

CITY OF VINELAND

**ORDINANCE NO. 2022-89**

**ORDINANCE AMENDING ORDINANCE 2021-42, AS AMENDED, CHAPTER 266, ARTICLE I OF THE CODE OF THE CITY OF VINELAND ENTITLED CANNABIS ESTABLISHMENTS.**

**WHEREAS**, on August 24, 2021, City council adopted Ordinance 2021-42 providing for the standards and qualifications for cannabis businesses in the City of Vineland pursuant to the New Jersey Cannabis Regulatory Enforcement Assistance and Marketplace Modernization Act (CREAMM); and

**WHEREAS**, City Council finds it to be in the best interest of the city and its residents to provide further regulations and direction regarding the issuance of a municipal license to operate a cannabis business within the City.

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Vineland that Ordinance 2021-42, Chapter 266 of the Code of the City of Vineland be amended as follows:

- A. **Section 2 d.** shall be amended with the addition of the following sentence
  - d. Cannabis establishments shall implement best practices in odor control of cannabis. Cultivation and manufacture facilities shall include sealed grow room designs and air purifier systems among other odor elimination methods.
- B. **Section 3. a 1** shall be deleted in its entirety and replaced as follows:
  - a. **Local licensing Authority.**
    - 1. A City of Vineland Cannabis Advisory Committee (CAC) shall act as the body for local review for the City of Vineland for all cannabis establishments permitted herein, however the authority to award, suspend or revoke such license remains with the City Council. The CAC shall advise the Governing Body and Mayor as to the issuance of Cannabis Business licenses within the City and such review shall be based upon the information contained in a Request for Proposals issued by the Governing Body.
    - 2. Members of the CAC shall consist of the following:
      - a. Mayor or Designee
      - b. Two Members of City Council
      - c. City Planner/Planning Engineer
      - d. Business Administrator
      - e. Chief Financial Officer or Designee
    - 3. The committee shall be supported by the City Solicitor or Special Council retained in accordance with City Code and Planning and Zoning Offices. The Committee may request additional resources as necessary to effectuate the responsibilities of the Committee.
    - 4. No member of the CAC shall have any legal or equitable interest or in any way be affiliated with or related to a New Jersey Adult Use Cannabis Business or Medical Cannabis Establishment or prospective licensee.
- C. **Section 3 a 2** shall be amended to remove the Business Administrator as the local licensing authority and replace it with the Governing Body.
- D. **Section 3 c** shall be deleted in its entirety and replaced as follows:

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c. **Maximum number of licenses.** The City may issue not more than five Class I Cannabis Cultivator Licenses; not more than five Cannabis manufacture Licenses; not more than 5 Class III Cannabis Wholesaler Licenses; not more than five Cannabis Distributor Licenses and not more than two Cannabis Retailer Licenses. Licenses 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 receipt of a State license or permit of the same class or type of regulated cannabis activity. Under no circumstance shall a local permit or conditional license for a cannabis establishment issued through the City be effective until the State has issued the requisite licenses to operate such a facility.

E. **Section 3 a 1, 2, 3, 4, and 5 Application** shall be deleted in their entirety and replaced as follows:

a. Persons or entities wishing to obtain any classification of cannabis license shall file a license application with the CAC through the Office of the Business Administrator, on standardized forms established by the CAC and available in the Office of the Business Administrator once the City has issued a Request for Proposal (RFP) of the unissued and available licenses. The CAC shall establish a reasonable application period and deadline for all applications and shall include sufficient notice of the application period opening. The CAC may request proposals for one or more licenses in their sole discretion. An application shall be deemed incomplete and shall not be processed by the CAC until all documents and application fees are submitted and approved by the Solicitor or Special Counsel. To be deemed complete, all applications shall be accompanied by the following:

- (1) A non-refundable application fee in the amount of \$1,000.00 for each type of license for which an application has been submitted.
- (2) A photo copy of a valid, unexpired drivers license or state issued identification card for all owners, directors and officers of the proposed establishment
- (3) A signed application (available in the Office of the Business Administrator) which must include all of the following information and documents:
  - (a) If the applicant is an individual, the applicant's name, date of birth, Social Security number, physical address, including residential and any business address or addresses copy of government-issued photo identification, email address, one or more valid phone numbers including emergency contact information or
  - (b) If the applicant is not an individual, the names, dates of birth, physical address, including residential and any business address, copy of government issued photo identifications, email address, and one or more phone numbers of each stakeholder of the applicant entity, including designation of the highest ranking officer or representative as an emergency contact person, contact information of the emergency contact person, copy of articles of incorporation or organization, assumed name registration, copy of Internal Revenue Service EIN confirmation letter, copy of the operating agreement of the applicant, if a limited liability company, copy of the partnership agreement if a partnership, names and addresses of the beneficiaries, if a trust or a copy of the bylaws or shareholder agreement if a corporation and New Jersey Business Registration Certification.
- (4) The names addresses, phone numbers, emails addresses of three professional references with whom the applicant (or highest ranking representative if an entity) has or had professional

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business dealings and a brief description of the professional relationship to the references(s).

- (5) Consent to perform a background check/investigation by the City of Vineland.
- (6) A description of the proposed establishment type with applicable license class
- (7) A copy of the odor mitigation plan
- (8) A copy of the security plan
- (9) Background of the applicant including past ownership interest in a business operating in the State of New Jersey and experience in the cannabis industry in this state or other states.
- (10) Area impact, including the proximity of the cannabis establishment to properties zoned or used residentially and plans for litter control, loitering, neighborhood outreach, noise mitigation, resident safety.
- (11) Financial investment including future expansion and proposed capital investment, the applicant's ownership interest in the physical location of the cannabis business and whether it is a minority based enterprise (MBE), women based enterprise (WBE)
- (12) Business plan, financial plan and marketing and promotion plan
- (13) For equitably owned and applicant owned properties and/or structures
  - (a) If a parcel and/or existing structure/building is equitably owned (e.g. where the applicant has a lease, option, land contract, or other future interest in the property and the owner is a person or entity other than the applicant, the property owner's signature(s) will be required in addition to that of the applicant.
  - (b) For an existing structure or building, written consent for the City to inspect the establishment and any time during normal business hours to ensure compliance with applicable laws and regulations.
  - (c) A location area map of the establishment and surrounding area that identifies the relative locations and the distances (closest property line to the subject cannabis establishment's building) to the closest real property comprising a public or private pre-elementary, elementary, vocational or secondary school, any house of worship, public playground or park or governmental building.
  - (d) A copy of all documents submitted by the applicant to the state in connection with the application for a state operating license under the CREAMM.
  - (e) A copy of all documents issued by the state indicating that the applicant has been prequalified or qualified for a state operating license, including any correspondence granting a conditional license.
  - (f) Projection for anticipated capital investments to be made in the property/ structure (if any) and the number of jobs to be created

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- (g) Submission of a security plan for the site and its operations to be reviewed and approved by the Chief of Police servicing the City.
  - (h) Submission of an odor mitigation plan and strategy
  - (i) Existence and names of currently licensed cannabis facilities in New Jersey and other States and a history of compliance with applicable regulations
- (14). Host Community Agreement. All licensees shall execute a Host Community Agreement. All applicants shall propose a Host Community Agreement considering the following factors:
- (a) Employee outreach for jobs within the City of Vineland and factors in recruitment for most qualified candidates.
  - (b) Traffic and crowd management strategies including police coverage for activities during peak hours.
  - (c) Assistance in community support, public outreach and municipal sponsored educational programs
  - (d) Community impact fees and an outline of the benefits the applicant will provide to the city should a license be issued.
  - (e) Odor mitigation plan to include types of filtration systems, building interior and exterior odor controls
  - (f) Security systems including monitoring systems and interaction with police.
- F. **Section 3 a 6** shall be amended with the deletion of the reference to a Class VI license as no Class VI Delivery license is permitted in the City.
- G. **Section 3 a 7** shall be added as follows:
- 7. An applicant shall remit a fee of 10% of the sale of the license or \$10,000.00, whichever is greater for any transfer of a license provided the transfer is authorized by the State and any transferee shall first execute an assignment of the Community Host Agreement in effect for the transferor.

H. **Section 3 Qualification/Standards** shall be deleted in its entirety and replaced as follows:

**Evaluation and Award**

- a. All applicants shall submit their proposal and shall make a presentation in person to the CAC. The CAC reserves the right to schedule a public meeting with the applicant to consider the application and proposal. The CAC shall consider the application, proposal submitted as well as the proposed terms of a Host Community Agreement including at least the specified terms and conditions contained herein in Section 3 a as well as any other matter the applicant wishes the CAC to consider
- b. Each member of the CAC shall grade the submissions utilizing a 100 point total. Each member shall grade the submissions based upon the number of points they feel are appropriate in each category or item in their sole discretion and the applicant with the most overall points shall be recommended to the Governing Body which may accept or reject the recommendations. Should they reject the recommendations, the reasons for such rejection shall be placed upon the record by way of a Resolution outlining the reasons for the same.

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c. Notwithstanding the RFP process herein above specified, a notification of a conditional municipal license award shall entitle the recipient applicant to pursue a State annual license in the requisite license classification. Such conditional municipal license approval shall remain valid for not more than 12 months, which may be extended for an additional 3 months for good cause in the governing body's sole discretion. No cannabis business may operate unless they have received a State annual license, executed a Host Community Agreement, satisfied all other prerequisites of the municipal license and obtained a CO or TCO for the improvements.

I. **Section 3 b 2 Term** shall be amended to replace Administrator with Governing Body.

J. **Section 4 Renewal of Applications** shall be added as follows:

**Section 4 Renewal of Applications**

(1) An application for renewal of a cannabis business municipal license shall be filed with the Office of the Business Administrator at least 60 calendar days prior to the expiration date of the current license. Failure to do so may result in a denial of a license renewal. Said time may be extended in the sole discretion of the Business Administrator upon the payment of a late fee to cover the expedited service resulting from the late filing.

(2) The applicant for renewal shall pay a nonrefundable review fee of \$1,000.00. If the applicant files for renewal after the 60 day requirement but within 30 days thereafter, the applicant shall pay an additional \$500.00 late fee. If the applicant files a renewal not less than 10 days before the expiration date and up to 30 days from the renewal date, the applicant shall pay an additional \$1,000.00 late fee. No application for renewal shall be considered less than 10 days before the expiration of the license and said license shall be revoked.

(3) An applicant for renewal of a cannabis license may be rejected or denied by the City Council for any of the following:

- (a) The cannabis business has failed to file its application within the prescribed timeframe.
- (b) The cannabis business license is suspended or revoked at the time of application
- (c) The cannabis business has not been current in property taxes, water, electric, sewer, local taxes or use fees
- (d) The cannabis business has failed to conform to the requirements of any state or local laws or regulations
- (e) The cannabis business fails or is unable to maintain or renew its State of New Jersey cannabis license
- (f) The cannabis business fails to maintain or implement security measures as approved by the Vineland Police Department
- (g) The cannabis business fails to comply with any of the terms of the Host Community Agreement.
- (h) The cannabis business is the subject of three or more phone complaints or written complaints, ordinance violations including but not limited to consumption of cannabis products at or near the business establishment, odor complaints where odor mitigation plan is not followed, noise ordinance violations, loitering, disorderly conduct or similar nuisance activities at or near the premises.

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- (4) If a renewal application is rejected, no new application may be filed by the previous license holder for a period of not less than two years from the date of the notice of rejection or denial.

K. **Section 5 Reconsideration of Denial of Renewal** shall be added as follows:

**Section 5 Reconsideration of Denial of Renewal**

- (1) Requests for a reconsideration of a denial of a renewal of a cannabis license shall be made in writing to the Business Administrator not more than 20 days from the date on the Notice of Denial with the payment of a hearing fee of \$500.00 to cover the cost of said hearing.
- (2) The written request shall set forth the basis upon which the cannabis business believes the rejection or denial was improper or in error along with any supporting documentation or the materials to be considered along with the names of the person or persons representing the cannabis business and or giving testimony. Formal rules of evidence applicable to the courts of the State of New Jersey shall not apply to the reconsideration hearing.
- (3) Upon written request for a hearing in accordance herewith, the Business Administrator shall schedule a hearing before City Council at a regular or special meeting not more than 60 days from the date the written request was received by the Business Administrator. The City shall send a notice of the date and time of the hearing which shall take place in the Council Chambers at City Hall, 640 E. Wood Street, Vineland, New Jersey.
- (4) Upon the conclusion of the hearing, the City Council may affirm, reverse or modify the prior decision, including, without limitation placing special conditions and/or restrictions upon the issuance of the license to address the reasons for the initial denial.

K. **Section 6 Inspections** shall be added as follows

**Section 6 Inspections**

- (1) The cannabis business holding a license issued by the City shall, as a term of the license, permit representatives of the City Police, Fire, Code Enforcement, Zoning, Construction, License and Inspections and other Code Enforcement Officers to perform inspections to assure compliance with all State and local laws

K. **Section 4 Disciplinary Actions; Sanctions; Penalties** shall be added as follows:

**Disciplinary Actions; Sanctions; Penalties**

- (1) Any license holder, person, firm or legal entity violating any portion of this Article, upon a plea of guilty or a finding of guilty in the Vineland Municipal Court for a first offense shall be subject to a fine of not less than \$250.00 and not more than \$500.00.
- (2) Any license holder, person, firm or legal entity violating any portion of this Article, upon a plea of guilty or a finding of guilty in the Vineland Municipal Court for a second or subsequent offense shall be subject to a fine of not less than \$1,000.00 and not more than \$5,000.00.
- (3) Each day a violation is committed or continues shall be considered a separate offense subject to a per diem fine as listed above for first, second or subsequent offense.
- (4) Notwithstanding the terms as set forth herein above, should the City have reasonable grounds to believe the licensee has engaged in deliberate and/or willful violation of any applicable laws or regulation or that the public health, safety and/or welfare has or will be jeopardized and requires emergency action, the City Council may issue a temporary summary suspension order for the immediate suspension of the license

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and notice to the Cannabis Regulatory Commission pending further investigation.

- a. The temporary summary suspension shall be in writing and served on the license holder at their place of business and shall state the reasons therefore.
  - b. The CAC shall hold a hearing scheduled within 7 days of the date of the temporary suspension order and the license holder shall be presented with testimony regarding the suspension and afforded an opportunity to be heard and present testimony and documents to be considered in the hearing.
  - c. The CAC shall review the matter and recommend to City Council whether a full suspension of the license is warranted as well as any fine, condition, restriction or combination thereof is authorized. The City Council may affirm, amend or deny any recommendation.
- (5) The City may revoke any license issued should the licensed cannabis business be inactive for a period of not less than 6 months.
- (6) The City shall suspend or revoke any licensed cannabis business if the corresponding State license for the subject location is expired, surrendered, suspended or revoked.

**BE IT FURTHER ORDAINED** that should any portion of this Ordinance be deemed unenforceable by a court of competent jurisdiction, the balance hereof shall remain in full force and effect.

**BE IT FURTHER ORDAINED** that should any ordinance or portion thereof be inconsistent with the terms of this Ordinance, such ordinance or portion thereof shall be repealed and void to the extent of such inconsistency.

This Ordinance shall take effect upon adoption and publication according to law.

Passed first reading:

Passed final reading:

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President of Council

ATTEST:

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City Clerk