

Municipal Regulation of Marijuana: Guidance on Permitting, Licensing and Zoning for Medical and Recreational Uses

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Issues for Municipalities

- Not in my backyard, especially given the current stigma and potential for driving under influence
- Specific zoning area for marijuana dispensaries or special permitting requirements for establishments outside of the zone
- Regulation of parking, traffic, and sidewalk usage
- Local tax/Revenue
- Signage

Municipality Authority

Depends on a number of factors, including:

- The language and permissions for the local/municipal authority granted in the enacting legislation and regulations for medical or adult use cannabis.
 - E.g. New Jersey – Opt out for municipalities
 - E.g. Massachusetts – Local sales tax option of up to 3% tax on sales of marijuana by a marijuana retailer to a consumer
- State Constitution and Inherent Powers of the Municipalities
- Municipality Ordinances and Zoning Boards

Municipality Restriction

Restrictions a municipality may place on cannabis establishments may vary based on their permitted authority, however the following restrictions have a potential of becoming enacted on a municipal level:

- Municipal ban or limitation on the number of marijuana dispensaries and retail establishments permitted.
 - Subject to administrative and judicial challenge
- Zoning bylaws and ordinances are the principal way localities can regulate establishments growing or dispensing marijuana.

Municipality Restriction - continued

- Zoning ordinances carve up the municipality by use category: residential, community use, commercial, manufacturers, agriculture.
 - Grow facilities: manufacturing or agriculture?
- Potential types of ordinances:
 - Narrow zone for marijuana sales (e.g. Clifton Park, NY)
 - Additional requirements for cannabis establishments, such as the requirement to obtain a special permit
 - Special permit requires case-by-case determination subject to political manipulation.

Municipality Restriction - continued

- Potential types of ordinances (continued):
 - Zoning laws to prevent the conversion of a medical marijuana to adult use establishments
 - Moratorium for a period of time
 - “Buffer zones” in New York statute and local zoning codes
 - Expanding the buffer zones by adding to the statutory definitions regarding where a cannabis retailer can operate
 - E.g. Clifton Park – Expanding the definition of schools in the statute to include “day care centers”

Municipality Restriction - continued

- Local tax on the sale of marijuana products in addition to the sales tax, such as in Massachusetts, New Jersey and elsewhere.
 - Medical marijuana may be excluded from taxes.
- Require signage regarding marijuana usage
 - Question on whether signage restrictions can be more severe than for other types of commercial establishments.

MARIJUANA AND THE COMMUNITY CUTTING THROUGH THE HAZE

Samuel (Skip) Reale, Jr.
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Query: Does the use of the word “manner” in Section 12 confer authority on local governmental entities to enact zoning ordinances or planning ordinances requiring site plan review and approval?

1. Look to the Statute
2. Definition of the word “manner”

Manner: Noun; A way in which a thing is done or happens.
Oxford English Dictionary

Query: Does the authority to pass an ordinance setting the number of “marijuana establishment operations” include the establishment of zoning requirements?

1. “Marijuana establishment” means marijuana cultivation facility, a marijuana testing facility, a marijuana product manufacturing facility, or a marijuana retailer.

Query: Assuming a local governmental entity is authorized to pass an ordinance that requires land use or zoning approval, what is the permissible scope of such conditions?

1. If the criteria for land use or zoning review are too strict does it constitute exclusionary zoning or discriminatory regulation?
2. Does the authority permit a municipality to choose which marijuana activities to preclude or permit?
3. Does the legislation preempt local regulation?
4. General Rule: A municipality need not provide for every possible use.
5. General Rule: N.J.S.A. 44:55D-62(a) “the regulations in the zoning ordinance shall be uniform throughout each district for each class or kinds or buildings or other structures.”

Query: How do you choose; or where did I leave the pin to the grenade?

1. Section 13, Application, provides that the State will solicit input from the local government entity as to the municipality's preference among applicants should the number exceed that permitted by local ordinance.

2. What criteria do you utilize?

3. Can you safely provide input and avoid being sued?

Query: How do you regulate a retail marijuana consumption area?

1. Why would a local government entity "authorize" the operation of a retail marijuana consumption area?

2. While the definition provides for separate air handling/ventilation; what about the release of "toxic" or "noxious" materials into the atmosphere?

3. Pending Civil RICO actions: The Denver Trial

4. Where did I leave my bong?

5. The police department is called to assist a licensee in the removal of an "intoxicated" patron, now what?

6. What do you do with a patron ejected for being "intoxicated" but not disorderly?"

Query: Where did I put my copy of the Master Plan?

1. Great Atlantic & Pacific Tea Company v. Mayor and Council of the Borough of Point Pleasant Beach, 220 N.J. Super. 119 (App. Div. 1987)

Query: What does the Site Plan Ordinance provide?

1. Buffers and GIS Mapping;

SENATE, NO. 2703
AN ACT CONCERNING MARIJUANA
LEGALIZATION AND AMENDING AND
SUPPLEMENTING VARIOUS PARTS OF
STATUTORY LAW.

12. Local Governmental Entity Regulations or Ordinances.

a. A local governmental entity may enact ordinances or regulations, not in conflict with the provisions of P.L., c. :

(1) governing the time, place, manner, and number of marijuana establishment operations; and
(2) establishing civil penalties for violation of an ordinance or regulation governing the time, place, and manner of a marijuana establishment that may operate in such local governmental entity.

b. A local governmental entity may prohibit the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, or marijuana retailers through the enactment of an ordinance. The failure of a local governmental entity to enact an ordinance prohibiting the operation of a marijuana establishment within 180 days following the effective date of P.L. ,c. shall thereby permit the operation of a marijuana retail establishment within the local governmental entity for a period of five years, at the end of which five year period, and every five year period thereafter, the local governmental entity shall again be permitted to prohibit the operation of a marijuana establishment.

c. (1) When the division receives an application for initial licensing, or renewal of an existing license for any marijuana establishment, or endorsement for a retail marijuana consumption area, the division shall provide, within seven days, a copy of the application to the local governmental entity in which the establishment is to be located, unless the local governmental entity has prohibited the operation of retail marijuana establishments. The local jurisdiction shall determine whether the application complies with local restrictions on time, place, manner, and the number of marijuana businesses. The local jurisdiction shall inform the division whether the application complies with local restrictions on time, place, manner, and the number of marijuana businesses.

(2) A local governmental entity may impose a separate local licensing or endorsement requirement as a part of its restrictions on time, place, manner, and the number of marijuana businesses. A local governmental entity may decline to impose any local licensing or endorsement requirements, but a local jurisdiction shall notify the division that it either approves or denies each application forwarded to it.

13. Application:

a(3) upon the approval of a license application and collection of the annual license fee, issue an annual license to the applicant between 45 and 90 days after receipt of an application unless the division finds the applicant is not in compliance with regulations enacted pursuant to the provisions of section 9 of P.L. , c. (C.) or the division is notified by the relevant local governmental entity that the applicant is not in compliance with ordinances and regulations made pursuant to the provisions of section 12 of P.L. , c. (C.) and in effect at the time of application, provided, where a local governmental entity has enacted a numerical limit on the number of marijuana establishments and a greater number of applicants seek licenses, the division shall solicit and consider input from the local governmental entity as to the local governmental entity's preference or preferences for licensure;

42. Retail Marijuana Consumption area.

a. A local governmental entity may authorize the operation of retail marijuana consumption areas within its jurisdiction through the enactment of an ordinance.

b. (1) If a local governmental entity authorizes the operation of retail marijuana consumption areas, it may adopt an approval requirement that complies with the requirements of P.L. , c. 27 (C.). The local governmental entity may require additional or more stringent requirements than those provided in this section.

(2) Notwithstanding the provisions of this subsection, a local governmental entity shall not allow a retail marijuana consumption area endorsement to a marijuana retailer that is within 1,000 feet of a boundary with an adjoining jurisdiction that does not permit retail marijuana establishments in its boundaries.

c. The division may issue a retail marijuana consumption area endorsement only to a marijuana retail licensee to sell retail marijuana, retail concentrate, or retail marijuana products for on premises consumption.

d. Applications for an endorsement pursuant to this section shall be made to the division on forms prepared and furnished by the division and shall set forth such information as division may require. The information shall include the name and address of the applicant, the address of the licensed marijuana retail store and the endorsed premises, and any other information requested by the division. Each application shall be verified by the oath or affirmation of such person or persons as the division may prescribe. The endorsement is conditioned upon approval by a local governmental entity. An applicant is prohibited from operating a retail marijuana consumption area without State and local licensing authority. If the applicant does not receive approval from the local governmental entity within one year from the date of State licensing approval, the State endorsement expires and may not be renewed. If an application is denied by the local governmental entity or the approval of the local governmental entity is revoked, the division shall revoke the State endorsement.

e. The division shall deny a State endorsement if the premises on which the applicant proposes to conduct its business does not meet the requirements of P.L. , c. (C.) or for reasons set forth in this section. The division may revoke or deny an endorsement renewal or reinstatement or an initial endorsement for good cause. For purposes of this subsection "good cause" means:

(1) the endorsed licensee or applicant has violated, does not meet, or has failed to comply with any of the terms, conditions, or provisions of this section, any rules promulgated pursuant to this section, or any supplemental local law, rules, or regulations;

(2) the endorsed licensee or applicant has failed to comply with any special terms or conditions that were placed on its endorsement pursuant to an order of the State or local licensing authority; or

(3) the premises have been operated in a manner that adversely affects the public health or the safety of the immediate neighborhood in which the establishment is located.

f. The retail marijuana consumption area endorsement is valid for one year and may be renewed annually upon the renewal of the retail marijuana store license. The division shall establish by rule the amount of the application fee and renewal fee for the endorsement.

h. Except as otherwise specified, all requirements of the marijuana retail store apply to the retail marijuana consumption area.

i. A retail marijuana consumption establishment shall be subject to the provisions of P.L.2005, c.383 (C.26:3D-55 et al.) the “New Jersey Smoke-Free Air Act.”

j. An endorsed licensee and its employees shall not:

- j. An endorsed licensee and its employees shall not:
- (1) permit a person to bring medical or retail marijuana, medical or retail marijuana concentrate, a medical marijuana-infused product, or a retail marijuana product into a retail marijuana consumption area;
 - (2) sell alcohol, including fermented malt beverages or malt, vinous, or spirituous liquor, sell tobacco or nicotine products, or allow the consumption of alcohol or tobacco or nicotine products on premises;
 - (3) operate as a retail food establishment;
 - (4) allow on-duty employees of the establishment to consume any medical or retail marijuana, medical or retail marijuana concentrate, medical marijuana-infused products, or retail marijuana products in the establishment; or
 - (5) allow distribution of free samples of medical or retail marijuana, medical or retail marijuana concentrate, medical marijuana-infused products, or retail marijuana products in the establishment.
- k. A retail marijuana consumption area and its employees shall admit into the establishment only patrons who are at least 21 years of age.

l. (1) A retail marijuana consumption area shall limit a patron to one transaction of no more than the sales limit set by the division. A retail marijuana consumption area shall not engage in multiple sales transactions to the same patron during the same business day when the establishment's employee knows or reasonably should have known that the sales transaction would result in the patron possessing more than the sales limit established by the division. A patron may leave the establishment with product that he does not consume only if, prior to leaving the premises, the retail marijuana, retail marijuana concentrate, or retail marijuana product is packaged and labeled pursuant to the requirements of P.L. , c. (C.).

(2) When a patron leaves a retail marijuana consumption area, the establishment shall destroy any remaining unconsumed retail marijuana, retail marijuana concentrate, or retail marijuana products that are not taken by a patron pursuant to this subsection.

m. A retail marijuana consumption area and its employees:

- (1) shall operate the establishment in a decent, orderly, and respectable manner and shall not serve any patron who displays any visible signs of intoxication;
- (2) may remove an individual from the establishment for any reason, including a patron who displays any visible signs of intoxication;
- (3) shall not knowingly permit any activity or acts of disorderly conduct;
- (4) shall not permit rowdiness, undue noise, or other disturbances or activity offensive to the average citizen or to the residents of the neighborhood in which the licensed establishment is located; and
- (5) shall not allow the use of any device using any liquid petroleum gas, a butane torch, a butane lighter, or matches in the establishment.

n. A retail marijuana consumption area and all of its employees who work at the endorsed premises shall successfully complete an annual responsible vendor training program.

o. A retail marijuana consumption area shall provide information regarding the safe consumption of retail marijuana, retail marijuana concentrate, or a retail marijuana product at the point of sale to all patrons who purchase such a product. The requirements for such information shall be established by the division, established pursuant to P.L. , c. (C.) (pending before the Legislature as this bill). The content of the information on health and safety shall be based on the relevant research from the panel of health care professionals appointed pursuant to P.L. , c. (C.) (pending before the Legislature as this bill).

p. A local governmental entity may require information regarding the safe consumption of retail marijuana concentrate or a retail marijuana product in addition to that required by this section.

q. The information required by this section shall be maintained on the endorsed premises for inspection by State and local licensing authorities and law enforcement.

r. The establishment shall ensure that the display and consumption of any retail marijuana, retail marijuana concentrate, or retail marijuana product is not visible from outside of the establishment.

s. If an emergency requires law enforcement, firefighters, emergency medical services providers, or other public safety personnel to enter a retail marijuana consumption area, employees of the establishment shall cease all on-site sales and prohibit on-site consumption until such personnel have completed their investigation or services and have left the premises.

3. As used in this act:

“Retail marijuana consumption area” means any area in a marijuana retail establishment, pursuant to section 42 of P.L. , c. (C.), designated specifically for the smoking of marijuana purchased on the premises; provided that the area shall be enclosed by solid walls or windows, a ceiling and a solid door and equipped with a ventilation system which is separately exhausted from the nonsmoking areas of the establishment so that air from the smoking area is not recirculated to the nonsmoking area and smoke is not backstreamed into the nonsmoking areas.

BILL STATEMENT
SENATE, NO. 2703

The following is a portion of the Bill Statement accompanying Senate 2703:

This bill would legalize the possession and personal use of marijuana, in regulated quantity, for persons 21 years of age and over. The bill creates a Division of Marijuana Enforcement and establishes a licensing structure. The bill also provides for a tax levied upon marijuana sold or otherwise transferred by a marijuana cultivation facility to a marijuana product manufacturing facility or to a retail marijuana store. This bill would be known as the “New Jersey Marijuana Legalization Act.” This bill provides for the following categories of licenses: Class 1 Marijuana Grower, a Class 2 Marijuana Processor, a Class 3 Marijuana Wholesaler, or a Class 4 Marijuana Retailer.

Section 4 ... also provides that a person cannot consume or smoke marijuana items openly in a public place, except as may be permitted in consumption areas.

Section 5 concerns the lawful operation of marijuana establishments.

Section 12 provides for local governmental entity regulations or ordinances. The bill provides that each local governmental entity may enact an ordinance or regulation governing the time, place or manner and number of marijuana establishment operations and provides for civil penalties violating those ordinances. The local governmental entity may enact ordinances or regulations, not in conflict with the provisions of the bill. The bill provides that a local governmental entity may prohibit the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, or retail marijuana stores through the enactment of an ordinance. Under the bill, the failure of a local governmental entity to enact an ordinance prohibiting the operation of a marijuana establishment within 180 days following the effective date of the bill shall thereby permit the operation of a marijuana retail establishment within the local governmental entity for a period of five years, at the end of which five year period, and every five year period thereafter, the local governmental entity shall again be permitted to prohibit the operation of a marijuana establishment.

Section 42 permits the establishment of retail marijuana consumption area. The division may issue a retail marijuana consumption area endorsement only to a marijuana retail licensee to sell retail marijuana, retail concentrate, or retail marijuana products for on-premises consumption. Applications for an endorsement would be made to the division. The endorsement is conditioned upon approval by a local governmental entity. An applicant is prohibited from operating a retail marijuana consumption area without State and local licensing authority. A retail marijuana consumption area would be subject to the provisions of P.L.2005, 16 c.383 (C.26:3D-55 et al.) the “New Jersey Smoke-Free Air Act.” 17 The bill would also amend sections 3 and 5 of P.L.2005, c.383 18 (C.26:3D-55 et al.) the “New Jersey Smoke-Free Air Act” to include a definition of retail marijuana consumption area that is specific about the ventilation and separation of this area from the retail store. As so defined, this area would be exempt from the provisions of the “New Jersey Smoke-Free Air Act.”

MUNICIPAL LAND USE LAW

SITE PLAN PROVISIONS

N.J.S.A. 40:55D-38 Contents of ordinance.

An ordinance requiring approval by the planning board of either subdivisions or site plans, or both, shall include the following:

a. Provisions, not inconsistent with other provisions of this act, for submission and processing of applications for development, including standards for preliminary and final approval and provisions for processing of final approval by stages or sections of development;

b. Provisions ensuring:

(1) Consistency of the layout or arrangement of the subdivision or land development with the requirements of the zoning ordinance;

(2) Streets in the subdivision or land development of sufficient width and suitable grade and suitably located to accommodate prospective traffic and to provide access for firefighting and emergency equipment to buildings and coordinated so as to compose a convenient system consistent with the official map, if any, and the circulation element of the master plan, if any, and so oriented as to permit, consistent with the reasonable utilization of land, the buildings constructed thereon to maximize solar gain; provided that no street of a width greater than 50 feet within the right-of-way lines shall be required unless said street constitutes an extension of an existing street of the greater width, or already has been shown on the master plan at the greater width, or already has been shown in greater width on the official map;

- (3) Adequate water supply, drainage, shade trees, sewerage facilities and other utilities necessary for essential services to residents and occupants;
- (4) Suitable size, shape and location for any area reserved for public use pursuant to section 32 of this act;
- (5) Reservation pursuant to section 31 of P.L.1975, c.291 (C.40:55D-53) of any open space to be set aside for use and benefit of the residents of a cluster development or a planned development, resulting from the application of standards of density or intensity of land use, contained in the zoning ordinance, pursuant to section 52 of P.L.1975, c.291 (C.40:55D-65);
- (6) Regulation of land designated as subject to flooding, pursuant to subsection e. of section 52 of P.L.1975, c.291 (C.40:55D-65), to avoid danger to life or property;
- (7) Protection and conservation of soil from erosion by wind or water or from excavation or grading;

- 8) Conformity with standards promulgated by the Commissioner of Transportation, pursuant to the "Air Safety and Zoning Act of 1983," P.L.1983, c.260 (C.6:1-80 et seq.), for any airport hazard areas delineated under that act;
- (9) Conformity with a municipal recycling ordinance required pursuant to section 6 of P.L.1987, c.102 (C.13:1E-99.16);
- (10) Conformity with the State highway access management code adopted by the Commissioner of Transportation under section 3 of the "State Highway Access Management Act," P.L.1989, c.32 (C.27:7-91), with respect to any State highways within the municipality;
- (11) Conformity with any access management code adopted by the county under R.S.27:16-1, with respect to any county roads within the municipality;
- (12) Conformity with any municipal access management code adopted under R.S.40:67-1, with respect to municipal streets;
- (13) Protection of potable water supply reservoirs from pollution or other degradation of water quality resulting from the development or other uses of surrounding land areas, which provisions shall be in accordance with any siting, performance, or other standards or guidelines adopted therefor by the Department of Environmental Protection;

(14) Conformity with the public safety regulations concerning storm water detention facilities adopted pursuant to section 5 of P.L.1991, c.194 (C.40:55D-95.1) and reflected in storm water management plans and storm water management ordinances adopted pursuant to P.L.1981, c.32 (C.40:55D-93 et al.); and

(15) Conformity with the model ordinance promulgated by the Department of Environmental Protection and Department of Community Affairs pursuant to section 2 of P.L.1993, c.81 (C.13:1E-99.13a) regarding the inclusion of facilities for the collection or storage of source separated recyclable materials in any new multifamily housing development.

c. Provisions governing the standards for grading, improvement and construction of streets or drives and for any required walkways, curbs, gutters, streetlights, shade trees, fire hydrants and water, and drainage and sewerage facilities and other improvements as shall be found necessary, and provisions ensuring that such facilities shall be completed either prior to or subsequent to final approval of the subdivision or site plan by allowing the posting of performance guarantees by the developer;

d. Provisions ensuring that when a municipal zoning ordinance is in effect, a subdivision or site plan shall conform to the applicable provisions of the zoning ordinance, and where there is no zoning ordinance, appropriate standards shall be specified in an ordinance pursuant to this article; and

e. Provisions ensuring performance in substantial accordance with the final development plan; provided that the planning board may permit a deviation from the final plan, if caused by change of conditions beyond the control of the developer since the date of final approval, and the deviation would not substantially alter the character of the development or substantially impair the intent and purpose of the master plan and zoning ordinance.

L.1975, c.291, s.29; amended 1980, c.146, s.3; 1983, c.260, s.11; 1985, c.516, s.12; 1987, c.102, s.27; 1989, c.32, s.24; 1989, c.208; 1991, c.194, s.4; 1991, c.445, s.8; 1993, c.81, s.1; 2013, c.106, s.7; 2013, c.123, s.1.

ZONING PROVISIONS
N.J.S.A. 40:55D-62, POWER TO ZONE

a. The governing body may adopt or amend a zoning ordinance relating to the nature and extent of the uses of land and of buildings and structures thereon. Such ordinance shall be adopted after the planning board has adopted the land use plan element and the housing plan element of a master plan, and all of the provisions of such zoning ordinance or any amendment or revision thereto shall either be substantially consistent with the land use plan element and the housing plan element of the master plan or designed to effectuate such plan elements; provided that the governing body may adopt a zoning ordinance or amendment or revision thereto which in whole or part is inconsistent with or not designed to effectuate the land use plan element and the housing plan element, but only by affirmative vote of a majority of the full authorized membership of the governing body, with the reasons of the governing body for so acting set forth in a resolution and recorded in its minutes when adopting such a zoning ordinance; and provided further that, notwithstanding anything aforesaid, the governing body may adopt an interim zoning ordinance pursuant to subsection b. of section 77 of P.L.1975, c.291 (C.40:55D-90).

The zoning ordinance shall be drawn with reasonable consideration to the character of each district and its peculiar suitability for particular uses and to encourage the most appropriate use of land. The regulations in the zoning ordinance shall be uniform throughout each district for each class or kind of buildings or other structure or uses of land, including planned unit development, planned unit residential development and cluster development, but the regulations in one district may differ from those in other districts.

b. No zoning ordinance and no amendment or revision to any zoning ordinance shall be submitted to or adopted by initiative or referendum.

c. The zoning ordinance shall provide for the regulation of any airport safety zones delineated under the "Air Safety and Zoning Act of 1983," P.L.1983, c.260 (C.6:1-80 et seq.), in conformity with standards promulgated by the Commissioner of Transportation.

d. The zoning ordinance shall provide for the regulation of land adjacent to State highways in conformity with the State highway access management code adopted by the Commissioner of Transportation under section 3 of the "State Highway Access Management Act," P.L.1989, c.32 (C.27:7-91), for the regulation of land with access to county roads and highways in conformity with any access management code adopted by the county under R.S.27:16-1 and for the regulation of land with access to municipal streets and highways in conformity with any municipal access management code adopted under R.S.40:67-1. This subsection shall not be construed as requiring a zoning ordinance to establish minimum lot sizes or minimum frontage requirements for lots adjacent to but restricted from access to a State highway.

L.1975, c.291, s.49; amended 1983, c.260, s.12; 1985, c.222, s.30; 1985, c.516, s.13; 1989, c.32, s.25; 1991, c.445, s.9; 2013, c.106, s.13.

MASTER PLAN

N.J.S.A. 40:55D-28 PREPARATION; CONTENTS; MODIFICATION

a. The planning board may prepare and, after public hearing, adopt or amend a master plan or component parts thereof, to guide the use of lands within the municipality in a manner which protects public health and safety and promotes the general welfare.

b. The master plan shall generally comprise a report or statement and land use and development proposals, with maps, diagrams and text, presenting, at least the following elements (1) and (2) and, where appropriate, the following elements (3) through (16):

(1) A statement of objectives, principles, assumptions, policies and standards upon which the constituent proposals for the physical, economic and social development of the municipality are based;

(2) A land use plan element

(a) taking into account and stating its relationship to the statement provided for in paragraph (1) hereof, and other master plan elements provided for in paragraphs (3) through (14) hereof and natural conditions, including, but not necessarily limited to, topography, soil conditions, water supply, drainage, flood plain areas, marshes, and woodlands;

(b) showing the existing and proposed location, extent and intensity of development of land to be used in the future for varying types of residential, commercial, industrial, agricultural, recreational, open space, educational and other public and private purposes or combination of purposes including any provisions for cluster development; and stating the relationship thereof to the existing and any proposed zone plan and zoning ordinance;

(c) showing the existing and proposed location of any airports and the boundaries of any airport safety zones delineated pursuant to the "Air Safety and Zoning Act of 1983," P.L.1983, c.260 (C.6:1-80 et al.);

(d) including a statement of the standards of population density and development intensity recommended for the municipality;

(e) showing the existing and proposed location of military facilities and incorporating strategies to minimize undue encroachment upon, and conflicts with, military facilities, including but not limited to: limiting heights of buildings and structures nearby flight paths or sight lines of aircraft; buffering residential areas from noise associated with a military facility; and allowing for the potential expansion of military facilities; and

(f) including, for any land use element adopted after the effective date of P.L.2017, c.275, a statement of strategy concerning:

(i) smart growth which, in part, shall consider potential locations for the installation of electric vehicle charging stations,

(ii) storm resiliency with respect to energy supply, flood-prone areas, and environmental infrastructure, and

(iii) environmental sustainability;

(3) A housing plan element pursuant to section 10 of P.L.1985, c.222 (C.52:27D-310), including, but not limited to, residential standards and proposals for the construction and improvement of housing;

(4) A circulation plan element showing the location and types of facilities for all modes of transportation required for the efficient movement of people and goods into, about, and through the municipality, taking into account the functional highway classification system of the Federal Highway Administration and the types, locations, conditions and availability of existing and proposed transportation facilities, including air, water, road and rail;

(5) A utility service plan element analyzing the need for and showing the future general location of water supply and distribution facilities, drainage and flood control facilities, sewerage and waste treatment, solid waste disposal and provision for other related utilities, and including any storm water management plan required pursuant to the provisions of P.L.1981, c.32 (C.40:55D-93 et al.). If a municipality prepares a utility service plan element as a condition for adopting a development transfer ordinance pursuant to subsection c. of section 4 of P.L.2004, c.2 (C.40:55D-140), the plan element shall address the provision of utilities in the receiving zone as provided thereunder;

(6) A community facilities plan element showing the existing and proposed location and type of educational or cultural facilities, historic sites, libraries, hospitals, firehouses, police stations and other related facilities, including their relation to the surrounding areas;

(7) A recreation plan element showing a comprehensive system of areas and public sites for recreation;

(8) A conservation plan element providing for the preservation, conservation, and utilization of natural resources, including, to the extent appropriate, energy, open space, water supply, forests, soil, marshes, wetlands, harbors, rivers and other waters, fisheries, endangered or threatened species wildlife and other resources, and which systemically analyzes the impact of each other component and element of the master plan on the present and future preservation, conservation and utilization of those resources;

(9) An economic plan element considering all aspects of economic development and sustained economic vitality, including (a) a comparison of the types of employment expected to be provided by the economic development to be promoted with the characteristics of the labor pool resident in the municipality and nearby areas and (b) an analysis of the stability and diversity of the economic development to be promoted;

(10) An historic preservation plan element: (a) indicating the location and significance of historic sites and historic districts; (b) identifying the standards used to assess worthiness for historic site or district identification; and (c) analyzing the impact of each component and element of the master plan on the preservation of historic sites and districts;

(11) Appendices or separate reports containing the technical foundation for the master plan and its constituent elements;

(12) A recycling plan element which incorporates the State Recycling Plan goals, including provisions for the collection, disposition and recycling of recyclable materials designated in the municipal recycling ordinance, and for the collection, disposition and recycling of recyclable materials within any development proposal for the construction of 50 or more units of single-family residential housing or 25 or more units of multi-family residential housing and any commercial or industrial development proposal for the utilization of 1,000 square feet or more of land;

(13) A farmland preservation plan element, which shall include: an inventory of farm properties and a map illustrating significant areas of agricultural land; a statement showing that municipal ordinances support and promote agriculture as a business; and a plan for preserving as much farmland as possible in the short term by leveraging moneys made available by P.L.1999, c.152 (C.13:8C-1 et al.) through a variety of mechanisms including, but not limited to, utilizing option agreements, installment purchases, and encouraging donations of permanent development easements;

(14) A development transfer plan element which sets forth the public purposes, the locations of sending and receiving zones and the technical details of a development transfer program based on the provisions of section 5 of P.L.2004, c.2 (C.40:55D-141);

(15) An educational facilities plan element which incorporates the purposes and goals of the "long-range facilities plan" required to be submitted to the Commissioner of Education by a school district pursuant to section 4 of P.L.2000, c.72 (C.18A:7G-4); and

(16) A green buildings and environmental sustainability plan element, which shall provide for, encourage, and promote the efficient use of natural resources and the installation and usage of renewable energy systems; consider the impact of buildings on the local, regional and global environment; allow ecosystems to function naturally; conserve and reuse water; treat storm water on-site; and optimize climatic conditions through site orientation and design.

c. The master plan and its plan elements may be divided into subplans and subplan elements projected according to periods of time or staging sequences.

d. The master plan shall include a specific policy statement indicating the relationship of the proposed development of the municipality, as developed in the master plan to (1) the master plans of contiguous municipalities, (2) the master plan of the county in which the municipality is located, (3) the State Development and Redevelopment Plan adopted pursuant to the "State Planning Act," sections 1 through 12 of P.L.1985, c.398 (C.52:18A-196 et seq.) and (4) the district solid waste management plan required pursuant to the provisions of the "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.) of the county in which the municipality is located.

In the case of a municipality situated within the Highlands Region, as defined in section 3 of P.L.2004, c.120 (C.13:20-3), the master plan shall include a specific policy statement indicating the relationship of the proposed development of the municipality, as developed in the master plan, to the Highlands regional master plan adopted pursuant to section 8 of P.L.2004, c.120 (C.13:20-8).

L.1975, c.291, s.19; amended 1980, c.146, s.2; 1983, c.260, s.10; 1985, c.222, s.29; 1985, c.398, s.16; 1985, c.516, s.11; 1987, c.102, s.26; 1991, c.199, s.3; 1991, c.445, s.7; 1999, c.180, s.2; 2004, c.2, s.37; 2004, c.120, s.60; 2007, c.137, s.59; 2008, c.54; 2013, c.106, s.6; 2016, c.21, s.4; 2017, c.275.

MUNICIPALITIES PROHIBITING MARIJUANA

By Payton Guion | NJ Advance Media for NJ.com

Originally posted August 11, 2018

Barnegat

- County: Ocean County
- Date passed: July 3

Berkeley

- County: Ocean County
- Date passed: Jan. 22

Bridgewater

- County: Somerset County
- Date passed: April 16. Bridgewater's council did not ban marijuana businesses, but passed a resolution in opposition of marijuana legalization in New Jersey.

Brigantine

- County: Atlantic County
- Date passed: June 20

Carlstadt

- County: Bergen County
- Date passed: May 3

Chatham Township

- County: Morris County
- Date passed: April 12

Cranbury

- County: Middlesex County
- Date passed: March 12

East Rutherford

- County: Bergen County
- Date passed: July 17

Garfield

- County: Bergen County
- Date passed: Feb. 27

Hasbrouck Heights

- County: Bergen County
- Date passed: Feb. 13

Hawthorne

- County: Passaic County
- Date passed: March 23

Hazlet

- County: Monmouth County
- Date passed: Feb. 20

Lodi

- County: Bergen County
- Date passed: June 19

Mahwah

- County: Bergen
- Date passed: May 31

Manville

- County: Somerset County
- Date passed: May 14

North Caldwell

- County: Essex County
- Date passed: Feb. 27

Oceanport

- County: Monmouth County
- Date passed: April 19

Manville

- County: Somerset County
- Date passed: May 14

Old Bridge

- County: Middlesex County
- Date passed: April 23

Parsippany-Troy Hills

- County: Morris County
- Date passed: March 20. Parsippany's resolution doesn't outright ban marijuana businesses from the borough, but strongly opposes marijuana legalization.

Pleasantville

- County: Atlantic County
- Date passed: Aug. 6

Point Pleasant Beach

- County: Ocean County
- Date passed: Dec. 19, 2017

Spotswood

- County: Middlesex County
- Date passed: Feb. 21. Like Parsippany, Spotswood's resolution doesn't outright ban marijuana businesses from the borough, but strongly opposes marijuana legalization.

Surf City

- County: Ocean County
- Date passed: March 14

Union City

- County: Hudson County
- Date passed: Feb. 13

Upper Freehold

- County: Monmouth County
- Date passed: March 1

Wall

- County: Monmouth County
- Date passed: Feb. 28

Weehawken

- County: Hudson County
- Date passed: Feb. 28

West Long Branch

- County: Monmouth County
- Date passed: June 6

Woodcliff Lake

- County: Bergen County
- Date passed: June 4

Wyckoff

- County: Bergen County
- Date passed: July 17

ORDINANCE 2017- 30 Amend
Chapter X1X to Ban Marijuana
Dispensaries
Adopted: December 19, 2017

AN ORDINANCE OF THE BOROUGH OF POINT PLEASANT BEACH, COUNTY OF
OCEAN, STATE OF NEW JERSEY, AMENDING CHAPTER XIX OF THE BOROUGH
CODE ENTITLED "DEVELOPMENT"

WHEREAS, the Borough of Point Pleasant Beach, in the County of Ocean and State of New Jersey (the “Borough”) has a comprehensive Master Plan and Development Ordinances implementing that Master Plan; and

WHEREAS, the Borough has determined that businesses selling medicinal and recreational marijuana require special concern for security, and location; and

WHEREAS, the Borough desires to ensure that such facilities are not allowed within ¼ mile of a school, church, or playground, or in the General Commercial, Marine Commercial, or any residential zone; and

WHEREAS, there is no area of the Borough which can safely house a business selling medicinal and recreational marijuana and/or the paraphernalia that facilitates the use of such marijuana.

NOW, THEREFORE, BE IT ORDAINED, by the Governing Body of the Borough of Point Pleasant Beach, in the County of Ocean and State of New Jersey, as follows:

SECTION I.

Chapter XIX of the Borough Code, at Section 19-5 entitled “Prohibited Uses” is hereby amended to include adding to the list of banned uses a new subsection “z” as follows:

z. Businesses selling medicinal and recreational marijuana and/or the paraphernalia that facilitates the use of such marijuana.

SECTION II.

All ordinances or parts thereof, which are inconsistent with the provisions of this Ordinance, are hereby repealed to the extent of their inconsistencies.

SECTION III.

In the event any section, part or provision of this Ordinance shall be held unconstitutional or invalid by any Court, such holding shall not affect the validity of this Ordinance or any remaining part of this Ordinance other than the part held unconstitutional or invalid.

SECTION IV.

This Ordinance shall be subject to review and recommendation by the Borough Planning Board in accordance with N.J.S.A. 40:55D-26.

SECTION V.

The County Planning Board shall be provided notice of this proposed ordinance in accordance with N.J.S.A. 40:27-6.10.

SECTION VI.

This Ordinance shall take effect immediately upon its final passage and publication as required by law and filing with the Ocean County Planning Board.

Approved this ____ day of _____, 2017:

Borough of Point Pleasant Beach
Stephen D. Reid, Mayor

TOWNSHIP OF LUMBERTON
ORDINANCE 2018-27
AMENDING CHAPTER 130 OF THE
CODE OF THE TOWNSHIP OF
LUMBERTON TO
CREATE MARIJUANA CULTIVATION AS
A CONDITIONAL USE IN INDUSTRIAL
ZONES

WHEREAS, through permitting or licensing, the State of New Jersey authorizes the cultivation and dispensing of medical marijuana products through licensed locations; and
WHEREAS, the State is pursuing legislation to decriminalize marijuana for recreational use; and
WHEREAS, the current versions of legislation in Trenton authorize municipalities to consider local zoning for the location of growth/cultivation, manufacturing, transportation/distribution and/or retail/dispensing activities within the Township's borders; and
WHEREAS, Lumberton Township desires to opt out of licensing for any retail or dispensing of medical or recreational marijuana products; and
WHEREAS, the Township desires to establish cultivation, manufacturing and distribution activities as a conditional use in the Township's three industrial zoning districts;
NOW, THEREFORE, BE IT ORDAINED AND ENACTED, by the Township Committee of the Township of Lumberton, County of Burlington, State of New Jersey that Chapter 130 of the Code of the Township of Lumberton entitled "Development Regulations" be and is hereby amended and supplemented at §§130-71 P(4) (Industrial Zone-1), Q(4) (Industrial Zone 2) and U(4) (Industrial Zone 3) permitting marijuana cultivation, manufacturing and distribution activities as an additional conditionals use as follows:

Section 1. Amendment to §130-3 Word and Definitions.
Section 130-3 of the Township Code entitled “Words and Definitions” is amended and supplemented to add the following definitions.

MARIJUANA ALTERNATIVE TREATMENT CENTERS - An organization approved by the State of New Jersey to perform activities necessary to provide registered qualifying patients with usable marijuana and related paraphernalia in accordance with the provisions of the Compassionate Use Medical Marijuana Act. The Township does not permit retail or dispensing activities in any zone.

MARIJUANA CULTIVATION FACILITY - A use engaged in the cultivation, processing, and packaging of marijuana; manufacturing of marijuana product; deliver and transfer of marijuana to marijuana establishments, but not to consumers. This definition shall also apply to marijuana product manufacturer, marijuana cultivator.

MARIJUANA DISTRIBUTION - The act of moving product from a cultivation location to a point of retail sale or dispensing.

MARIJUANA PRODUCTS - Manufactured products having marijuana or a marijuana extract, including but not limited to raw marijuana, edibles, beverages, topical products, ointments, oils, and tinctures.

MARIJUANA TESTING FACILITY - A licensed facility used to test marijuana and marijuana products, and certify for potency and the existence of contaminants. This definition shall also apply to marijuana research facility, marijuana independent testing lab, and marijuana standards testing lab

Section 2. Amendment to §130-71 (P)(4).

Section 130-71 (P)(4) concerning conditional uses in the Industrial 1 zoning district is amended and supplemented to add a new paragraph (c) establishing marijuana cultivation, manufacturing and distribution as a conditional use, said paragraph to read as follows:

“(c) Marijuana alternative treatment centers, marijuana cultivation facility, marijuana testing facility meeting the additional standards of §130-4 generally and §130-4(B)(8) specifically.”

Section 3. Amendment to §130-71 (Q)(4).

Section 130-71 (Q)(4) concerning conditional uses in the Industrial 2 zoning district is amended and supplemented to add a new paragraph (e) establishing marijuana cultivation, manufacturing and distribution as a conditional use, said paragraph to read as follows:

“(e) Marijuana alternative treatment centers, marijuana cultivation facility, marijuana testing facility meeting the additional standards of §130-4 generally and §130-4(B)(8) specifically.”

Section 4. Amendment to §130-71 (U)(4).

Section 130-71 (U)(4) concerning conditional uses in the Industrial 3 zoning district is amended and supplemented to add a new paragraph (d) establishing marijuana cultivation, manufacturing and distribution as a conditional use, said paragraph to read as follows:

“(d) Marijuana alternative treatment centers, marijuana cultivation facility, marijuana testing facility meeting the additional standards of §130-4 generally and §130-4(B)(8) specifically.”

Section 5. Amendment to §130-4(B).

Section 130-4(B) is amended to add a new paragraph (8) to read as follows:

(8) A marijuana alternative treatment centers marijuana cultivation facility, marijuana testing facility when authorized by the Planning Board as a conditional use, is subject to the following requirements:

(a) Such facility shall meet all of the requirements for licensure by the Office of the Attorney General, State of New Jersey.

(b) Lot size, yard size, lot area shall be regulated as specified:

[1] The minimum lot area shall be not less than 1 acre.

[2] The minimum lot width shall be not less than 100 feet.

[3] The minimum lot frontage shall be not less than 100 feet.

[4] The minimum lot front yard depth shall be not less than 50 feet.

[5] The minimum lot side yard width shall be not less than 50 feet.

[6] The minimum lot rear yard depth shall be not less than 50 feet.

(c) Shall not be any closer than two hundred and fifty (250) feet from any behavioral health care facility or residential medical detoxification center.

(d) Shall not be any closer than two hundred and fifty (250) feet from a residential district or use.

(e) Shall not be located within two hundred and fifty (250) feet of the property line of any existing church, public or parochial school, private school, college, child-care center, or any existing public park.

(f) Nothing herein shall permit the retail sale of marijuana products, the dispensing of marijuana product, or the direct point sale or distribution of marijuana products from the marijuana alternative treatment centers marijuana cultivation facility, marijuana testing facility

Section 6. Repealer, Severability and Effective Date.

A. Repealer. Any and all Ordinances inconsistent with the terms of this Ordinance are hereby repealed to the extent of any such inconsistencies.

B. Severability. In the event that any clause, section, paragraph or sentence of this Ordinance is deemed to be invalid or unenforceable for any reason, then the Township Committee hereby declares it intent that the balance of the Ordinance not affected by said invalidity shall remain in full force and effect to the extent that it allows the Township to meet the goals of the Ordinance.

C. Effective Date. This Ordinance shall take effect upon proper passage in accordance with the law.

LUMBERTON TOWNSHIP COMMITTEE

ACTION ON INTRODUCTION:

Motion made by: Committeeman Earlen

Motion seconded by: Committeeman Conway

VOTE:

Committeeman Conway: Yes No Abstain Not Present

Committeeman Dwyer: Yes No Abstain Not Present

Committeeman Earlen: Yes No Abstain Not Present

Committeewoman Januseski: Yes No Abstain Not Present

Mayor Mansdoerfer: Yes No Abstain Not Present

ACTION ON ADOPTION (after public hearing):

Motion made by: Motion seconded by:

VOTE: Committeeman Dwyer Deputy Mayor Januseski

Committeeman Conway: Yes No Abstain Not Present

Committeeman Dwyer: Yes No Abstain Not Present

Committeeman Earlen: Yes No Abstain Not Present

Committeewoman Januseski: Yes No Abstain Not Present

Mayor Mansdoerfer: Yes No Abstain Not Present

CERTIFICATION

I hereby certify that the foregoing is a true copy of the ordinance that was introduced after first reading at a meeting of the Lumberton Township Committee held on September 25, 2018 and was adopted after public hearing at a meeting of the Lumberton Township Committee to be held on October 23, 2018.

Debra L. Shaw-Blemings

Debra L. Shaw-Blemings, RMC, Lumberton Township
Clerk

Introduced: September 25, 2018

Published: September 29, 2018

Hearing: October 23, 2018

Adopted: October 23, 2018

Published: October 27, 2018