6.2.22 BOROUGH OF CLEMENTON

ORDINANCE NO. 2022-12

AN ORDINANCE AMENDING AND SUPPLEMENTING

CHAPTER 298 OF THE CODE OF THE

BOROUGH OF CLEMENTON ENTITLED, “ZONING”

 WHEREAS, the Mayor and Council of the Borough of Clementon has determined it in the best interest of the residents and members of the public who visit, travel or conduct business in the Borough of Clementon to permit retail cannabis sales as a conditional use within the Borough of Clementon.

 NOW THEREFORE BE IT ORDAINED BY MAYOR AND COUNCIL OF THE BOROUGH OF CLEMENTON, COUNTY OF CAMDEN, STATE OF NEW JERSEY, AS FOLLOWS:

 SECTION 1. Chapter 298, Section 60, of the Code of the Borough of Clementon, entitled “Prohibited uses,” is hereby amended and supplemented by the deletion of Subsection G in its entirety and replaced as follows:

G. Pursuant to Section 31b of the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (P.L. 2021, c.16), Class 1 Cannabis Cultivator businesses, Class 2 Cannabis Manufacturer businesses, Class 3 Cannabis Wholesaler businesses, and Class 4 Cannabis Distribution businesses are prohibited from operating anywhere in the Borough of Clementon, except for the delivery of cannabis items and related supplies by a licensed cannabis delivery service based and initiated from a cannabis delivery service licensed location outside of the Borough of Clementon.

 SECTION 2. Chapter 298, Section 60, of the Code of the Borough of Clementon is hereby amended and supplemented by the addition of a new Subsection H as follows:

H. Any use not specifically permitted in a zone is prohibited.

 SECTION 3. Chapter 298, Article XIXA, entitled “Conditional Uses,” is hereby amended and supplemented by the addition of a new Section 73.2 entitled “Cannabis” as follows:

§298-73.2. Cannabis.

A. Cannabis retail establishments, referred to as Class 5 business facilities (“Authorized Recreational Marijuana Facility”) involving the sale of marijuana and related paraphernalia for recreational purposes to the general public, and cannabis delivery services, providing for courier services for consumer purchases that are fulfilled by a licensed cannabis retailer, referred to as Class 6 businesses, in the New Jersey Cannabis Regulatory Enforcement

Assistance and Marketplace Modernization Act (the “Act”) P.L. 2021, c. 16, N.J.S.A. 24:62-31, shall be permitted in the Borough of Clementon subject to the following requirements and limitations:

 (1) An Authorized Recreational Marijuana Facility shall be permitted only in the B-2 Commercial Zone and B-3 Commercial Zone.

 (2) No Authorized Recreational Marijuana Facility shall be located within 200 feet of any property used for Borough school purposes or which is owned by or leased to any Borough elementary school, secondary school, or school board.

 (3) No Authorized Recreational Marijuana Facility shall be located within 50 feet of the Residential District or an adjacent community’s residential-only zoning district.

 (4) No Authorized Recreational Marijuana Facility shall be located within 200 feet of another similar facility.

 (5) Notice of the application has been given, and publication made, pursuant to N.J.S.A. 40:55D-12.

 (6) A site plan application has been made for the lot, and the Board has approved such conditional use, and the requirements and conditions of the site plan/conditional use have been met.

 (7) The location, size, activity, site layout, street access, pedestrian and vehicular movement shall be harmonious with surrounding land uses.

 (8) The location and height of buildings, fences and landscaping shall not discourage the appropriate development and use or materially affect property values in the adjacent properties.

 (9) The proposed facility shall be so located and of such size and character that, in general, it shall be in harmony with the existing development in the general area in which it is proposed to be situated, and the use shall be free of nuisance characteristics detectable to normal senses beyond the boundaries of the property (including noise, vibration, dust, light, and sanitation).

 (10) Odor Control. The facility shall provide an air treatment system with odor-absorbing ventilation and exhaust systems such that any odor generated inside the facility is not detectable by a person of reasonable sensitivity at the property line of the subject property. Odor from the facility shall be monitored on an annual basis at the discretion of the Borough by a licensed, qualified contractor chosen by the Borough.

 (11) In addition to the above:

 (a) All cannabis establishments located within the Borough shall meet all requirements for licensure and hold the appropriate license issued by the Cannabis Regulatory Commission, Department of Treasury, State of New Jersey.

 (b) No cannabis establishment shall permit on-site consumption of cannabis or cannabis related products including no on-site sales and consumption of alcohol or tobacco products.

 c) No outside storage of any cannabis, cannabis products or cannabis related materials shall be permitted.

 (d) For each cannabis establishment located within the Borough, a security plan to be approved by the Clementon Borough Police Department shall be provided to demonstrate how the facility will maintain effective security and control of the operations. The plan should include the following but not limited to:

 (i) Type of security systems to be installed.

 (ii) Installation, operation and maintenance of security system cameras including covering the interior of the establishment and exterior parking lots, loading areas and other such areas of the establishment.

 (iii) Tracking and record keeping of products and materials.

 (iv) Type of lighting provided in and around the establishment.

 (v) Location on-site security team and armed guard on premises.

 (h) All cannabis sales shall be conducted in heated/air conditioned permanent buildings, not trailers, movable kiosks, etc., or outdoors.

 (i) All signs shall comply with Section 298-56 of the Borough Code.

 (12) Hours of operation shall be restricted to 11:00 a.m. to 7:00 p.m.

 (13) Persons under the age of 21 years of age are not permitted to be on the premises of any authorized recreational marijuana retail facility at any time.

 (14) Advertisements, displays of merchandise, signs, or any other exhibit depicting the activities of the facility placed within the interior of the building or premises shall be arranged or screened to prevent public viewing from outside the building or premises.

 (15) Outdoor loudspeakers or other outdoor sound equipment advertising or directing attention to a retail facility, including, but not limited to, prerecorded or live music or sounds, are prohibited.

 (16) No person(s) shall be permitted to congregate outside of a dispensary, loiter or wait in line to access the dispensary. The facility should have a plan in place if the interior capacity is exceeded, i.e., numbers are given and customers waiting in their vehicles until called.

B. Local Cannabis Tax.

 (1) Transfer Tax - A tax in the amount of two percent (2%) is hereby imposed on:

 (a) All receipts from the sale of cannabis or cannabis items from one cannabis establishment to another cannabis establishment.

 (b) All receipts from the retail sales by a cannabis retailer to retail customers who are 21 years of age or older.

 (2) Users tax - A tax in the amount of two percent (2%) is hereby imposed on any concurrent license holder operating more than one cannabis establishment pursuant to P.L. 2021 c.16, Section 33. The user tax shall be imposed on the value of each transfer or use of cannabis items not otherwise subject to transfer tax imposed pursuant to Subsection B(1)(a) above from the license holder’s establishment that is located in the municipality to any other license holder’s establishment, whether located in the municipality or another municipality.

 SECTION 4. All ordinances or parts of ordinances which are inconsistent with the provisions of this ordinance are, to the extent of such inconsistencies, hereby repealed.

 SECTION 5. This Ordinance shall take effect upon final passage, adoption, and publication in the manner prescribed by law.

Attest: BOROUGH OF CLEMENTON

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Jenai L. Johnson, Clerk Thomas Weaver, Mayor