ORDINANCE NO. 2023-15

AN ORDINANCE AMENDING CHAPTER 5 "GENERAL LICENSING AND BUSINESS REGULATIONS," SECTION 5-17 "CANNABIS BUSINESS LICENSES" AND CHAPTER 25 "ZONING," SECTION 25-1-15.20 OF THE CODE OF THE BOROUGH OF KEYPORT.

WHEREAS, the Borough of Keyport (the "Borough") is a public body corporate and politic of the State of New Jersey; and

WHEREAS, Chapter 5 "General Licensing and Business Regulations, Section 5-17 Cannabis Business Licenses" of the Code of the Borough of Keyport (the "Code") regulates the cultivation, production, sale, and transportation of cannabis in the Borough in accordance with the provisions of the "New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act," N.J.S.A. 24:61-31 et seq.; and,

WHEREAS, Chapter 25 "Zoning" of the Code shall be amended to include provisions related to the cultivation, production, sale, and transportation of cannabis in the Borough in accordance with the provisions of the "New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act," N.J.S.A. 24:61-31 et seq.;

WHEREAS, after reviewing the costs incurred by the Borough in relation to the cannabis business license review process, and the ongoing litigation that has ensued following the issuance of licenses by the Borough, it has been determined to be in the public interest that the Borough revise the license standards; and,

WHEREAS, the Mayor and Borough Council have determined to amend sections of Chapter 5 and 25 of the Code to read as follows (additions are underlined and deletions are denoted by strikethrough):

. . . NOTE to Codifier. Existing text not appearing herein has been deleted solely for brevity. NO CHANGE] . . .

Section 25-1-15.20

[. . . .]

d. Site Standards for Cannabis Businesses

[. . . .]

2. Entry onto the premises of a cannabis business by a person who is under the age of 21 is prohibited, unless the individual is accompanied by and supervised by a parent or legal guardian or is otherwise permitted by law. <u>All cannabis businesses shall be subject to health</u>

and safety review, inspection and enforcement, including annual reviews and inspections, by State, County and/or Borough employees and/or representatives.

[. . . .]

7. All licensed cannabis facilities must provide the Keyport Police Department with access to security footage immediately upon request by the Department. All contact information for security personnel shall be provided to the Keyport Police Department for emergency contact purposes.

[. . . .]

10d. No retailers will be allowed within 1,000 feet of another retailer within the same zone or abutting zones.

[. . . .]

16. Transfer of a license or change of location or modification must be subject to the approval of the Borough and/or the Planning Board.

17. All land use approvals shall be obtained from the Keyport Unified Planning Board by an applicant demonstrating compliance with the site standards set forth herein, as well as any other applicable zoning regulations, prior to submitting an application for a Cannabis Business License.

f. Penalties.

Any person violating any provision of this section shall, upon conviction be subject to the penalties stated in Chapter I, Section 1-5, General Penalty, except that the minimum penalty shall not be less than $500 for the first offense, $1,000 for a second offense, and $1,500 for a third offense. Continued violations may be ground for revocation of a municipal license(s) or suspension.

Section 5-17

[. . . .]

c. Cannabis Business License Fees

[. . . .]

2. Issuing Authority. All licenses required by this Chapter, including renewal licenses, shall be issued by the governing body of the Borough, which shall also administer the provisions of this Chapter. The granting of any license permitted by this Chapter shall be at the sole and absolute discretion of the Borough. All applicants for a Cannabis Business License shall obtain all applicable land use approvals from the Keyport Unified Planning Board prior to applying for a license pursuant to this Chapter. All applicants shall demonstrate adherence to all State cannabis standards.

[. . . .]

4. Cannabis Business License Fees --Maximum Number. The annual license fee shall be $7,500 in Year One, which shall increase $2,500 in each anniversary year thereafter (e.g., in Year 2, the fee shall be $10,000, in Year 3, the fee shall be $12,500), which shall be payable on the anniversary of the date that the license was issued. The annual license fee shall not exceed $25,000. The ~~and~~ maximum number of licenses for the Cannabis Businesses in the

geographic boundaries of the Borough shall be two, regardless of the class of license (i.e., if there are two retailer licenses issued, then there shall be no more licenses available). ~~as follows:~~

~~Class of License~~	~~Annual License Fee~~	~~No. of Licenses~~
~~Class 1 Cannabis Cultivator~~	~~$10,000~~	~~2~~
~~Class 2 Cannabis Manufacturer~~	~~$10,000~~	~~2~~
~~Class 3 Cannabis Wholesaler~~	~~$5,000~~	~~2~~
~~Class 4 Cannabis Distributor~~	~~$5,000~~	~~2~~
~~Class 5 Cannabis Retailer~~	~~$5,000~~	~~2~~
~~Class 6 Cannabis Delivery~~	~~$5,000~~	~~2~~

[. . . .]

d. **Cannabis Business License Conditions.**

[. . . .]

7. Submission of an application fee of ~~Five Thousand ($5,000)~~ Fifteen Thousand ($15,000) Dollars.

8. The applicant must demonstrate financial solvency. Previous general business experience may be considered.

9. If the Borough is named as a party to litigation involving the businesses for whom are issued a Cannabis Business License pursuant to this Section, the licensee agrees and acknowledges that it shall indemnify the Borough for any and all costs associated with that litigation, which shall include, but not be limited to, defense costs, expenses and attorney's fees.

10. All applicants who seek to transfer their licenses shall provide notice to the Borough, in accordance with State law and regulations.

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and Council of the Borough of Keyport as follows:

Section 1. The aforementioned recitals are incorporated herein as though fully set forth at length.

Section 2. The above-referenced sections of the Code shall be amended as set forth above.

Section 3. All ordinances or parts thereof inconsistent with the provisions of this ordinance are hereby repealed above.

Section 4. Each section, subsection, sentence, clause and phrase of this ordinance is declared to be an independent section, subsection, sentence, clause and phrase and the finding or holding of any such portion of this ordinance to be unconstitutional, void, or ineffective for any cause, or reason, shall not affect any other portion of this ordinance.

Section 5. The Borough Clerk is hereby directed, upon adoption of the ordinance after public hearing thereon, to publish notice of the passage thereof.

Section 6. This ordinance shall be in full force and effect from and after its adoption and publication as required by law.

Introduced: October 3, 2023
Public Hearing: October 17, 2023
Adopted: October 17, 2023

Michele Clark, RMC
Clerk, Borough of Keyport

Mayor Rose Araneo
Borough of Keyport