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City of Rahway, NJ / The Code / Part II, General Legislation

Chapter 420

Cannabis Transfer and User Tax

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[HISTORY: Adopted by the City Council of the City of Rahway 7-22-2021 by Ord. No. O-24-21.

Amendments noted where applicable.]

§ 420-1 Establishment of cannabis transfer tax and user tax in Rahway.

A. The cannabis transfer tax in Rahway shall be fixed at a uniform percentage rate of 2%

on all sales or transfers of cannabis products from any of the cannabis establishments that are located within the geographical boundaries of the City. This tax shall be imposed on: (1) Receipts from the sale of cannabis by a cannabis cultivator to another cannabis cultivator; (2) Receipts from the sale of cannabis items from one cannabis establishment to another cannabis establishment; (3) Receipts from the retail sales of cannabis items by a cannabis retailer to retail consumers who are 21 years of age or older; or any combination thereof.

B. A 1% transfer tax shall be collected from receipts from each sale by a cannabis wholesaler located within the geographical boundaries of the City.

C. A user tax is hereby also established at the same rate (2%) of the transfer tax contained herein and shall be imposed on the value of each transfer or use of cannabis or cannabis items not otherwise subject to the transfer tax imposed pursuant to P.L. 2021, c. 16, from the license holder's establishment that is located in the City to any of the other license holder's establishments, whether located in the City or another municipality.

D. The transfer tax or user tax imposed by this chapter shall be in addition to any other tax imposed by law. Any transaction for which the transfer tax or user tax is imposed, or could be imposed pursuant to this section, other than those which generate receipts from the retail sales by cannabis retailers, shall be exempt from the tax imposed under the Sales and Use Tax Act (N.J.S.A. 54:32B-1 et seq.). The transfer tax or user tax will be assessed and collected pursuant to established state law and administrative rules and regulations regarding same.

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City of Rahway, NJ / The Code / Part II, General Legislation

Chapter 422

Cannabis Licensing and Business Regulations

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New Laws

Title Adopted Subject Affects

Ord. No. O-16-23

2023-04-10

Cannabis Licensing and Business Regulations Amendment

Ch 422

[HISTORY: Adopted by the City Council of the City of Rahway 11-9-2022 by Ord. No. O-42-22.

Amendments noted where applicable.]

§ 422-1 Purpose.

§ 422-2 Definitions.

§ 422-3 Local licensing authority.

§ 422-4 Members and duties of Evaluation Committee and Advisory Committee.

§ 422-5 License required; application process; fees.

§ 422-6 Disciplinary actions; sanctions; violations and penalties.

§ 422-7 Denial, suspension or revocation of license; appeal.

§ 422-1 Purpose. This chapter is enacted to regulate any cannabis-related businesses

and medical dispensaries in the City of Rahway in accordance with the provisions of an

Act of Legislature of the State of New Jersey entitled "Jake Honig Compassionate Use

Medical Cannabis Act" (N.J.S.A. 24:6I-1 et seq.) and the "New Jersey Cannabis

Regulatory, Enforcement Assistance and Marketplace Modernization Act" (N.J.S.A.

24:6I-31 et seq.) and in accordance with the rules and regulations of the Cannabis

Regulatory Commission.

§ 422-2 Definitions. As used in this chapter, the following terms shall have the meanings indicated: CANNABIS Shall have the same meaning as contained in P.L. 2021, c. 16 (N.J.S.A. 24:6I-31 et seq.). "Cannabis" does not include medical cannabis dispensed to registered and 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.). MEDICAL CANNABIS 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.). "Medical cannabis" does not include any cannabis or cannabis item which is cultivated, produced, processed and consumed in accordance with P.L. 2021, c. 16 (N.J.S.A. 24:6I-31 et seq.). MEDICAL CANNABIS DISPENSARIES or MEDICAL CANNABIS ALTERNATE TREATMENT CENTER A business entity, which shall include clinical registrants, that is authorized by the State of New Jersey to possess, display, deliver, transfer, transport, distribute, supply, sell, and dispense medical cannabis, medical cannabis products, paraphernalia, and related supplies to qualifying patients, designated caregivers and institutional caregivers pursuant to written instructions issued by a health care practitioner pursuant to the requirements of P.L. 2009, c. 307 (N.J.S.A. 24:6I-1 et seq.). The term shall include the act of furnishing medical cannabis to a medical cannabis handler for delivery to a registered qualifying patient. A medical cannabis dispensary license shall not authorize the license holder to cultivate medical cannabis, to produce, manufacture or otherwise create medical cannabis products. An expanded medical cannabis dispensary with a personal use cannabis retail license shall only be permitted if approved by the Commission pursuant to N.J.S.A. 24:6I-46.

§ 422-3 Local licensing authority.

A. The regulations of this chapter are subject to the enabling authority of the State of New Jersey and are subject to compliance with all statutes and/or regulations adopted by the State of New Jersey or its instrumentalities, including the Cannabis Regulatory Commission. If any provision of this chapter is inconsistent with state statutes and/or regulations, the state statutes and/or regulations shall prevail.

B. An Evaluation Committee and Advisory Committee as appointed below will act as the body for local review for the City for all cannabis-related businesses, but the authority and responsibility to activate, suspend and revoke such licenses remains with the City Council. Under all circumstances under which state law requires communication to the City by the Cannabis Regulatory Commission or any other state agency with regard to the licensing of cannabis establishments by the state or in which state law requires any review or approval by the City of any action taken by the state licensing authority, the exclusive authority for receiving such communications and granting such approvals shall be communicated through the City Clerk's Office upon recommendation by the Advisory Committee and as authorized by the City governing body.

§ 422-4 Members and duties of Evaluation Committee and Advisory Committee.

A. Members of the Evaluation Committee shall include the following: (1) The following department heads and City officials shall review the application and draft a letter of recommendation to the Advisory Committee for additional review and consideration: (a) Business Administrator or designee; (b) Department of Health Director/Health Officer or designee; (c) Police Department Director or designee; (d) Fire Department Chief or designee; (e) City Planner or designee; (f) Department of Engineering and Land Use Director or designee; (g) Finance Department Director/CFO or designee; (h) Code Enforcement Director or designee.

B. The Evaluation Committee members may assign review tasks to specific staff and/or consultants or resources having experience and/or certifications in specialized areas related to the application information as necessary to effectuate their responsibilities, including but not limited to engineering, land use, security, traffic, odor, environmental science, and/or emergency management.

C. Members of the Advisory Committee shall review the letter of recommendation from the Evaluation Committee and make a recommendation to the City Council. Members of the Advisory Committee shall consist of the following: (1) Three Mayor appointees.

D. The members of the Advisory Committee may request additional information from the Evaluation Committee as necessary to effectuate their responsibilities.

E. No member of the Evaluation or Advisory Committee may hold interest in or be related to an applicant.

F. The Advisory Committee is hereby designated to act as the local licensing application review board for the City for any and all cannabis-related business licenses. Under all circumstances in which state law requires communication to the City by the state licensing authority or any other state agency with regard to the licensing of any cannabis-related business licenses, including, but not limited to, medical cannabis dispensaries or medical cannabis dispensaries with personal use cannabis retail if approved by the Commission and/or Class 5 licensed retail business by the state, or in which state law requires any review or approval by the City of any action taken by the state licensing authority, the exclusive authority for receiving such communications shall be the City Clerk's Office, and upon recommendation of the City Advisory Committee, granting such approvals shall be exercised by the City governing body.

§ 422-5 License required; application process; fees. Under no circumstance shall a local license for any cannabis-related business, including, but not limited to, medical cannabis dispensary, medical cannabis dispensary with personal use cannabis retail if approved by the Commission and/or Class 5 licensed retail business, issued by the Advisory Committee be effective until or unless the state has issued the requisite licenses to operate such a facility. It is the intent of this chapter that no cannabis-related business, including but not limited to a medical cannabis dispensary, medical cannabis dispensary with personal use cannabis retail, or Class 5 licensed retail business, may lawfully exist in the City without the issuance of a state license and full regulatory oversight of the cannabis establishment by the state licensing authority as well as oversight and issuance of a license by the City.

A. Classification of license. The City of Rahway, subject to land use approval and state licensure, may issue a municipal license to operate a cannabis-related business, including, but not limited to, a medical cannabis dispensary, medical cannabis dispensary with personal use cannabis or Class 5 licensed retail establishment, if approved by the governing body.

B. Application. Only persons or entities licensed by the State of New Jersey Cannabis

Regulatory Commission to operate a cannabis-related business, including but not limited to a medical cannabis dispensary, medical cannabis dispensary with personal use cannabis retail if approved by the Commission or Class 5 licensed retail business, may make an application to operate in the City. All licensees shall operate at all times in complete compliance with the terms and conditions of their state and local license, as well as any other applicable section of the City Code and/or state law. (1) The City encourages and promotes the participation of diversely owned businesses, pursuant to N.J.A.C. 17:30-6.4, for all cannabis businesses in the City. Applicants from the statutorily designated target communities as determined by the Cannabis Regulatory Commission shall receive priority review and approval in the application process pursuant to N.J.S.A. 24:6I-35a.(3) and (4), which requires the Cannabis Regulatory Commission to adopt rules and regulations that shall make licenses available to as diverse a group as reasonably practicable. (2) Any individual wishing to obtain a license to operate a cannabis-related business, including but not limited to a medical cannabis dispensary, medical dispensary with personal use cannabis retail if approved by the Commission or Class 5 licensed retail business, shall file a license application with the Advisory Committee on a standardized form established by the City and available in the City Clerk's office. The Evaluation Committee shall establish a reasonable application period and deadline for all applications. An application shall be deemed incomplete, and shall not be processed by the Evaluation Committee, until all documents and application fees are submitted. To be deemed complete, all applications shall be accompanied by the following: (a) The applicant shall submit proof that the applicant has or will have lawful possession of the premises proposed for the cannabis-related business, including, but not limited to, medical cannabis dispensary, medical dispensary with personal use cannabis retail if approved by the Commission or Class 5 licensed retail business, which proof may consist of a deed, a lease, a real estate contract contingent upon successful licensing, or a binding letter of intent by the owner of the premises indicating an intent to lease the premises to the entrant contingent upon successful licensing. (b) The applicant shall submit an affidavit and documentary proof of compliance with all state and local laws regarding affirmative action, antidiscrimination and fair employment practices. The applicant shall also certify under oath that they will not and shall not discriminate based on race, color, religion (creed), gender, gender expression, age, national origin (ancestry), disability, marital status, sexual orientation, or military status in any of its activities or operations. (c) The location proposed for licensing by the applicant shall comply with all applicable City zoning laws and the location restrictions set forth in this chapter and other applicable chapters within the City's codes. It is preferred that the applicant submit their application prior to appearing before the City's Planning Board or Zoning Board of Adjustment. (d) The applicant shall submit, to the satisfaction of the Evaluation Committee, proof of financial capability to open and operate the marijuana establishment for which the applicant is seeking a license. Standards for proof of financial capability shall be

C. Term of license and license renewals. (1) Any local license issued pursuant to this chapter shall be valid for a period of one year from the date of issuance, and shall have an annual renewal fee of \$1,000, subject to the provisions of this chapter. (2) The Advisory Committee may, at their discretion, adjust the renewal date of the local license to correlate with an applicant's state licensing and renewal schedule. (3) Renewal of any license shall be governed by any code amendments, additional restrictions or changes in regulations adopted since the previous license was issued or renewed. (4) Transfer of ownership of any cannabis-related business, including but not limited to a medical cannabis dispensary or Class 5 retail cannabis license, change of location, or modification to expand a licensed premises shall be treated as a new application. (5) If the licensee has received notice of violation of any law or regulation, including disciplinary action against any past or current cannabis license, the application for renewal shall include a copy of the notice of disciplinary action with their application. (6) Except where the Evaluation Committee has received a complete renewal application along with the requisite fees, the Advisory Committee recommends that applicant, and the City Council has issued a license renewal, it shall be unlawful for any person to manufacture, sell, distribute, transfer, transport, or otherwise remove cannabis or cannabis products from the premises of any licensed cannabis-related business, including but not limited to a medical cannabis dispensary or Class 5 licensed retail business, after the expiration date recorded on the face of the license.

§ 422-6 Disciplinary actions; sanctions; violations and penalties. Disciplinary actions.

Procedures for investigation of license violations and for suspension, revocation, or other licensing sanctions as a result of any such violation shall be as follows:

A. First offense: up to \$250 per violation per day.

B. Second offense: up to \$500 per violation per day.

C. Third violation shall result in summary suspension. (1) Summary suspension.

Notwithstanding the foregoing section, when the Disciplinary Committee has reasonable grounds to believe that a licensee has engaged in deliberate and willful violation of any applicable law or regulation, or that the public health, safety, and/or general welfare has been jeopardized and requires emergency action, the Disciplinary Committee may recommend to the City governing body that they enter a summary suspension order for the immediate suspension of such license pending further investigation. (2) The summary suspension order shall be in writing and shall state the reasons therefor. The licensee shall be afforded an opportunity for a hearing as outlined herein. (3) The Disciplinary Committee shall convene a review panel consisting of the Business Administrator or designee; Department of Health Director/Health Officer or designee; Police Department Director or designee; Fire Department Chief or designee; City Planner or designee; Department of Engineering and Land Use Director or designee; Finance Department Director/CFO or designee; and the Code Enforcement Director or designee. (4) The hearing shall be scheduled within 30 days of the date of the order. (5) The review panel is authorized to impose any fines, conditions, restrictions, suspensions, or combination thereof authorized by the State of New Jersey. In the absence of state specified penalties, the City may issue fines up to, but not to exceed, \$2,000 as listed above per offense and/or suspension of license for a period not to exceed six months. (6) Inactive licenses. Following the commencement of any cannabis-related businesses, including, but not limited to, retail sales of cannabis or cannabis products at a licensed medical cannabis dispensary or Class 5 licensed cannabis retail business, the City Council with the assistance of the Disciplinary Committee may suspend or revoke any license if the licensed premises has been inactive or unoccupied by the licensee for at least six months. (7) State license. The Disciplinary Committee may recommend to the City Council that it suspend or revoke any license if the corresponding state license or permit for the subject location is expired, surrendered, suspended, or revoked.

§ 422-7 Denial, suspension or revocation of license; appeal. Any applicant aggrieved by the denial of a local license as provided in this chapter or any licensee subject to any disciplinary action as provided in this chapter shall have the right of appeal to the governing body within 10 days after the written notice of the action taken has been mailed to the applicant or licensee. The applicant or licensee shall provide a written statement to the City Clerk setting forth fully the grounds for the appeal and requesting a hearing before the governing body. The governing body shall set a time and place for hearing on such appeal and notice of the hearing shall be sent by registered mail to the applicant or licensee at their address on file with the City at least 10 days prior to the date set for the hearing. The decision of the governing body on such appeal shall be final and conclusive.