

ORDINANCE NO. 2354-22

**AN ORDINANCE OF THE CITY OF WOODBURY ESTABLISHING A NEW
CHAPTER FOR THE LICENSING, REGISTRATION AND REGULATION OF
CANNABIS ESTABLISHMENTS**

WHEREAS, the Governing Body of the City of Woodbury, in the County of Gloucester, New Jersey (the “City”), a public body corporate and politic of the State of New Jersey (the “State”), wishes to create licensing requirements for regulated cannabis establishments that also protect the health, safety and general welfare of the community; and

WHEREAS, the Jake Honig Compassionate Use Medical Cannabis Act (the “Act”), N.J.S.A. 24:61-1 to 30, permits the authorized cultivation, processing, manufacturing, preparing, packaging, transferring, sale, purchase, research, possession, use, and consumption of medical cannabis and products created from or which include cannabis; and

WHEREAS, the City finds that the expansion of the medical cannabis program in the State has provided needed compassionate relief to the many persons suffering from chronic and/or serious debilitating illnesses who may benefit; and

WHEREAS, on November 3, 2020, the citizens of New Jersey voted to approve Public Question No. 1, amending and supplementing Section VII of Article IV of the New Jersey Constitution to authorize the growth, cultivation, processing, manufacturing, preparing, packaging, transferring, and retail purchasing and consumption of cannabis, or products created from or which include cannabis for persons twenty-one (21) years or older in New Jersey, and further authorized municipalities to enact an additional municipal tax of up to two (2) percent on the receipts from each sale of cannabis or products created from or which include cannabis; and

WHEREAS, the City finds, given the Schedule I status of cannabis under the federal Controlled Substance Act, complexities with access to banking and the level of cash transactions in cannabis-related businesses, and other concerns associated with cannabis-related businesses, that only qualified operators should be permitted to safely operate strictly regulated cannabis facilities in the municipality on a limited basis and subject to reasonable time, manner, and place restrictions, in order to balance patients’ and consumers’ interests and the creation of jobs and economic opportunity within the City with public safety; and

WHEREAS, in light of the enactment of the Act on July 2, 2019, expanding the New Jersey Medical Marijuana Program, and the passage of Public Question No. 1 on November 3, 2020, it is in the best interest of the City to proactively establish licensing requirements for regulated cannabis establishments and imposing a municipal tax to support enforcement activities.

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Woodbury, County of Gloucester, State of New Jersey as follows:

SECTION 1. The aforementioned recitals are incorporated herein as though fully set forth at length.

SECTION 2. CANNABIS LICENSING, REGISTRATION AND BUSINESS REGULATIONS

A new Chapter entitled “Cannabis Licensing, Registration and Business Regulations” shall be added as follows:

Article I. Cannabis Establishments

1. Definitions

Definitions as used herein:

CANNABIS

Shall have the meaning as defined in N.J.S.A. 24:6I-31.

CANNABIS CULTIVATOR

Shall have the meaning as defined in N.J.S.A. 24:6I-31.

CANNABIS ESTABLISHMENT

Shall have the meaning as defined in N.J.S.A. 24:6I-31.

CANNABIS ITEMS

Shall have the meaning as defined in N.J.S.A. 24:6I-31.

CANNABIS MANUFACTURER

Shall have the meaning as defined in N.J.S.A. 24:6I-31.

CANNABIS RETAILER

Shall have the meaning as defined in N.J.S.A. 24:6I-31.

CANNABIS WHOLESALER

Shall have the meaning as defined in N.J.S.A. 24:6I-31.

CONSUMER

Shall have the meaning as defined in N.J.S.A. 24:6I-31.

PREMISES

Shall have the meaning as defined in N.J.S.A. 24:6I-31.

2. Requirements

Cannabis establishments shall be permitted, pursuant to this Chapter, only if the following requirements are complied with:

- a. The regulations of this Section are subject to the enabling authority of the State of New Jersey and are subject to compliance with all statutes and/or regulations adopted by the State of New Jersey or its instrumentalities. If any provision of this Section is inconsistent with the statutes and/or regulations of the State of New Jersey, the State statutes and/or regulations shall prevail.

- b. Prior to the operation of any cannabis establishment, a permit or license must be obtained from the State of New Jersey and from the City of Woodbury for the applicable type(s) of cannabis establishment. No cannabis establishment shall be permitted to operate without State and municipal permits or licenses.
- c. Permitted uses shall, at all times, comply with the terms and conditions of the licensee's cannabis establishment license for permits or licenses issued by the State of New Jersey and the City of Woodbury.
- d. No cannabis establishment shall be allowed as a Home Professional Occupation or Home Office Use as defined in this Code.
- e. No cannabis establishment shall be housed in a vehicle or any movable or mobile structure.
- f. Smoking/Vaping. No cannabis establishment shall permit the smoking or vaping of cannabis on premises, indoors or outdoors.
- g. Noise. Outside generators and other mechanical equipment used for any kind of power supply, cooling or ventilation shall be enclosed and have appropriate baffles, mufflers and/or other noise reduction systems to mitigate noise pollution.
- h. Security. All cannabis establishments shall be secured in accordance with State of New Jersey statutes and regulations; shall have a round-the-clock video surveillance system, 365 days a year; and shall have trained security personnel onsite at all times during operating hours.
- i. Hours. No cannabis retailer may open to customers for business before 8:00 am or remain open to customers for business after 10:00 pm.
- j. Prohibited uses. Except as expressly permitted by this Chapter as well as any other activity involved in the cultivation, manufacture, processing, resting, dispensation, distribution and/or sale of cannabis, marijuana or cannabis products, are expressly prohibited as land uses or otherwise in the City of Woodbury.

3. Licensing

A. Local licensing authority.

- 1. The City of Woodbury is hereby designated to act as the local licensing authority for the City for all cannabis establishments. Under all circumstances in which

State law requires communication to the City 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 City 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 City.

2. Under no circumstances shall a local license for a cannabis establishment issued by the City 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 City of Woodbury 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 City.
- B. Classification of licenses. The City, subject to land use approval and State licensure, may issue the following municipal licenses to operate a cannabis establishment:

Class I:	Cannabis cultivator license
Class II:	Cannabis manufacturer license
Class III:	Cannabis wholesaler license
Class IV:	Cannabis distributor license
Class V:	Cannabis retailer license
Class VI:	Cannabis delivery license
- C. Maximum number of licenses. The City may issue a maximum of one (1) Class I license, one (1) Class II license, one (1) Class III license, one (1) Class IV license, three (3) Class V license; and three (3) Class VI license. Licensure in all classes may be, but are not required to be, held by the same entity or individual, but an entity may not hold more than one cannabis retailer license. Any license conditionally issued by the City is contingent upon the locally licensed entity's or individual's subsequent recipient of a State permit or license of the same class or type of regulated cannabis activity.
- D. Application. Persons wishing to obtain any classification of cannabis license shall file a license application with the City, on a standardized form established by the City and available in the Clerk's office. The City shall establish a reasonable application period and deadline for all applications. An application shall be deemed incomplete, and shall not be processed by the City, 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 location proposed for licensing by the applicant shall comply with all applicable municipal zoning laws and the location restrictions set forth in the City of Woodbury Code Book.
4. The applicant shall submit, to the satisfaction of the City, proof of financial capability to open and operate the marijuana establishment for which the applicant is seeking a license. Standards for proof of financial capability shall be determined by the City.
5. The applicant shall submit all required nonrefundable fees for the application and conditional license in accordance with the following fee schedule:

Class I:	\$10,000 Cannabis cultivator license
Class II:	\$10,000 Cannabis manufacturer license
Class III:	\$10,000 Cannabis wholesaler license
Class IV:	\$10,000 Cannabis distributor license
Class V:	\$10,000 Cannabis retailer license
Class VI:	\$5,000 Cannabis delivery license

6. The applicant shall submit all annual registration fees required in accordance with the following fee schedule, which shall be refundable in the event the applicant does not receive a license:

Class I:	\$40,000 per year Cannabis cultivator license
Class II:	\$20,000 per year Cannabis manufacturer license
Class III:	\$20,000 per year Cannabis wholesaler license
Class IV:	\$20,000 per year Cannabis distributor license
Class V:	\$10,000 per year Cannabis retailer license
Class VI:	\$5,000 per year Cannabis delivery license

7. In addition to complying with any State requirement related to good character and criminal background, any person proposed to have an ownership interest in the license shall not have had any cannabis license or permit revoked for a violation affecting public safety in the State of New Jersey or a subdivision thereof within the preceding five (5) years.
8. The applicant and the application shall otherwise comply with any and all qualification standards set forth in the State and City laws or regulations.
9. In the event there are multiple applicants for a license, the City shall evaluate all applicants and issue a notification of award 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, and retail pharmacies, with preference to experience operating such businesses within the State of New Jersey and where the value of owners' experience shall outweigh the experience of non-owner principals (twenty percent, not to exceed 2,500 words);
 - (b) Applicant's qualifications and experience related to public safety and security, including any of the applicant's owners' or principals' experience in law enforcement and drug enforcement (five percent, not to exceed 1,000 words), and a summary of the applicant's plans for storage of products and currency, physical security, video surveillance, security personnel, and visitor management (five percent, not to exceed 2,500 words);
 - (c) Applicant's or its owners' experience conducting or supporting or plans to conduct institutional review board-approved research involving human subjects that is related to medical cannabis or substance abuse, where the value of past or ongoing clinical research with IRB approval shall outweigh plans to conduct such research (five percent, not to exceed 2,500 words);

words), whether the applicant has had any assurance accepted by the U.S. Department of Health & Human Services indicating the applicant's commitment to complying with 45 CFR Part 46 (five percent), and whether the applicant has a research collaboration or partnership agreement in effect with an accredited U.S. school of medicine or osteopathic medicine with experience conducting cannabis-related research (five percent);

(d) Applicant's or its owners' demonstrated commitments or sufficient experience as responsible employers, defined as the applicant entity being a party to a labor peace agreement or the applicant entity or its parent company being a party to a collective bargaining agreement in the regulated cannabis industry for at least one year prior to application for a Cannabis Establishment license, in an effort to create well-paying jobs with employee benefits in the municipality (twenty percent in total; five points for labor peace, full twenty points for collective bargaining agreement in effect for at least one year);

(e) Summary of the applicant's environmental impact and sustainability plan (four percent, not to exceed 500 words); whether the applicant entity or its parent company has any recognitions from or registrations with federal or New Jersey state environmental regulators for innovation in sustainability (three percent); and whether the applicant entity or its parent company holds any certification under international standards demonstrating the applicant has an effective environmental management system or has a designated sustainability officer to conduct internal audits to assess the effective implementation of an environmental management system (three percent);

(f) Applicant's ties to the host community, demonstrated by at least one shareholder's proof of residency in City for five or more years in the past ten years or at least one shareholder's continuous ownership of a business based in City for five or more years in the past ten years (five percent); and

(g) Applicant's demonstrated commitment to diversity in its ownership composition and hiring practices and whether the applicant entity or its parent company holds any certifications as a NJ minority-owned, women-owned, or veteran-owned business (twenty percent in total; ten points for one certification and twenty points for two or more).

(h) 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 in the City'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 award and conditional license shall be void.

4. Disciplinary Actions; Sanctions; Penalties

- a. Disciplinary actions. Procedures for investigation of license violations and for suspension, revocation, or other licensing sanctions as a result of any such violation shall be as follows:
 1. First offense: Up to \$250 per violation per day;
 2. Second offense: Up to \$500 per violation per day;
 3. Third violation shall result in summary suspension.
- b. Summary suspension. Notwithstanding the foregoing section, when the City 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 emergency action, the City may enter a summary suspension order for the immediate suspension of such license pending further investigation.
 1. The summary suspension order shall be in writing and shall State the reasons therefore. The licensee shall be afforded an opportunity for a hearing as outlined herein.
 2. The City shall convene a review panel consisting of the Administrator, a second administrative officer designated by the Mayor, and the Chief of Police. The hearing shall be scheduled within 30 days of the date of the order.
 3. The review panel is authorized to impose any fines, conditions, restrictions or combination thereof authorized by the State of New

Jersey. In the absence of State specified penalties, the City may issue fines up to, but not to exceed, \$2,500 per offense and/or suspension of license for a period not to exceed six months.

- c. Inactive licenses. Following the commencement of retail sales of cannabis or cannabis products, the City may suspend or revoke any license if the licensed premises have been inactive or unoccupied by the licensee for at least six months.
- d. State license. The City may suspend or revoke any license if the corresponding State license or permit for the subject location is expired, surrendered, suspended or revoked.

Article II. Taxation of Cannabis

5. Transfer tax imposed.

The City of Woodbury hereby imposes a transfer tax on the sale of cannabis or cannabis items by a cannabis establishment that is located within the City.

6. Definitions.

Definitions as used herein:

CANNABIS

Shall have the meaning as defined in N.J.S.A. 24:6I-31.

CANNABIS CULTIVATOR

Shall have the meaning as defined in N.J.S.A. 24:6I-31.

CANNABIS ESTABLISHMENT

Shall have the meaning as defined in N.J.S.A. 24:6I-31.

CANNABIS ITEMS

Shall have the meaning as defined in N.J.S.A. 24:6I-31.

CANNABIS MANUFACTURER

Shall have the meaning as defined in N.J.S.A. 24:6I-31.

CANNABIS RETAILER

Shall have the meaning as defined in N.J.S.A. 24:6I-31.

CANNABIS WHOLESALER

Shall have the meaning as defined in N.J.S.A. 24:6I-31.

CONSUMER

Shall have the meaning as defined in N.J.S.A. 24:6I-31.

PREMISES

Shall have the meaning as defined in N.J.S.A. 24:6I-31.

7. Applicability.

The transfer tax is applicable to:

- A. Receipts from the sale of cannabis and cannabis items by a cannabis cultivator to another cannabis cultivator;
- B. Receipts from the sale of cannabis items from one cannabis establishment to another cannabis establishment; and
- C. Receipts from the retail sales of cannabis items by a cannabis retailer to retail consumers who are 21 years of age or older and any combination of sales between any cannabis establishment, cultivator, cannabis retailer and/or cannabis consumer.

8. Rates.

The rates of the transfer tax shall be as follows:

- A. Two percent of the receipts from each sale by a cannabis cultivator;
- B. Two percent of the receipts from each sale by a cannabis manufacturer;
- C. One percent of the receipts from each sale by a cannabis wholesaler; and
- D. Two percent of the receipts from each sale by a cannabis retailer.

9. User tax imposed.

A user tax is also hereby imposed, at the equivalent transfer tax rates, on any concurrent license holder, as permitted by 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 which are not otherwise subject to the transfer tax, 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.

10. Transfer and user tax in addition to other tax.

The transfer tax and user tax imposed herein shall be in addition to any other tax imposed by law.

11. Collection and payment.

The transfer tax or user tax shall be collected or paid, and remitted to the City 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 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.

12. Liability to collect tax.

Every cannabis establishment required to collect a transfer tax or user tax imposed by this article 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 fiscal officer of the City shall be joined as a party in any action or proceeding brought to collect the transfer tax or user tax.

13. Charge and refund of tax.

No cannabis establishment required to collect a transfer tax or user tax imposed by this article 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.

14. Remittance of revenues.

All revenues collected from a transfer tax or user tax imposed by this article shall be remitted to the chief financial officer of the City. The City shall enforce the payment of delinquent taxes or transfer fees imposed by ordinance pursuant to this section in the same manner as provided for municipal real property taxes.

15. Unpaid tax to become lien.

In the event that the transfer tax or user tax imposed by this article is not paid as and 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.

16. Enforcement of lien.

The City 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.

SECTION 3. Any and all ordinances or parts thereof in conflict or inconsistent with this Ordinance are hereby repealed, but only to the extent of such conflict or inconsistency, it being the legislative intent that all such ordinances or part of ordinances now existing or in effect unless the same are in conflict or inconsistent with any provision of this Ordinance shall remain in effect.

SECTION 4. The provisions of this Ordinance are declared to be severable and if any section, subsection, sentence, clause or phrase thereof for any reason be held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses and phrases of this Ordinance, but shall remain in effect; it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

SECTION 5. This Ordinance shall take effect upon passage and publication as provided by law.

CITY OF WOODBURY

By: _____

REED A. MERINUK,

President of Council

ATTEST:

CASSIDY L. SWANSON,

Acting City Clerk

Council Member	Ayes	Nays	Abstain	Absent
Councilwoman Carter				

Councilman Fleming				
Councilman Hagerty				
Councilwoman Harwell				
Councilwoman Miller				
Councilman Miller				
Councilwoman O'Connor				
Councilman Pisarcik				
Council President Merinuk				
Mayor Sickel				

CERTIFICATION OF INTRODUCTION

I, Cassidy L. Swanson hereby certify that the foregoing Ordinance No. 2354-22 was introduced to the City Council, of the City of Woodbury, in the County of Gloucester and State of New Jersey at a regular business meeting held on **February 9, 2022** at City Hall 33 Delaware Street, Woodbury, New Jersey 08096.

Cassidy L. Swanson,
Acting City Clerk

Council Member	Ayes	Nays	Abstain	Absent
Councilwoman Carter				
Councilman Fleming				
Councilman Hagerty				
Councilwoman Harwell				
Councilwoman Miller				
Councilman Miller				
Councilwoman O'Connor				
Councilman Pisarcik				
Council President Merinuk				
Mayor Sickel				

CERTIFICATION OF ADOPTION

I, Cassidy Swanson hereby certify that the foregoing Ordinance 2354-22 was adopted after public hearing by the City Council, of the City of Woodbury, in the County of Gloucester and State of New Jersey at a regular business meeting held on **February 23, 2022** at City Hall 33 Delaware Street, Woodbury, New Jersey 08096.

Cassidy Swanson, Acting City Clerk

L:\WOODBURY CITY\Ordinances\013122 Ord Establishing New Chapter for Licensing, Registration and Regulation of Cannabis Establishments.docx