

**ORDINANCE OF THE BOROUGH OF GIBBSBORO, IN
ESTABLISHING LICENSE REQUIREMENTS FOR CANNABIS ESTABLISHMENTS,
DISTRIBUTORS, AND DELIVERY SERVICES LOCATED WITHIN THE BOROUGH**

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 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 a 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; and

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, as follows:

Section 1. Definitions.

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“Cannabis” means the same as that term is defined in section 3 of P.L.2021, c.16 (C.24:6I-33).

“Cannabis cultivator” means the same as that term is defined in section 3 of P.L.2021, c.16 (C.24:6I-33).

“Cannabis establishment” means the same as that term is defined in section 3 of P.L.2021, c.16 (C.24:6I-33).

“Cannabis items” means the same as that term is defined in section 3 of P.L.2021, c.16 (C.24:6I-33).

“Cannabis manufacturer” means the same as that term is defined in section 3 of P.L.2021, c.16 (C.24:6I-33).

“Cannabis retailer” means the same as that term is defined in section 3 of P.L.2021, c.16 (C.24:6I-33).

“Cannabis wholesaler” means the same as that term is defined in section 3 of P.L.2021, c.16 (C.24:6I-33).

“Consumer” means the same as that term is defined in section 3 of P.L.2021, c.16 (C.24:6I-33).

“Premises” means the same as that term is defined in section 3 of P.L.2021, c.16 (C.24:6I-33).

Section 2. Licensing.

A. Local licensing authority.

1. The Borough Clerk is hereby designated to act as the local licensing authority for the Borough for all cannabis establishments. Under all circumstances in which State law requires communication to the Borough by the Cannabis Regulatory Commission 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 exercised by the Borough Clerk.
2. Under no circumstances shall a local license for a cannabis establishment issued by the Borough Clerk be effective until or unless the State has issued the requisite permits or licenses to operate such a facility. It is the intent of this Chapter that no cannabis establishment may lawfully operate in the Borough of Gibbsboro without the issuance of a State permit or license and full regulatory oversight of the cannabis establishment by the Cannabis Regulatory Commission or other state licensing authority as well as oversight and issuance of a license by the Borough.

B. Classification of licenses. The Borough, subject to land use approval and State licensure, may issue the following municipal licenses to operate a cannabis establishment:

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- Class 1 Cannabis Cultivator license
- Class 2 Cannabis Manufacturer license
- Class 3 Cannabis Wholesaler license
- Class 4 Cannabis Distributer license
- Class 5 Cannabis Retailer license
- Class 6 Cannabis Delivery license

C. Maximum number of licenses and fees. The Borough may issue up to and including the following number of licenses:

TABLE I – BOROUGH OF GIBBSBORO CANNABIS LICENSE AND FEE SCHEDULE

License	Class	Maximum Number of Licenses to be Issued	Nonrefundable Application Fee	Annual License Renewal
Cannabis Cultivator	1	1	\$500	\$500
Cannabis Manufacturer	2	1	\$500	\$500
Cannabis Wholesaler	3	1	\$500	\$500
Cannabis Distributer	4	1	\$500	\$500
Cannabis Retailer *	5	2	\$500	\$500
Cannabis Delivery	6	1	\$500	\$500

*- An integrated Cannabis Cultivator and Cannabis Manufacturer is a licensed Cannabis Enterprise holding both licenses at the same site within the M1 Industrial Zone. Such an enterprise may also hold a Cannabis Retailer License (Class 5) provided that there are no onsite direct sales to the public and retail sales are made via a licensed Cannabis Delivery Service (Class 6) which is co-located.

Any license conditionally issued by the Borough is contingent upon the locally licensed entity's or individual's subsequent receipt of a State permit or license of the same class or type of regulated cannabis activity. Integrated Cannabis Cultivator and Cannabis Manufacturer may also hold a Cannabis Retailer License (Class 5) provided that there are no onsite direct sales to the public and retail sales are made via a licensed Cannabis Delivery Service (Class 6).

D. Additional Licensee Regulations

1. Hours of Operation. The hours of operation for Cannabis Retailers shall be limited to noon to 10:00 p.m., Monday through Sunday.
2. Prohibited Consumption. The consumption of cannabis items through smoking, vaping, aerosolizing or other means (e.g. edibles) is prohibited within or on the grounds of any

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licensed cannabis establishments, distributors, or delivery service within the Borough of Gibbsboro.

3. No cannabis establishment, distributor, or delivery service 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. Drive-through sales are prohibited by any licensed cannabis establishments, distributors, and delivery service.
5. Curbside or parking lot pick-up are prohibited by any licensed cannabis establishments, distributors, or delivery service.
6. 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.
7. Emergency power. All licensed cannabis establishments, distributors, or delivery services 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.
8. 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.
9. 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.
10. 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.
11. 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.
12. The location proposed for licensing by the applicant shall comply with all applicable municipal zoning laws as defined in Chapter 400 Zoning of the General Code of the Borough of Gibbsboro and the proposed site for a license application shall have final site plan approval from the Gibbsboro Planning Board or Zoning Board of Adjustment.

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- E. Application. Persons wishing to obtain any classification of cannabis license shall file a license application with the Borough Clerk, on a standardized form established by the Borough Clerk and available in the Borough Clerk's office. The Borough Clerk shall establish a reasonable application period and deadline for all applications. An application shall be deemed incomplete, and shall not be processed by the Borough Clerk, until all documents and application fees are submitted. To be deemed complete, all applications shall be accompanied by the following:
1. The applicant shall submit proof that the applicant has or will have lawful possession of the premises proposed for the cannabis 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, anti-discrimination and fair employment practices. The applicant shall also certify under oath that they will not and shall not discriminate based on race, color, religion (creed), gender, gender expression, age, national origin (ancestry), disability, marital status, sexual orientation, or military status, in any of its activities or operations.
 3. The applicant shall submit all required nonrefundable fees for the application and conditional license in accordance with TABLE I – BOROUGH OF GIBBSBORO 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 to be evaluated by the Gibbsboro Cannabis Licensing Committee, a three-member panel consisting of the Mayor, Chief of Police and Borough Clerk, which shall evaluate all applicants and issue to the Borough Council a recommended notification of award, notification of conditional award, or notification of rejection after consideration and evaluation of the following criteria:
 - a) Applicant's owners' or principals' qualifications and experience operating in highly regulated industries, including cannabis, healthcare, 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 non-owner principals (Maximum 20 points).
 - b) 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. 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 (Maximum 20 points).
 - c) Applicant's commitment to the community (up to 35 points) as measured by:
 - 1) Applicant owns the proposed location or has obtained an agreement to lease or purchase a site. (10 points).

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- 2) Proposed site is located within an Area in Need of Redevelopment (10 points).
 - 3) Applicant has obtained Planning or Zoning Board Site Plan approval of a site for the proposed business. (10 points)
 - 4) Applicant's ties to the community as measured by residency in Gibbsboro by employees, managers or shareholders, historical operation of a local business, historical ties to Gibbsboro or area civic organizations and/or charities. (Maximum 5 points)
6. The Borough Council shall act on the recommendations made by the Gibbsboro Cannabis Licensing Committee within 45 days of the committee issuing its recommendations.
 7. Notwithstanding the foregoing competitive application process, a notification of award and conditional municipal license shall entitle the recipient applicant to pursue a State permit or license in the appropriate classification for up to 12 months, which may be extended at the Borough Council's discretion for an additional 6 months for good cause. No license to operate shall issue until the applicant has received a State permit and satisfied other prerequisites of municipal licensure. If the recipient of a notice of award and conditional license has not received a State permit or license within 12 months from issuance, unless extended for good cause, the Borough Clerk shall issue a new request for applications and evaluate all applicants for licensure under the above criteria.
- F. Term of license and license renewals:
1. Any local license issued pursuant to this Chapter shall be valid for a period of one (1) year from the date of issuance and shall be renewed in accordance with the provisions of this Chapter.
 2. The Borough Clerk may, at his/her discretion, adjust the renewal date of the local license to correlate with an applicant's State licensing and renewal schedule.
 3. 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.
 4. Transfer of ownership of any local license or change of location of any license or modification to expand a licensed premise shall be subject to Borough Joint Planning and Zoning Board review and approval as well as a new license application.
 5. Except where the Borough Clerk has received a complete renewal application along with the requisite fees, and 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.

Section 3. Penalties and Sanctions

- A. Jurisdiction. Violations of this ordinance shall be adjudicated in the Gibbsboro Municipal Court.
- B. Penalties. Convictions shall result in the following penalties:
 1. First offense: Up to \$250 per violation per day;

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2. Second and subsequent offenses: Up to \$500 per violation per day;
- C. Summary suspension. Notwithstanding the foregoing, when the Borough Clerk 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 action, the Borough Clerk may enter a summary suspension order and schedule a hearing as follows:
1. The summary suspension order shall be in writing, state the reasons therefore, and schedule a hearing not less than ten (10) nor more than thirty (30) days for the date of the notice.
 2. The Borough Clerk shall convene the Gibbsboro Cannabis Licensing Committee, a three-member panel consisting of the Mayor, Chief of Police and Borough Clerk to conduct the hearing.
 3. The Gibbsboro Cannabis Licensing Committee is authorized to impose any fines, conditions, restrictions, suspensions, or combination thereof authorized by the State of New Jersey. In the absence of State specified penalties, the Borough may issue additional fines up to, but not to exceed, \$2,500 per offense and/or suspension of license for a period not to exceed 6 months.
- D. Inactive licenses. Following the commencement of retail or wholesale sales or transfers of cannabis or cannabis products, the Borough Clerk may suspend or revoke any license if the licensed premises have been inactive or unoccupied by the licensee for at least 6 months.
- E. State license. The Borough Clerk may suspend or revoke any license if the corresponding State license or permit for the subject location is expired, surrendered, suspended, or revoked.

Section 4. 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 5. 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 6. Enactment. This ordinance shall become effective immediately after publication in the manner provided by law.

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.

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Edward G. Campbell, III
Mayor



Amy C. Troxel, RMC
Borough Clerk

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

Roll Call Vote:	Councilman Brown	Absent
	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