

**BOROUGH OF NORTHVALE**  
**County of Bergen**  
**State of New Jersey**

**ORDINANCE #1069-2023**

**AN ORDINANCE TO AMEND AND REVISE CHAPTER 200 “ZONING” OF THE BOROUGH CODE OF THE BOROUGH OF NORTHVALE TO INCLUDE PERMITTED CANNABIS USES**

**WHEREAS**, the Governing Body of the Borough of Northvale believes it is in the best interest of the Borough to amend and revise Chapter 200 of the Borough Code entitled “ZONING” as set forth herein.

**BE IT ORDAINED**, by the Mayor and Council of Northvale, County of Bergen, State of New Jersey, as follows:

Section 1: The Borough Code of the Borough of Northvale is hereby amended and revised create Article XI Cannabis Establishments:

**Section 200-50** Definitions:

As used in this article, the following terms shall have the meanings indicated:

**CANNABIS**

All parts of the plant Cannabis sativa L., whether growing or not, the seeds thereof, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds, except those containing resin extracted from the plant, which are cultivated and, when applicable, manufactured in accordance with P.L. 2016, c. 16, for use in cannabis products as set forth in this Act, but shall not include the weight of any other ingredient combined with cannabis to prepare topical or oral administrations, food, drink, or other product. "Cannabis" does not include: medical cannabis dispensed to registered qualifying patients pursuant to the Jake Honig Compassionate Use Medical Cannabis Act, P.L. 2009, c. 307 (N.J.S.A. 24:6I-1 et seq.) and P.L. 2015, c. 158 (N.J.S.A. 18A:40-12.22 et seq.); marijuana as defined in N.J.S.A. 2C:35-2 and applied to any offense set forth in Chapters [35](#), 35A, and 36 of Title 2C of the New Jersey Statutes, or P.L. 2001, c. 114 (N.J.S.A. 2C:35B-1 et seq.); or marijuana as defined in Section 2 of P.L. 1970, c. 226 (N.J.S.A. 24:21-2) and applied to any offense set forth in the New Jersey Controlled Dangerous Substances Act, P.L. 1970, c. 226 (N.J.S.A. 24:21-1 et seq.); or hemp or a hemp product cultivated, handled, processed, transported, or sold pursuant to the New Jersey Hemp Farming Act, P.L. 2019, c. 238 (N.J.S.A. 4:28-6 et seq.).

**CANNABIS CULTIVATOR**

Any licensed person or entity that grows, cultivates, or produces cannabis in this state, and sells, and may transport, this cannabis to other cannabis cultivators, or usable cannabis manufacturers, cannabis wholesalers, or cannabis retailers, but not to consumers.

### **CANNABIS DISTRIBUTOR**

Any licensed person or entity that transports cannabis in bulk intrastate from one licensed cannabis cultivator to another licensed cannabis cultivator, or transports cannabis items in bulk intrastate from any one class of licensed cannabis establishment to another class of licensed cannabis establishment, and may engage in the temporary storage of cannabis or cannabis items as necessary to carry out transportation activities.

### **CANNABIS ESTABLISHMENT**

A cannabis cultivator, a cannabis manufacturer, a cannabis wholesaler, or a cannabis retailer.

### **CANNABIS ITEM**

Any usable cannabis, cannabis product, cannabis extract, and any other cannabis resin. "Cannabis item" does not include: any form of medical cannabis dispensed to registered qualifying patients pursuant to the Jake Honig Compassionate Use Medical Cannabis Act, P.L. 2009, c. 307 (N.J.S.A. 24:6I-1 et seq.) and P.L. 2015, c. 158 (N.J.S.A. 18A:40-12.22 et seq.); or hemp or hemp product cultivated, handled processed, transported, or sold pursuant to the New Jersey Hemp Farming Act, P.L. 2019, c. 238 (N.J.S.A. 4:28-6 et seq.).

### **CANNABIS LEAF**

The leaf of the plant Cannabis sativa L. within the plant family Cannabaceae.

### **CANNABIS MANUFACTURER**

Any licensed person or entity that processes cannabis items in this state by purchasing or otherwise obtaining usable cannabis, manufacturing, preparing, and packaging cannabis items, and selling, and optionally transporting, these items to other cannabis manufacturers, cannabis wholesalers, or cannabis retailers, but not to consumers.

### **CANNABIS MANUFACTURING**

The drying, processing, compounding, or conversion of usable cannabis into cannabis products or cannabis resins. "Manufacture" with respect to cannabis does not include packaging or labeling.

### **CANNABIS WHOLESALER**

Any licensed person or entity that purchases or otherwise obtains, stores, sells or otherwise transfers, and may transport, cannabis items for the purpose of resale or other transfer to either another cannabis wholesaler or to a cannabis retailer, but not to consumers.

### **COMMISSION**

The CPCC established pursuant to section 31 of P.L.2019, c.153 (C.24:6I-24).

### **CONSUMPTION**

The act of ingesting, inhaling, or otherwise introducing cannabis items into the human body.

§ 200- 51 Permitted and prohibited licenses.

- A. Permitted licenses: Those businesses possessing either a Class 1, Class 2, Class 3, or Class 4, license pursuant to Section 31b of the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (P.L. 2021, c. 16) may operate within the Borough of Northvale subject to all of the provisions of this article and all applicable state standards and regulations.
- B. Prohibited licenses: Class 5 and Class 6 licenses are prohibited in the Borough of Northvale, except for the purpose of delivering cannabis items and related supplies from a Class 6 license holder located outside of the Borough of Northvale.

§ 200-52 Zoning

- : A. A cannabis establishment seeking to operate within the Borough of Northvale may operate within the LI (Light Industrial) Zone as a conditional use.
- (1) No cannabis establishment may be located in the portion of the LI zone where the R75 overlay is located.
- B. Only two cannabis establishments of each permitted class of licenses permitted herein. shall be licensed and located within the Borough.
- C. Prior to the operation of any cannabis establishment, a permit or license must be obtained from the state and from the Borough of Northvale for the applicable type of cannabis establishment. No cannabis establishment shall be permitted to operate without state and municipal permits or licenses.
- D. All cannabis establishments operating in the Borough of Northvale shall be permitted as a conditional use, subject to the following conditions:
- (1) Present proof of the appropriate state license;
  - (2) Under no circumstances is a cannabis establishment to be located:
    - (a) In a Residential Zone or Residential Overlay Zone;
    - (b) Within **300** feet from any public or private school, library, municipal complex or property, house of worship, or uses intended for children.
    - (c) Within 300 feet from any residential zone.
  - (3) No cannabis product shall be smoked, eaten, or otherwise consumed or ingested on the premises of any cannabis establishment;
  - (4) A cannabis establishment shall not be located in a home, apartment, townhouse, condominium or mixed-use building;
  - (5) A cannabis establishment shall not be located in a multitenant commercial building which includes retail or office use as other commercial tenants. This restriction does not apply to an office that is an accessory use to other commercial uses.

- (6) The applicant shall implement an odor mitigation infrastructure so that odors emanating from the facility are not detectable by a person on adjacent properties, rights-of-way, or other units with a building on the same lot. **The Applicant shall provide details regarding odor mitigation with initial license application to the Borough and with each annual license renewal information to be approved by the Borough Engineer;**
- (7) All activities associated with the production of cannabis, including cultivation, manufacturing, and processing, shall occur within an enclosed building;
- (8) The applicant shall provide appropriate landscape buffers at least six feet high at the time of installation, or other equivalent method of buffering, to be installed adjacent on any property line shared with a residential property;
- (9) The parking requirements shall be one parking space for each employee;
- (10) All bulk standards established for the underlying LI zone, shall apply;
- (11) The applicant shall comply with the signage standards of the underlying zoning district, including the following additional limitations:
  - (a) No sign shall be placed on the roof of a building nor placed on its walls so as to exceed in height the roof of a building.
  - (b) No illuminated signs shall be permitted.
  - (c) No freestanding signs shall be permitted.
  - (d) There shall only be one sign.
  - (e) The content of signage shall be restricted to text on a solid background. The logo of the business may be included, provided the logo does not include a cannabis plant leaf or image of other cannabis paraphernalia or products.
- (12) The applicant shall provide an on-premises security person at all times.
- (13) The applicant shall provide a contact person for any inspections the Borough requires.

§ 200-53 Creation and imposition of municipal tax.

A. There is hereby created a municipal tax upon the gross sales of all licensed business as follows:

- (1) A 2% tax applied to businesses operating with a Class 1, Class 2, or Class 4.
- (2) A 1% tax applied to businesses operating under a Class 3 license.

B. Taxes to be paid to the Borough shall be paid quarterly.

C. The Borough shall have the right to audit the financial records of the licensee. The Chief Financial Officer may initiate an audit by means of an audit notice. If, as a result of an

examination conducted by the Chief Financial Officer or his designee, a return has not been filed by a taxpayer or a return is found to be incorrect and transfer taxes are owed, the Chief Financial Officer is authorized to assess and collect any tax due. If no return has been filed and tax is found to be due, the tax actually due may be assessed and collected with or without the formality of obtaining a return from the taxpayer. Deficiency assessments (i.e., where a taxpayer has filed a return but is found to owe additional tax) shall include taxes for up to three years to the date when the deficiency is assessed. Where no return was filed, there shall be no limit to the period of assessment. Delinquent payments under this chapter shall be subject to the interest rate imposed upon unpaid municipal property taxes. If a cannabis facility fails to pay the tax to the Borough of Northvale, the cannabis facility's license may be revoked.

#### § 200-54 Violations and penalties; enforcement.

- A. Violations of any provisions of this article shall be punishable by fines of **\$1,500** for the first offense and **\$2,000** for each and every offense thereafter. This article shall be enforced by either the Northvale Police, the Northvale Building Department, or the Northvale Health Department.
- B. Upon a third conviction for violation of this ordinance, the Borough may revoke the applicant's license.

#### § 200-55 Limitations on number of licenses.

There shall only be two of each type of Class 1, 2, 3, or 4 license permitted within the Borough of Northvale.

#### § 200-56 Annual Licensing Fees.

- A. The annual license fee for all cannabis establishments shall be \$15,000. In the initial year of licensing; however, the fee for any license issued on or after July 1 of that year shall be \$7,500.
- B. All licenses issued pursuant to this Chapter shall be effective for the calendar year, expiring on the 31st day of December of the year of issue, and may be renewable for succeeding calendar years thereafter. The fee for license renewals shall be paid in full to the Municipal Clerk before any license is renewed.

**SECTION 2.** All ordinances of the Borough of Northvale, which are inconsistent with the provisions of this ordinance, are hereby repealed to the extent of such inconsistency.

**SECTION 3.** If any section, subsection, clause or phrase of this ordinance is for any reason held to be unconstitutional or invalid by any court or competent jurisdiction, such decision shall not affect the remaining portion of this ordinance.

**SECTION 4.** All other provisions of Chapter 200 of the Code of the Borough of Northvale are not further amended and remain in full force and effect.

The ordinance shall take effect immediately upon final passage.

*Joseph E. McGuire*

Joseph E. McGuire, Mayor

Attest:

*Frances M. Weston*

Frances Weston  
Municipal Clerk

Introduced: May 10, 2023

2<sup>nd</sup> Reading: June 14, 2023