

**BOROUGH OF SUSSEX
COUNTY OF SUSSEX
ORDINANCE NO. 2023-08**

AN ORDINANCE AMENDING CHAPTER 4, ENTITLED “GENERAL LICENSING”, TO ADD SECTION 4-12, ENTITLED “MUNICIPAL CANNABIS PERMIT”, OF THE CODE OF THE BOROUGH OF SUSSEX, COUNTY OF SUSSEX AND STATE OF NEW JERSEY.

BE IT ORDAINED by the Borough Council of the Borough of Sussex, in the County of Sussex and State of New Jersey, as follows:

SECTION 1. A new Section 4-12, entitled “Municipal Cannabis Permit”, shall be added to Chapter 4, entitled “General Licensing”, of the Code of the Borough of Sussex, County of Sussex, State of New Jersey, and shall read as follows:

§ 4-12 Municipal Cannabis Permit.

§ 4-12.1 Permit required. No cannabis establishment business shall operate within the Borough without a permit as required by this section.

§ 4-12.2 Permit requirements. A cannabis establishment seeking a permit from the Borough to operate under the class of license awarded by the state shall submit to the Borough Clerk a complete and signed application in a form prescribed by the Borough for a municipal cannabis permit (the "application"), which shall include the following attachments:

- a. Documentary proof that the State has awarded the cannabis establishment an annual license which is valid for the period of the requested permit and has not expired or been revoked;
- b. Sworn statement by the owner of the cannabis establishment that the cannabis establishment is currently in compliance with all requirements and conditions of its site plan approval and with all applicable laws and ordinances pertaining to its business;
- c. If applicable, proof that the cannabis establishment is in compliance with the Borough’s liability insurance requirements (see Section 12-7); and
- d. Required permit fee.

§ 4-12.3 Review period. The Borough shall have up to 20 days from receipt of a completed application to review it and issue a written determination in the form of a permit, if approved, or a denial letter citing the reason(s) for the denial and including steps to cure any deficiencies capable of cure within 30 days of the date of the denial letter.

§ 4-12.4 Denials. A cannabis establishment that is denied a permit will have 30 days, unless extended by the Borough in its sole discretion, within which to correct any curable deficiencies cited in the Borough’s denial letter and to resubmit an amended application solely with respect to those deficiencies cited in the denial letter. The Borough will then have up to 20 days from receipt of the amended application within which to review the amended portions of the application. At the conclusion of this review period, the Borough will once again issue a written determination in the form of a permit or a final determination of denial citing the final reason(s) for denial of a permit.

§ 4-12.5 Permit fee. The initial permit fee for each cannabis establishment under the provisions of this section shall be \$2,000.

§ 4-12.6 Permit terms; renewals; transfers.

- a. Any permit issued pursuant to this section 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 section. The Borough may adjust the renewal date of the permit to correlate with a cannabis establishment's state licensing and renewal schedule. The permit shall in no case be proratable or reduced.
- b. Renewal of any permit shall be governed by and subject to any Code amendments, additional restrictions or changes in regulations adopted since the previous permit was issued or renewed.
- c. Transfer of ownership. 10 days after transfer of ownership in whole or in part, of the cannabis establishment, the cannabis establishment shall notify the Borough in writing of such transfer and include the names, addresses and percentage ownership interests in the cannabis establishment of the persons and/or entities from which and to which the transfer is made. Without limitation, transfer of any share, membership or partnership interest in a cannabis establishment shall constitute a transfer of ownership governed by

this section. In the event of a transfer of ownership, the cannabis establishment shall submit proof of approval by the appropriate State licensing agency of the transfer within 10 days after agency approval. Failure to comply with the requirements of this subsection within the 10-day deadline (as may be extended by the Borough for up to an additional 20 days), the permit shall be temporarily revoked and shall not be reinstated until the cannabis establishment files the documentation and proofs required by this subsection with the Borough Clerk, accompanied by a reinstatement fee of \$1,000.

- d. A transfer in location of any permit or modification to expand a permitted facility shall require State approval, site plan approval from the Planning Board and a certificate of zoning compliance from the Zoning Officer. Proof thereof, together with transfer fee of \$500 must be submitted to the Borough Clerk before the transfer or expansion can be effective.

§ 4-12.7 Permit renewal fees.

- a. The annual renewal fee for each cannabis establishment permit under the provisions of this section shall be \$2,000.
- b. A permit shall not be assigned or transferred and shall remain with the cannabis establishment to whom it is issued.

§ 4-12.8 Investigations; sanctions; penalties.

- a. Any permit issued pursuant to this section may be suspended or revoked by the Borough for any violation of any provision of this section or for the violation of any provision of N.J.S.A. 24:6I-31, et seq., including amendments or additions thereto, or of any of the rules and regulations promulgated by the State or the Borough.
- b. **Investigations.** Procedures for investigation of permit violations and for suspension, revocation, or other sanctions as a result of any such violation shall be as determined by the Borough. Penalties for such violations shall be assessed as follows:
 1. First offense: \$50 per violation per day;
 2. Second offense: \$100 per violation per day; and
 3. Third offense: \$250 per violation per day; and including summary suspension.
- c. **Summary suspension.** When the Borough has reasonable grounds to believe that a cannabis establishment 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 Borough may enter a summary order for the immediate suspension of such cannabis establishment's permit pending further investigation. The Borough shall convene a review panel consisting of the Mayor, two members of the Council and the Borough Administrator or his/her designee. The hearing will occur within 30 days after the date of the order. If the review panel shall find that the suspension is justified, the review panel will recommend to the Borough Council consequences including but not limited to the rescission of the permit or the reinstatement of the permit upon meeting prescribed conditions including payment of a \$1,000 reinstatement fee and suspension for a period of up to six months. If the panel finds insufficient basis for suspension, then a report of that finding shall be given to the Administrator and suspension shall be rescinded.
- d. **Inactive permits.** Following the commencement of retail sales of cannabis and cannabis products, the Borough may suspend or revoke any permit if the premises has been closed to the public or unoccupied by the cannabis establishment for at least three months.
- e. **State license.** The Borough may suspend or revoke any permit if the corresponding State license for the subject location is expired, surrendered, suspended, or revoked. The cannabis establishment shall immediately notify the Borough in writing upon the cannabis establishment's receipt of notice that its State license has expired, has been surrendered, suspended or revoked.
- f. Any action taken by the Borough pursuant to this section shall be reported to the applicable State agency in accordance with reporting protocols established by such agency.

§ 4-12.9 Conspicuous posting of permit. The holder of each permit issued by the Borough under this section shall display the permit certificate conspicuously in the cannabis establishment.

§ 4-12.10 Compliance with other requirements. The issuance of a permit per this section shall not be construed as verification by the Borough that the cannabis establishment has complied with other applicable legal requirements such as and including the requirement, if applicable, of the issuance of a certificate of occupancy for the cannabis establishment's business.

§ 4-12.11 Violations and penalties. Any person violating any of the provisions of this section shall be subject to a fine of up to \$2,500 per offense, 90 days imprisonment or both. Each day a violation occurs shall be deemed to be a separate offense.

SECTION 2. If any article, section, subsection, paragraph, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance and they shall remain in full force and effect.

SECTION 3. In the event of any inconsistencies between the provisions of this Ordinance and any prior ordinance of the Borough, the provisions hereof shall be determined to govern. All other ordinances of the Borough are hereby ratified and confirmed, except where inconsistent with the terms hereof.

SECTION 4. This Ordinance shall take effect upon final passage and publication in accordance with the laws of the State of New Jersey following the required 20-day period after adoption, as set forth in N.J.S.A. 40:69A-181(b).

Attest:

Antoinette Smith, Borough Clerk

Edward Meyer, Mayor

NOTICE

PLEASE TAKE NOTICE that the above ordinance was introduced and passed at the regular meeting of the Mayor and Council of the Borough of Sussex held at Borough Hall, 2 Main Street in the Borough of Sussex on March 7, 2023. The same came up for final adoption at the regular meeting of the Mayor and Council of the Borough of Sussex on March 21, 2023 at which time final hearing was tabled to April 4, 2023; and the same came up for final adoption at the at the regular meeting of the Mayor and Council of the Borough of Sussex on April 4, 2023 at which time a resolution was adopted to amend a portion of same, which amendment was found not to be substantial; and then, after all persons present were given the opportunity to be heard concerning the same, it was finally passed and adopted and will be in full force and effect according to law.

Antoinette Smith, RMC
Borough Clerk