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Borough of Roselle, NJ / Part IV: General Ordinances

Chapter 155

Cannabis Establishments

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[HISTORY: Adopted by the Mayor and Council of the Borough of Roselle 7-21-2021 by Ord. No. 2658-21. Amendments noted where applicable.

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§ 155-1 Definitions. As used in this chapter, the following terms shall have the meanings

indicated: **CANNABIS** A substance that is bought, sold, and used in accordance and consistent with the laws of New Jersey and the regulations promulgated by the New Jersey Cannabis Regulatory Commission. **CANNABIS DELIVERY SERVICE** Any licensed person or entity that provides courier services for consumer purchases of cannabis items and related supplies fulfilled by a cannabis retailer in order to make deliveries of the cannabis items and related supplies to that consumer, and which services include the ability of a consumer to purchase the cannabis items directly through the cannabis delivery service, which after presenting the purchase order to the cannabis retailer for fulfillment is delivered to that consumer. "Cannabis delivery services" refer to those uses that require possession of a Class 6 Cannabis Delivery license. **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 distributors refer to those uses that require possession of a Class 4 Cannabis Distributor license under the P.L. 2021, c. 16, known as the "New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act." **CANNABIS ESTABLISHMENT** A cannabis cultivator, delivery service, distributor, manufacturer, retailer, and/or wholesaler. **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 manufacturers refer to those uses that require a Class 2 Cannabis Manufacturer license under the P.L. 2021, c. 16, known as the "New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act." **CANNABIS RETAILER** Any licensed person or entity that purchases or otherwise obtains usable cannabis from cannabis cultivators and cannabis items from cannabis manufacturers or cannabis wholesalers, and sells these to consumers from a retail store, and may use a cannabis delivery service or a certified cannabis handler for the off-premises delivery of cannabis items and related supplies to consumers. A cannabis retailer shall also accept consumer purchases to be fulfilled from its retail store that are presented by a cannabis delivery service which will be delivered by the cannabis delivery service to that consumer. Cannabis retailers refer to those uses that require possession of a Class 5 Cannabis Retailer license under the P.L. 2021, c. 16, known as the "New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act." This includes

§ 155-2 (Reserved) [1] [1] Editor's Note: Former § 155-2, Cannabis establishments prohibited,
was repealed 12-21-2022 by Ord. No. 2695-22.

§ 155-3 Cannabis establishments allowed. [Amended 12-21-2022 by Ord. No. 2695-22] Class
1 through 6 Cannabis establishments shall be permitted, pursuant to this chapter, only if the
following requirements are complied with:

A. The regulations of this section are subject to the enabling authority of the state and are
subject to compliance with all statutes and/or regulations adopted by the state or its
instrumentalities. If any provision of this Section is inconsistent with the statutes and/or
regulations of the state, the state statutes and/or regulations shall prevail.

B. Prior to the operation of any cannabis establishment, a permit or license must be obtained from the state and from the Borough of Roselle for the applicable type of cannabis establishment. No cannabis establishment shall be permitted to operate without state and municipal permits or licenses (including, but not limited to, a certificate of occupancy issued by the Borough).

C. Permitted and conditional uses shall, at all times, comply with the terms and conditions of the licensee's cannabis establishment license for permits or licenses issued by the State of New Jersey and the Borough of Roselle.

D. No cannabis establishment shall be allowed as a home occupation.

E. No cannabis establishment shall be housed in a vehicle or any moveable or mobile structure.

F. No cannabis establishment shall operate an outdoor cannabis consumption area within the Borough of Roselle.

G. Odor. Cannabis establishments shall have equipment to mitigate odor. The building shall be equipped with a ventilation system with carbon filters sufficient in type and capacity to mitigate cannabis odors emanating from the interior of the premises.

H. Noise. Outside generators and other mechanical equipment used for any kind of power supply, cooling, or ventilation shall be enclosed and have appropriate baffles, mufflers, and/or other noise reduction systems to mitigate noise pollution.

I. Security. (1) All cannabis establishments shall be secured in accordance with State of New Jersey Statutes and regulations; shall be equipped with security cameras covering all exterior parking and loading areas, points of entry, and interior spaces which are either open to the public or used for the storage or processing of cannabis, cannabis-derived or cannabis-infused products. Such footage must be maintained for the duration required under state law. (2) To the extent not already required by the entity's state license, all licensed facilities must provide at least one security guard (or more if required by the state) during all times the facility is open to the public. The security guard(s) shall be a state-certified security officer whose certification is in good standing and shall provide sufficient security to prevent the sale or diversion of cannabis items to persons under the legal age. (3) Hours. No cannabis retailer may open to customers for business before 7:00 a.m. or remain open to customers for business after 10:00 p.m. (4) Prohibited uses. Except as expressly permitted by this Chapter 155 of the Code of the Borough of Roselle, entitled "Cannabis Establishments," any activity involving the cultivation, manufacture, processing, testing, dispensation, distribution and/or sale of cannabis, cannabis-derived or infused products are expressly prohibited in all Public Use Zones, as defined in § 650-98 of this Code.

J. Customer congestion. Cannabis establishments shall implement appropriate procedures for addressing potential issues arising from customer congestion, and shall ensure that their customers and vendors do not impede pedestrian or vehicular traffic over or to neighboring public and private properties (including streets and sidewalks).

K. Police support. When necessary to address crowd and/or traffic issues. Cannabis establishments are responsible for obtaining police support pursuant to § 83-16 of the Borough Code.

§ 155-4 On-site signage.

A. No state-licensed cannabis business shall display signage containing text and/or images intended to promote excessive consumption of legal cannabis products.

B. Signage shall otherwise comply with the requirements of Chapter 620, Signs, of this Code, to the extent permissible by applicable state laws and regulations governing signage standards for licensed cannabis establishments.

§ 155-5 Licensing. [Amended 5-18-2022 by Ord. No. 2684-22]

A. Local licensing authority. (1) The governing body is hereby designated to act as the local licensing authority for the Borough for all cannabis establishments. Under all circumstances in which state law requires communication to the Borough 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 Borough of any action taken by the state licensing authority, the exclusive authority for receiving such communications and granting such approvals shall be exercised by the Borough Administrator. (2) It is in the intent of this chapter that no cannabis establishment may lawfully operate in the Borough without the issuance of a state permit or license and full regulatory oversight of the cannabis establishment by the Cannabis Regulatory Commission or other state licensing authority.

B. Within 28 days of receipt of a license application from the New Jersey Cannabis Regulatory Commission (the "Commission"), the Borough shall inform the Commission whether such license application complies with its ordinance or regulation, as may be applicable.

C. If the Borough receives multiple pending license applications from the Commission, the Borough shall provide input to the Commission as to the municipality's preferences for licensure in ranking order from the first to last, respectively, for each class of license and each applicant that meets the Borough's requirements set forth in Subsection K. [Amended 12-21-2022 by Ord. No. 2695-22]

D. The Borough Council shall review the applications received from the Commission and adopt a resolution to rank the applications by preferences, considering public interest factors, including but not limited to the following: (1) Local patients' and consumers' interests; (2) Jobs and economic opportunity within the Borough; (3) Compliance with local ordinances and regulations; (4) Public safety; and (5) Sustainability of the site for activities related to the operation of the proposed cannabis establishment.

E. The Borough Council may provide zoning approval of a proposed location of a license applicant's cannabis business premises, which shall consist of a letter or affidavit from the zoning officer of the Borough stating that the location will conform with municipal zoning requirements allowing for activities related to the operations of the proposed cannabis business to be conducted at the location and any variances granted concerning the operation of any cannabis business.

F. A Borough license shall be issued to an applicant that has: [Amended 12-21-2022 by Ord. No. 2695-22] (1) Received an annual license from the Commission; (2) Satisfied the requirements contained in Subsection K, and demonstrated that the cannabis establishment will adhere to the minimum requirements set forth in § 155-3 of the Borough Code; and (3) Received site plan approval pursuant to § 650-5 of the Borough Code, or demonstrated entitlement to an exemption on one of the grounds listed in § 650-6 of the Borough Code.

G. Any government official or employee of the Borough shall not solicit from a cannabis business, and a cannabis business shall not offer, any thing of value in exchange for zoning approval, proof of local support, or written approval for such cannabis business, or take any other action that would violate N.J.S.A. 40A:9-22.5 of the Local Government Ethics Law.

H. Classification of licenses. The Borough may issue the following municipal licenses to operate a cannabis establishment for either standard or microbusiness licenses, consistent with the requirements set forth by the Commission: Class 1: Cannabis cultivator license Class 2: Cannabis manufacturer license Class 3: Cannabis wholesaler license Class 4: Cannabis distributor license Class 5: Cannabis retail license Class 6: Cannabis delivery license

I. Maximum number of standard licenses. (1) The Borough will limit the number of local cannabis establishments with state licenses to the following: two Class 1 licenses; two Class 2 licenses; two Class 3 licenses; two Class 4 licenses; three Class 5 licenses; and five Class 6 licenses. (2) To the extent permissible by state law, licensure 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.

J. Maximum number of microbusiness licenses. The Borough will limit the number of local cannabis establishments with state microbusiness licenses to the following: two Class 1 microbusiness licenses; two Class 2 microbusiness licenses; two Class 3 microbusiness licenses; two Class 4 microbusiness licenses; two Class 5 microbusiness licenses; and five Class 6 microbusiness licenses.

K. Application. Individuals or entities wishing to obtain any classification of cannabis license

shall file a license application with the Borough Clerk on a standardized form established by the Administrator and available in the Clerk's office. The Administrator shall establish a reasonable application period and deadline for all applications. An application shall be deemed incomplete and shall not be processed by the Borough Clerk unless all documents and application fees are submitted. To be deemed complete, all applications shall be accompanied by the following: (1) The applicant(s) shall submit proof that the applicant has or will have lawful possession of the premises proposed for the cannabis establishment, 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 applicant contingent upon successful licensing. (2) The location proposed for licensing by the applicant shall comply with all applicable municipal zoning laws and the location restrictions set forth in this Code. (3) The applicant(s) shall submit all required nonrefundable fees for the application and license in accordance with the following fee schedules: Standard License Application Submission Fee Schedule Licensure Class Application Submission Fee Class 1 (Cultivator) \$200 Class 2 (Manufacturer) \$200 Class 3 (Wholesaler) \$200 Class 4 (Distributor) \$200 Class 5 (Retailer) \$200 Class 6 (Delivery) \$100 Microbusiness License Application Fee Schedule Licensure Class Application Submission Fee Class 1 (Cultivator) \$100 Class 2 (Manufacturer) \$100 Class 3 (Wholesaler) \$100 Class 4 (Distributor) \$100 Class 5 (Retailer) \$100 Class 6 (Delivery) \$50 Background Investigation Fee Schedule Background Investigation Type Background Investigation Fee Financial source \$1,000 Management services contractor \$1,000 Each owner or principal of cannabis business \$250 (4) Successful license applicants will be required to pay an approval fee in accordance with the following schedules: Standard License Application Approval Fee Schedule Licensure Class Application Approval Fee Class 1 (Cultivator) \$800 Class 2 (Manufacturer) \$800 Class 3 (Wholesaler) \$800 Class 4 (Distributor) \$800 Class 5 (Retailer) \$800 Class 6 (Delivery) \$200 Microbusiness License Application Approval Fee Schedule Licensure Class Application Approval Fee Class 1 (Cultivator) \$400 Class 2 (Manufacturer) \$400 Class 3 (Wholesaler) \$400 Class 4 (Distributor) \$400 Class 5 (Retailer) \$400 Class 6 (Delivery) \$50 (5) Reduction of licensure fees for qualifying applicants. For all state-licensed cannabis business operations, the licensing fees established within § 155-5K(3) of the Borough Code shall be reduced by the following amounts if the business entity can demonstrate that it falls within one or more of the following categories, as defined by the State of New Jersey or the Commission: (a) Any business that can provide a Minority Business Enterprise and/or Women's Business Enterprise certification from the State of New Jersey shall be entitled to a 25% reduction of the license application submission and approval fees, or remaining fees, if a reduction has already been applied under this subsection. (b) Any business that can provide proof that at least 1/2 of its employees are residents of the Borough of Roselle shall be entitled to a 25% reduction of the license application submission and approval fees, or

L. 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 be renewed in accordance with the provisions of this § 155-5L. (2) The Administrator may, at their discretion, adjust the renewal date of the local license to correlate with the 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 local license or change in location of any license or modification to expand a licensed premises shall be subject to Borough planning review and zoning approval. (5) Except where the Borough Clerk has received a complete renewal application along with the requisite fees and the governing body 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 license after the expiration date recorded on the face of the license. (6) The applicant(s) shall submit all nonrefundable annual license application submission fees required in accordance with the following fee schedules:

Standard Annual License Application Submission Fee Schedule	Licensure Class	Application Submission Fee
Class 1 (Cultivator)		\$200
Class 2 (Manufacturer)		\$200
Class 3 (Wholesaler)		\$200
Class 4 (Distributor)		\$200
Class 5 (Retailer)		\$200
Class 6 (Delivery)		\$100

Microbusiness Annual License Application Fee Schedule

Licensure Class	Application Submission Fee
Class 1 (Cultivator)	\$100
Class 2 (Manufacturer)	\$100
Class 3 (Wholesaler)	\$100
Class 4 (Distributor)	\$100
Class 5 (Retailer)	\$100
Class 6 (Delivery)	\$50

(7) Successful annual license applicants shall be required to pay an annual license approval fee in accordance with the following schedules:

Standard Annual License Application Approval Fee Schedule	Licensure Class	Application Approval Fee
Class 1 (Cultivator)		\$800
Class 2 (Manufacturer)		\$800
Class 3 (Wholesaler)		\$800
Class 4 (Distributor)		\$800
Class 5 (Retailer)		\$800
Class 6 (Delivery)		\$200

Microbusiness Annual License Application Approval Fee Schedule

Licensure Class	Application Approval Fee
Class 1 (Cultivator)	\$400
Class 2 (Manufacturer)	\$400
Class 3 (Wholesaler)	\$400
Class 4 (Distributor)	\$400
Class 5 (Retailer)	\$400
Class 6 (Delivery)	\$50

(8) Reduction of annual license fees for qualifying applicants. Applicants that qualify for a licensing fee reduction pursuant to § 155-5K(5) of this chapter shall be entitled to a reduction of the annual license fee at the same rate as set forth in § 155-5K(5). However, under no circumstances shall an applicant be entitled to a reduction of annual license fees greater than 50%.

§ 155-6 Disciplinary actions; sanctions; penalties.

A. 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: (1) First offense: up to \$250 per violation per day; (2) Second offense: up to \$500 per violation per day; (3) Third violation shall result in summary suspension.

B. Summary suspension. Notwithstanding the foregoing section, when the Administrator has reasonable grounds to believe that a license 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 Administrator may enter a summary suspension order for the immediate suspension of such license pending further investigation. (1) The summary suspension order shall be in writing and shall state the reasons therefor. The license shall be afforded an opportunity for a hearing as outlined herein. (2) The Administrator shall convene a review panel consisting of the Administrator, a second administrative officer designated by the Public Safety Committee, and the Chief of Police. The hearing shall be scheduled within 30 days of the date of the summary suspension order. (3) The review panel is authorized to impose any fines, conditions, restrictions, suspensions, or combination(s) thereof authorized by the state. In the absence of state-specified penalties, the Borough may issue fines up to, but not to exceed, \$2,000 per offense and/or suspension of license for a period not to exceed 90 days.

C. Inactive licenses. Following the commencement of retail sales of cannabis or cannabis products, the Administrator may suspend or revoke any license if the licensed premises have been inactive or unoccupied by the licensee for at least six months.

D. State license. The Administrator may suspend or revoke any license if the corresponding state license or permit for the subject location is expired, surrendered, suspended, or revoked.