and itemized list of members shall be filed with the Borough Clerk within 30 days of said date.
- D. Gasoline filling stations; public and commercial garages. Gasoline filling stations and public and commercial garages shall be permitted as conditional uses when otherwise listed in a particular zoning district, provided that the following criteria are met:
- (1) In addition to the site plan application requirements in Ch. 324, Site Plan Review, of the Code of the Borough of Gibbsboro, the applicant shall provide details of the type, number, monitoring system, depth of installation, capacity, compliance with promulgated environmental standards and number of motor fueling pumps proposed for the facility.
 - (2) The proposed use shall be located on a lot of at least 20,000 square feet and 3,500 square feet per motor fueling pump, whichever is greater. Each motor fueling pump may have multiple dispensers.
 - (3) No motor fueling pump island shall be within 25 feet of a street line or other property line. This requirement shall be a minimum of 50 feet where a property line abuts a residential use or zoning district.
 - (4) No garage door shall face an abutting residential zoning district.

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(5) All repair services shall take place within an enclosed interior space.

E. Cannabis Retailer. Cannabis Retailers shall be permitted in the C-2 District as a conditional use, provided that the following criteria are met:

- (1) The facility shall meet all of the requirements for licensure by the New Jersey Cannabis Regulatory Commission and/or the New Jersey Department of Health.
- (2) If the number of cannabis licenses is limited by the Borough Council, a Class 5 Cannabis Retailer license is available for the proposed cannabis establishment(s) in the Borough of Gibbsboro.
- (3) No Cannabis Retailer shall be located within 1,000 feet of the real property comprising a public or private elementary, vocational, or secondary school or a public or private college, junior college, or university, day care facility, or the following parks and playgrounds: Lauer Playground, the Cricket Field, Pole Hill Park, and Generations Memorial Park. Proximity shall be measured from the lot line to the nearest portion of the building containing a cannabis use. The subsequent approval of a school or any other facility in proximity to the cannabis use shall not render any existing cannabis business a nonconforming use.
- (4) No drive-through sales shall be permitted.
- (5) No curbside or parking lot pick-up is permitted.
- (6) Consumption. No cannabis or cannabis product shall be smoked, eaten or otherwise consumed on the premises.
- (7) Security. All structures shall be designed, using safety and security barriers, to prevent the unlawful and unauthorized entry into the structures as prescribed by State law.
 - (a) There shall be controlled access to the site, with 24/7 on-site video monitoring of the exterior and interior of the facility, which video shall be retained and stored for the period prescribed by State law, but in no case shall such video be retained and stored for less than 30 days.
 - (b) Plans and reports depicting or describing access and security details information concerning the facility shall be deemed and protected as confidential security documents, exempt from disclosure as public records.
- (8) Emergency power. Cannabis cultivation and manufacturing operations shall have a backup generator, capable of maintaining, at a minimum, all electronic security systems in the event of a power failure for at least 48 hours.

F. Cannabis Cultivator, Cannabis Manufacturer, Cannabis Wholesaler, Cannabis Distributors, Cannabis Retailers, and Cannabis Delivery Services shall be permitted in the M-1 Industrial District as a conditional use provided the following conditions, to the extent not inconsistent with State law or regulation, are met:

- (1) The facility shall meet all of the requirements for licensure by the New Jersey Cannabis Regulatory Commission and/or the New Jersey Department of Health.

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- (2) If the number of cannabis licenses is limited by the Borough Council, a license or licenses are available for the proposed cannabis establishment(s) in the Borough of Gibbsboro.
- (3) Enclosed building. All cultivation, manufacturing, storage and distribution activities shall take place within enclosed building or greenhouse structures. The facility shall be the sole occupant of its building.
- (4) Fencing. All structures utilized for any cultivation, manufacturing, storage or distribution of cannabis shall be enclosed by a fence at least six (6) feet high.
- (5) Noise. Cannabis cultivation and manufacturing 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.
- (6) Odor. Cannabis cultivation and manufacturing operations shall utilize available technology to filter and recirculate air, so that odors are not discernable by a reasonable person beyond the property line.
- (7) Location. No facility shall be located within 1,000 feet of the real property comprising a public or private elementary, vocational, or secondary school or a public or private college, junior college, or university, day care facility, or the following parks and playgrounds: Lauer Playground, the Cricket Field, Pole Hill Park, and Generations Memorial Park. Proximity shall be measured from the lot line to the nearest portion of the building containing a cannabis use. The subsequent approval of a school or any other facility in proximity to the cannabis use shall not render any existing cannabis business a nonconforming use.
- (8) Signs. All cannabis facilities shall be in full compliance with the Borough's sign ordinance.
- (9) Lighting. No light generated by any cannabis activities shall result in measurable light changes at the nearest property boundary to each structure.
- (10) Consumption. No cannabis or cannabis product shall be smoked, eaten or otherwise consumed on the premises.
- (11) Security. All structures shall be designed, using safety and security barriers, to prevent the unlawful and unauthorized entry into the structures as prescribed by State law.
 - (a) There shall be controlled access to the site, with 24/7 on-site video monitoring of the exterior and interior of the facility, which video shall be retained and stored for the period prescribed by State law, but in no case shall such video be retained and stored for less than 30 days.
 - (b) Plans and reports depicting or describing access and security details information concerning the facility shall be deemed and protected as confidential security documents, exempt from disclosure as public records.
 - (c) Emergency power. Cannabis cultivation and manufacturing operations shall have a backup generator, capable of maintaining, at a minimum, all electronic security systems in the event of a power failure for at least 48 hours.
- (12) Provided that all the other conditions are met, Cannabis Retailers are permitted in the M-1 Industrial District provided that provided that state and Gibbsboro Cannabis Retailer licenses are available and there shall be no direct sales to the public from the property.

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Retail sales must be transacted using a licensed Cannabis Delivery Service. Nothing herein shall permit the retail sale of cannabis or marijuana products, the dispensing of cannabis or marijuana product, or the direct point sale or distribution of marijuana products except to other cannabis businesses licensed by the State, including a Vertically Integrated Cannabis business.

Section 4. RESERVED SECTIONS. The following sections shall be reserved:

§ 400-72 RESERVED

§ 400-73 RESERVED

§ 400-74 RESERVED

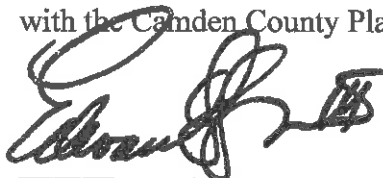
§ 400-75 RESERVED

Section 5. Repealer. Any article, section, paragraph, subsection, clause, or other provision of the Code of the Borough of Gibbsboro inconsistent with the provisions of this ordinance is hereby repealed to the extent of such inconsistency, only.

Section 6. 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 7. Continuation and codification. This ordinance shall be a part of the General Code of the Borough of Gibbsboro 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 General Code of the Borough of Gibbsboro 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.

Section 8. Enactment. This ordinance shall take effect upon its passage and publication and filing with the Camden County Planning Board, and as otherwise provided for by law.



Edward G. Campbell, III
Mayor



Amy C. Troxel, RMC
Borough Clerk

Introduced: July 14, 2021
Public Hearing: August 11, 2021
August 17, 2021
Adoption Date: August 17, 2021

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Roll Call Vote:	Councilman Brown	Aye
	Councilman Deterding	Aye
	Councilwoman Karcsh	Aye
	Councilman MacFerren	Aye
	Councilman Rickert	Aye
	Councilman Werner	Aye

CERTIFICATION

I, Amy C. Troxel, Borough Clerk of the Borough of Gibbsboro, County of Camden, State of New Jersey, do hereby certify that the foregoing is a true copy of an ordinance introduced by the Mayor and Council of the Borough of Gibbsboro at a meeting held on the 14th day of July, 2021.



Amy C. Troxel, RMC
Borough Clerk