

CITY OF PORT JERVIS

INTRODUCTORY LOCAL LAW NO. **11** OF 2022

A LOCAL LAW AMENDING CHAPTER 535, ARTICLE II AND ARTICLE IX OF THE CITY CODE OF THE CITY OF PORT JERVIS, NEW YORK TO ADD A NEW SECTION 535-38 ENTITLED “SUPPLEMENTARY REGULATIONS APPLYING TO CANNABIS RETAIL DISPENSARIES AND TOBACCO RETAILERS” AND AMENDING THE CITY OF PORT JERVIS TABLE OF USE AND BULK REQUIREMENTS

Be it enacted by the Common Council of the City of Port Jervis, County of Orange, State of New York, as follows:

Section 1. **Statement of Intent**

The State of New York recently enacted the Marihuana Regulation and Taxation Act (hereinafter the “Cannabis Law”), which, among other things, allows the retail sale of cannabis and cannabis products and provides for the licensing of cannabis dispensaries. The Cannabis Law also provides that “towns, cities and villages may pass local laws and regulations governing the time, place and manner of the operation of licensed adult-use cannabis retail dispensaries * * * provided such law or regulation does not make the operation of such licensed retail dispensaries * * * unreasonably impracticable.” Pursuant to this authority, and in accordance with Section 535-2 of the City of Port Jervis Zoning Code, which enumerates as a purpose of the City of Port Jervis Zoning Code: “to serve the purpose of protecting and promoting the general welfare, which is intended to include the following ... the protection of the environment of the City as a whole,” This local law is enacted to allow the establishment of cannabis retail dispensaries in locations and manners consistent with the zoning and land use goals of the City of Port Jervis.

The City of Port Jervis Common Council further finds that in order to fully and properly protect the health, safety and general welfare of its citizens, tobacco retailers should also be regulated in a similar manner as cannabis retail dispensaries. It is the intention of this Local Law to produce reasonable regulations that apply to these similar industries within the City of Port Jervis.

Section 2. **Purpose.**

The City of Port Jervis Common Council hereby finds that the purpose of this Local Law shall be as follows:

- a. To provide for the placement of cannabis retail dispensaries and tobacco retailers in appropriate places.
- b. To minimize the adverse impacts of cannabis retail dispensaries and tobacco retailers on schools, and other places where the youth or other vulnerable populations commonly congregate.
- c. To regulate the siting, design, placement, security, safety, monitoring, and

modification of cannabis retail dispensaries and tobacco retailers.

Section 3. Amendments to Chapter 535

The City of Port Jervis Code, Chapter 535, Article II is hereby amended to include the following definitions to be incorporated in alphabetical order:

E-CIGARETTE or VAPE

Any electronic device composed of a mouthpiece, heating element, battery and/or other electronic circuit that provides a vapor of liquid nicotine, cannabis product and/or other substance that is sometimes mixed with propylene glycol by the user as they simulate smoking. This term shall include all such devices whether they are manufactured as e-cigarettes, e-cigars, e-pipes, vapes or under any other product name.

CANNABIS or CANNABIS-RELATED PRODUCT

Any product containing marijuana, THC or CBD in any form or as the term is defined by Chapter 7-A of the New York State Consolidated Laws or the New York State Marijuana Regulation and Taxation Act.

CANNABIS RETAIL DISPENSARY

A commercial retail establishment operating under license of the New York State Cannabis Control Board, authorized to engage in the retail sale of cannabis products for off-site consumption, but in no case permitted or authorized to allow the on-site consumption of cannabis or cannabis-related products.

CBD

Cannabidiol, a naturally occurring compound found in the resinous flower of cannabis but not regulated as cannabis under the NYS Marijuana Regulation and Taxation Act.

SMOKE

The emission produced by the burning of a tobacco product or tobacco-related product, cannabis product or cannabis-related product or the heating of an e-cigarette which creates a vapor.

SMOKING

The burning of a tobacco or cannabis product or related product or the hearing or ignition of an e-cigarette which creates a vapor.

TOBACCO or TOBACCO-RELATED PRODUCT

Any manufactured product containing tobacco or nicotine, including, but not limited to, cigarettes, cigars, pipe tobacco, snuff, chewing tobacco, dipping tobacco, bidis, snus, shisha, powered and/or dissolvable tobacco projects, liquid nicotine, vapes, and e-cigarette cartridges, whether packaged or not; any packaging that indicates it might contain any substance containing tobacco or nicotine; or any object utilized for the purpose of smoking or inhaling tobacco or nicotine products.

TOBACCO RETAILER

Any establishment which offers for sale or consideration, tobacco or tobacco-related products, including CBD or other substances, but not THC.

THC

Tetrahydrocannabinol or the main psychoactive compound in cannabis that produces the high sensation.

The City of Port Jervis Table of Use and Bulk Regulations is hereby amended to include the following Principal Use in its Central Business District to be listed after “Wholesale/retail auto parts store” with columns C through L to be the listed as “Pursuant to Special Use Permit by the City of Port Jervis Planning Board and in accordance with Section 535-38 of the Zoning Code and the NYS Marijuana Regulation and Taxation Act, as applicable:

Cannabis retail dispensaries

The City of Port Jervis Table of Use and Bulk Regulations is hereby amended to include the following Principal Use in its Central Business District to be listed after “Wholesale/retail auto parts store” with columns C through L to be the listed as “Pursuant to Special Use Permit by the City of Port Jervis Planning Board and in accordance with Section 535-38 of the Zoning Code:

Tobacco retailer

The City of Port Jervis Code, Chapter 535, Article IX is hereby amended to include the following Section 535-38 entitled “Supplementary Regulations Applying to Cannabis Retail Dispensaries and Tobacco Retailers”:

Section 535-38 Supplementary Regulations Applying to Cannabis Retail Dispensaries and Tobacco Retailers.

A. Applicability.

- i. These regulations shall apply to all structures and/or uses related to cannabis retail dispensaries and tobacco retailers. No cannabis retail dispensary or tobacco retailer shall be established in the City of Port Jervis except in compliance with the provisions of this chapter.
- ii. Every cannabis retail dispensary or tobacco retailer shall apply to the City of Port Jervis Planning Board for a Special Use Permit and Site Plan Approval for that use prior to commencing any work on the site related to the development of such a use. All such reviews shall be governed by all applicable sections of the City of Port Jervis Zoning Code, including, but not limited to Section 535-80 and other applicable provisions of the City of Port Jervis Code and City Charter.

B. Zoning Districts for Cannabis Retail Dispensaries and Tobacco Retailers.

Cannabis Retail Dispensaries and Tobacco Retailers shall only be allowed in the Central Business District (CBD) zoning district subject to site plan review and issuance of a Special Use Permit by the City of Port Jervis Planning Board and further subject to the regulations set forth in this section.

C. Other Location Restrictions for Cannabis Retail Dispensaries and Tobacco Retailers.

- i. The lot line of any property whereupon exists a cannabis retail dispensary or tobacco retailer shall not be located within a one hundred (100) foot radius of the lot line of any lot that is currently used or has the ability to be used for the following:
 - a. School;
 - b. Public parks;
 - c. Recreational facilities;
 - d. Playgrounds;
 - e. Child daycare, pre-k or nursery facilities;
 - f. Libraries
 - g. Churches, synagogues, mosques or other places of worship; or
 - h. Drug or alcohol recovery or rehabilitation facilities or other related health care facilities.
- ii. The lot line of any property whereupon exists a cannabis retail dispensary or tobacco retailer shall not be located within a one hundred (100) foot radius of the lot line of any lot that is currently used as a cannabis retail dispensary or tobacco retailer.

D. Special Use Criteria for Cannabis Retail Dispensaries; Tobacco Retailers. As part of any review by the Planning Board under this subsection, the following shall be submitted and/or considered by the Planning Board as part of its review of any special use permits for Cannabis Retail Dispensaries or Tobacco Retailers:

- i. Cannabis Retail Dispensaries and Tobacco Retailers must be fully enclosed and shall be located within a permanent building and may not be located in a trailer, cargo container, motor vehicle or other similar non-permanent enclosure.
- ii. No outside storage of marijuana, related supplies or promotional materials is permitted.
- iii. No smoking or consumption of any product containing cannabis or cannabis-related products shall be permitted on the premises of a cannabis retail dispensary. No burning of any product containing cannabis or cannabis-related products shall be permitted on the premises of a cannabis retail dispensary.
- iv. Each special permit use shall not include the display of signs, noise, fumes, or lights that will hinder normal development of the zoning district or impair the use, enjoyment, and character of adjacent land and buildings.
- v. The application shall include a site plan and fully dimensioned diagram or floor plan showing planned occupancy or use of all areas, including exits, fire prevention

- measures, windows, ventilation, and doors as well as any other factors determined to be necessary and appropriate by the Planning Board.
- vi. Security measures shall be implemented which are sufficient to ensure that no unauthorized persons can gain access to the building and outdoor activity areas. Such measures shall be described in detail in the special permit application.
 - vii. Subject to applicable law, as a part of any special use permit application to the Planning Board, copies of all information submitted to the State of New York in application for a license to operate under the Marihuana Regulation and Taxation Act shall be submitted as part of the special permit application.
 - viii. All special use permits issued under this Subsection shall contain a condition that the use shall not operate, and the special use permit shall not be valid, until the applicant has obtained all licenses and permits issued by the State of New York and any of its agencies.
 - ix. A special use permit granted under this Subsection shall have a term limited to the duration of the applicant's use of the premises as a licensed operator. A special use permit may be transferred only with the approval of the Planning Board in the form of an amendment to the special use permit.
 - x. Any violation of this Subsection shall be grounds for revocation of a special use permit issued under this Subsection.
 - xi. A revocation of the respective license by the State shall be grounds for revocation of the special use permit.
 - xii. Hours of operation for these uses shall be set by the Planning Board in its complete and total discretion.
 - xiii. Posting of Signs:
 - a. In addition to other applicable sign regulations, it shall be a special use permit condition that no person or entity shall sell or continue to sell or distribute tobacco or tobacco-related products and/or cannabis or cannabis-related products in the City of Port Jervis unless a sign is posted at the point of sale in a conspicuous place that warns of the dangerous of such products, including, at a minimum the following statement:
WARNING: THE PRODUCTS YOU ARE ABOUT TO PURCHASE
MAY CONTAIN NICOTINE, WHICH IS AN ADDICTIVE
CHEMICAL.
 - b. No image depicting any part of a marijuana plant or any product or use of the marijuana plant shall be allowed on the sign.

Section 5. Separability

If any part or provision of this Local Law or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Local Law or the application thereof to other persons or circumstances, and the Common Council of the City of Port Jervis hereby declares that it would have passed this Local Law or the remainder thereof had such invalid application or invalid provision been apparent.

Section 6. Repeal

All ordinances, local laws and parts thereof inconsistent with this Local Law are hereby repealed.

Section 7. Effective Date

This Local Law shall take effect immediately upon filing in the office of the New York State Secretary of State in accordance with section 27 of the Municipal Home Rule Law.