

[arrow_back](#)

City of Linden, NJ / Municipal Code / Recreational Cannabis Establishments

Article I

General Provisions

[arrow_forward](#)

§ 18-1 PURPOSE AND INTENT.

§ 18-1 PURPOSE AND INTENT.

§ 18-2 LEGAL AUTHORITY; APPLICATION OF THIS CHAPTER TO CANNABIS DISPENSARIES.

§ 18-3 COMPLIANCE WITH LAWS.

§ 18-1 PURPOSE AND INTENT. [Added 3-15-2022 by Ord. No. 66-20] It is the purpose and intent of this chapter to promote the health, safety, morals, and general welfare of the residents and businesses within the City of Linden by regulating the cultivation, processing, extraction, manufacturing, testing, distribution, transportation, sale, and consumption of marijuana, for recreational purposes as currently allowed under New Jersey State law. It is the purpose and intent of this chapter to prohibit Cannabis Dispensaries but permit Cannabis Businesses, upon application and approval of a regulatory permit, and in accordance with the criteria and procedures set forth in this Code. It is the purpose and intent of this Chapter to provide opportunities for cannabis businesses to operate in the City, while imposing regulations on the use of land to protect the City's neighborhoods, residents, and businesses from negative impacts. It is a further purpose and intent of this chapter to regulate the cultivation, manufacturing and processing of cannabis and cannabis-related products in a manner which is responsible, which protects the health, safety, and welfare of the residents of the City of Linden, and to enforce rules and regulations consistent with state law. In part to meet these objectives, an annual permit shall be required in order to own and/or to operate a Cannabis Business within the City of Linden. Nothing in this chapter is intended to authorize the possession, use, or provision of cannabis for purposes which violate state or federal law. The provisions of this Chapter are in addition to any other permits, licenses and approvals which may be required to conduct business in the City, and are in addition to any permits, licenses and approval required under State, County, or other law.

§ 18-2 LEGAL AUTHORITY; APPLICATION OF THIS CHAPTER TO CANNABIS

DISPENSARIES. [Added 3-15-2022 by Ord. No. 66-20] Pursuant to the New Jersey Constitution, the provisions of the "New Jersey Cannabis Regulatory, Enforcement Assistance and Marketplace Modernization Act" ("NJCREMM") (and as the same may be amended from time to time), and regulations promulgated thereunder by the New Jersey Cannabis Regulatory Commission ("CRC"), the City of Linden is authorized to adopt ordinances that establish standards, requirements and regulations for local licenses and permits for cannabis and cannabis-related activity. Any standards, requirements, and regulations regarding health and safety, security, and worker protections established by the State of New Jersey, or any of its departments or divisions, shall be the minimum standards applicable in the City of Linden to cannabis, and/or cannabis-related activity.

§ 18-3 COMPLIANCE WITH LAWS. [Added 3-15-2022 by Ord. No. 66-20] It is the responsibility of the owners and operators of the cannabis business to ensure that it is, at all times, operating in a manner compliant with all applicable state and local laws, and any regulations promulgated thereunder, and any specific additional operating procedures or requirements which may be imposed as conditions of approval of the cannabis business permit. Nothing in this chapter shall be construed as authorizing any actions which violate federal, state law or local law with respect to the operation of a cannabis business.

[arrow_back](#)

City of Linden, NJ / Municipal Code / Recreational Cannabis Establishments

Article III

Permits Required for Owner/Operator and Employees

[arrow_forward](#)

§ 18-5 CANNABIS BUSINESS PERMIT REQUIRED TO ENGAGE IN CANNABIS BUSINESS.

§ 18-6 CANNABIS BUSINESS EMPLOYEE PERMIT REQUIRED.

§ 18-5 CANNABIS BUSINESS PERMIT REQUIRED TO ENGAGE IN CANNABIS BUSINESS.

[Added 3-15-2022 by Ord. No. 66-20] No person may engage in any cannabis business, including cultivation, manufacture, processing, laboratory testing, transporting, dispensing or distribution of cannabis or a cannabis product unless the person (1) has a valid cannabis business permit or cannabis dispensary permit from the City of Linden; and (2) is currently in compliance with all applicable state and local laws and regulations pertaining to the cannabis business and the cannabis business activities, including the duty to obtain any required state licenses.

§ 18-6 CANNABIS BUSINESS EMPLOYEE PERMIT REQUIRED. [Added 3-15-2022 by Ord. No. 66-20]

- a. Any person who is an employee or who otherwise works or volunteers within a cannabis business must be legally authorized to do so under applicable state law.**
- b. Any person who is an employee or who otherwise works or volunteers within a cannabis business shall wear a name badge issued by the cannabis business management for identification purposes.**

[arrow_back](#)

City of Linden, NJ / Municipal Code / Recreational Cannabis Establishments

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[arrow_forward](#)

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§ 18-6 CANNABIS BUSINESS EMPLOYEE PERMIT REQUIRED. [Added 3-15-2022 by Ord. No. 66-20]

a. Any person who is an employee or who otherwise works or volunteers within a cannabis business must be legally authorized to do so under applicable state law.

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[arrow_back](#)

City of Linden, NJ / Municipal Code / Recreational Cannabis Establishments

Article IV

Number and Type of Authorized Cannabis Businesses Permitted

[arrow_forward](#)

§ 18-7 MAXIMUM NUMBER OF CANNABIS BUSINESSES PERMITTED TO OPERATE

WITHIN THE CITY. [Added 3-15-2022 by Ord. No. 66-20]

a. The maximum number of each type of Cannabis Businesses that shall be permitted to operate in the City at any given time shall be as follows:

1. Class 1 Cannabis Cultivator license, for facilities involved in growing and cultivating cannabis: two licenses.

2. Class 2 Cannabis Manufacturer license, for facilities involved in the manufacturing, preparation, and packaging of cannabis items: two licenses.

b. The above subsection is only intended to create a maximum number of Cannabis Businesses that may be issued permits to operate in the City under each category. Nothing in this chapter creates a mandate that the City Council must issue any or all of the Cannabis Business Permits potentially available.

[arrow_back](#)

City of Linden, NJ / Municipal Code / Recreational Cannabis Establishments

Article V

Application for Cannabis Business Permit

[arrow_forward](#)

§ 18-8 INITIAL APPLICATION PROCEDURE.

§ 18-9 PROCESSING OF APPLICATION.

§ 18-10 LICENSE FEE; TERM.

§ 18-11 DENIAL OF LICENSE.

§ 18-12 LICENSE RENEWALS.

§ 18-13 TRANSFERABILITY.

§ 18-14 SUSPENSION OR REVOCATION OF LICENSE.

§ 18-15 EFFECT OF STATE LICENSE SUSPENSION, REVOCATION, OR TERMINATION.

§ 18-8 INITIAL APPLICATION PROCEDURE. [Added 3-15-2022 by Ord. No. 66-20]

a. Any person desiring a license under this chapter shall file with the City Clerk an original and five copies of an application under oath, in writing, on a form furnished by the City Clerk.

b. The application shall set forth the following information:

- 1. The applicant's name, business name and business address.**
- 2. Whether the applicant is an individual, partnership, corporation or another entity and, if another entity, a full explanation and description thereof.**
- 3. If the applicant is an individual, the applicant's residence address and date and place of birth.**
- 4. If the applicant is a partnership, the full names, residence addresses, dates and places of birth of each partner.**
- 5. If the applicant is a corporation or other entity: in the case of a corporation, the full names, residence addresses, dates and places of birth of each major officer and each stockholder, the name and address of the registered agent and the address of the principal office upon whom and where service of process is authorized to be made (the term "stockholder" as used herein means and includes any person having an interest, either legal or equitable, in 10% or more of the stock issued and outstanding of the applicant corporation); in the case of another entity, the full names, residence addresses, dates and places of birth of each person owning or having any interest, legal or equitable, aggregating in value 10% or more the total capital of the said entity, the name and address of the registered agent, if any, and the address of the principal office, if any, upon whom and where service of process is authorized to be made.**

- 6. Whether the applicant or any partners, officers or stockholders thereof have ever been convicted of a crime and, if so, the name of the person convicted, the nature of the crime or charge involved and the disposition thereof (the term "officers" as used herein means and includes the president, vice president, secretary and treasurer of a corporate applicant).**
- 7. The business addresses of the manager of the person in charge of the licensed premises during the five-year period preceding the date of application.**
- 8. A description of the metes and bounds of the place where the business is to be located and carried on.**
- 9. A survey or scale drawing of the plot showing the structures and open spaces/areas to be used in the business, approved existing or proposed entrances and exits to and from the place where the business is to be conducted, the location and place of said business and location and size of all structures and fences thereon and the setback thereof from street lines.**
- 10. A scale drawing of the interior of the premises showing all entrances and exits to and from the place where the business is to be conducted; the location and placement of all antifire equipment, i.e., hoses, extinguishers, sprinkler systems, etc.; and the location of all fire exits.**
- 11. A scale drawing showing the proposed plan of evacuation in the event of an emergency.**
- 12. A valid certificate of occupancy for the premises.**
- 13. A copy of all documents submitted by the applicant to the State in connection with the application for a state operating number and all documents issued by the State indicating that the applicant has been qualified or pre-qualified for a state operating license.**
- 14. An application fee of \$2,500. [Added 12-20-2022 by Ord. No. 66-76]**

c. The City's Reservation of Rights: The City reserves the right to reject any or all applications. The City may also modify, postpone, or cancel any request for applications, or the entire program under this chapter, at any time without liability, obligation, or commitment to any party, firm, or organization. Persons submitting applications assume the risk that all or any part of the program, or any particular category of permit potentially authorized under this chapter, may be cancelled at any time prior to permit issuance. The City further reserves the right to request and obtain additional information from any candidate submitting an application. In addition to any other appropriate reasons for rejection, including but not limited to a failure to comply with any requirement of any State or local law, rule or regulation, an application risks being rejected for any of the following reasons:

- 1. Proposal not containing the required elements, exhibits, nor organized in the required format.**
- 2. Proposal considered not fully responsive to this request for permit application.**

§ 18-9 PROCESSING OF APPLICATION. [Added 3-15-2022 by Ord. No. 66-20]

a. Submission by Clerk to Departments.

1. Upon receipt of such application, the City Clerk shall submit same to the Police Department, Fire Department, Construction Code Department, Zoning Officer and Health Department for reports with references to the compliance or noncompliance of the proposed establishment, with municipal and state rules, regulations, statutes and ordinances and the truth of the matter contained in the application.

2. The Clerk shall submit each completed application for license or renewal thereof to the various departments within 10 days of receipt of the completed application, and the department shall have 30 days from their receipt to investigate and prepare the reports concerning the license application or renewal, except in the event the Department of Construction Code identifies a violation of the premises sought to be used by the license applicant. Notice of the violation shall immediately be given to the applicant who shall have the time afforded by the appropriate municipal ordinance or regulation to correct the violation. The Department of Construction Code shall not issue its report to the City Clerk until such time as the period to correct has expired.

b. Upon return of said application and reports, the City Clerk shall submit same to the City Council for action at its next scheduled City Council meeting. If there are objections to the issuance of the license, the Clerk must submit the application and reports to the Council within 10 days, and the Council must give notice to the applicant within five days of their receipt of the reports concerning this application and within 30 days of the submission a hearing shall be held for the City Council concerning the application to decide to grant or deny the license unless the parties agree to additional time for that decision.

c. Upon the consent and approval of the City Council and upon receipt of a copy of a certificate of occupancy for the licensed premises, the City Clerk shall forward a resolution of approval to the CRC. Upon receipt of an application from the CRC, the City shall inform the CRC within 28 days whether such license application complies with this chapter and the City's failure to respond to the CRC within the designated time period may result in the CRC deeming the license application in compliance with any pertinent ordinance or regulation. The City may provide input to the CRC as to the City's preferences for licensure pursuant to N.J.A.C.

17:30-6.3

§ 18-10 LICENSE FEE; TERM. [Added 3-15-2022 by Ord. No. 66-20]

a. The annual fee for a license under this chapter shall be \$2,500.

b. Such license shall run for a period of one year, commencing January 1 and ending December 31 of the year of its issuance.

§ 18-11 DENIAL OF LICENSE. [Added 3-15-2022 by Ord. No. 66-20] No license shall be granted by the Council if:

- a. The licensee has failed to comply with the provisions of this chapter;**
- b. The licensed premises or use thereof is not permitted by the terms and provisions of the zoning ordinances;**
- c. Licensee is in violation of any law, code or regulation involving the business to be licensed;**
- d. The individual applicant or the principals and manager of a firm applicant or any of them have been convicted of an offense as set forth in N.J.A.C. 17:30-7.11 or otherwise violates the provisions thereof.**

§ 18-12 LICENSE RENEWALS. [Added 3-15-2022 by Ord. No. 66-20] All existing licenses and those that hereafter issue, upon payment of the prescribed license fee and compliance with the terms of this chapter, shall be renewed annually as of January 1. Applications for renewal of an expiring license shall be made with the payment of the annual fee and the filing of an application provided by the City Clerk. The application shall include a statement that no changes have been made in any of the facts or information stated in the original application or to the licensed premises during the preceding licensed period. If there are any material changes, those shall be noted on the application form.

§ 18-13 TRANSFERABILITY. [Added 3-15-2022 by Ord. No. 66-20] The license shall authorize the licensee to conduct business only on the premises specified in the license. Without the consent of the City Council, the license shall not be transferable to any other premises, nor assignable or transferable in any manner or to any other person.

§ 18-14 SUSPENSION OR REVOCATION OF LICENSE. [Added 3-15-2022 by Ord. No. 66-20] All licenses are subject to suspension or revocation after due notice and hearing by the City Council for the violation of any of the terms of this chapter, for the violation by the licensee of state and municipal rules, regulations, statutes and/or ordinances or for allowing, suffering and/or permitting the violation of state and municipal rules, regulations, statutes and/or ordinances upon the licensed premises by the servants, agents, employees and/or patrons thereof where the licensee knew or should have known that such violations were being committed by the servants, agents, employees and/or patrons of the licensee.

§ 18-15 EFFECT OF STATE LICENSE SUSPENSION, REVOCATION, OR TERMINATION.

[Added 3-15-2022 by Ord. No. 66-20] Suspension of a license issued by the State of New Jersey, or by any of its departments or divisions, shall immediately suspend the ability of a cannabis business to operate within the City, until the State of New Jersey, or its respective department or division, reinstates or reissues the State license. Should the State of New Jersey, or any of its departments or divisions, revoke or terminate the license of a cannabis business, such revocation or termination shall also revoke or terminate the ability of a cannabis business to operate within the City of Linden.

arrow_back

City of Linden, NJ / Municipal Code / Recreational Cannabis Establishments

Article IX

Additional Requirements for Manufactured Cannabis

arrow_forward

§ 18-26 ACCESS TO FACILITIES.

§ 18-27 CANNABIS MANUFACTURING: EDIBLES AND OTHER CANNABIS PRODUCTS.

§ 18-28 PACKAGING AND LABELING.

§ 18-26 ACCESS TO FACILITIES. [Added 3-15-2022 by Ord. No. 66-20] All manufacturing of cannabis shall take place in an enclosed indoor, and locked facility and access to such enclosed, locked area or facility shall be limited to an owner, principal, employee, volunteer, of a license holder or the staff members of a license holder's management services contractor that possesses a Cannabis Business Identification Card and are authorized by the cannabis business to access the facility.

§ 18-27 CANNABIS MANUFACTURING: EDIBLES AND OTHER CANNABIS PRODUCTS.

[Added 3-15-2022 by Ord. No. 66-20]

a. A cannabis manufacturer shall not manufacture cannabis products that contain drug products that appear on the Federal Food and Drug Administration's List of Drug Products Withdrawn or Removed from the Market for Reasons of Safety or Effectiveness, codified at 21 CFR 216.24.

b. A cannabis manufacturer may manufacture oil for use in an electronic smoking device as vaporized formulation, in a pressurized metered dose inhaler, or in topical or oral formulations.

c. A cannabis manufacturer is authorized to manufacture the following forms:

1. A cannabis concentrate, either in solid form or in liquid form as oil, either as cannabis extract or as resin extracted using non-chemical processes;

2. A cannabis-infused product, either in solid form or liquid form, containing either usable cannabis or cannabis concentrate along with an additional ingredient that includes, but is not limited to: (a) Vaporized formulation; (b) Drops, tinctures, and other sublabial and sublingual forms; (c) Oral lozenges and other buccal forms; (d) Ingestible forms, which shall only include syrups, pills, tablets, capsules, and chewable forms; and (e) Topical formulations and transdermal forms; and

3. Any other form authorized by the Commission, including a form authorized in accordance with the Commission's power to waive requirements pursuant to N.J.A.C. 17:30-3.13. No ingestible product shall be in the shape of, or a shape bearing the likeness or containing characteristics of, a realistic or fictional human, animal, or fruit, or part thereof, including artistic, caricature, or cartoon renderings.

§ 18-28 PACKAGING AND LABELING. [Added 3-15-2022 by Ord. No. 66-20]

a. Before a cannabis manufacturer delivers any edible cannabis or edible cannabis product to a dispensary, the same shall be labeled and placed in tamper-evident packaging which at least meets the requirements of New Jersey Business and Professions Code, as the same may be amended from time-to-time or superseded or replaced by subsequent State legislation or by any department or division of the State of New Jersey.

b. All items to be sold or distributed shall be individually wrapped at the original point of preparation by the business permitted as a cannabis manufacturer.

c. Labeling must include a warning if nuts or other known allergens are used and must include the total weight (in ounces or grams) of cannabis in the package.

d. The package must have a label warning that the product is to be kept away from children.

e. The label must also state that the product contains cannabis and must specify the date of manufacture.

f. Deliveries must be in a properly labeled opaque package when delivered.