

City of Newark

City Hall
920 Broad Street
Newark, New Jersey
07102

Ordinance

6PSF-c 04/10/2024

File ID: 24-0145

Type: Ordinance

Status: Adopted

AN ORDINANCE AMENDING TITLE VIII, BUSINESSES AND OCCUPATIONS, OF THE REVISED GENERAL ORDINANCES OF THE CITY OF NEWARK, NEW JERSEY, 2000, AS AMENDED AND SUPPLEMENTED, BY CREATING CHAPTER 39, SMOKE SHOPS, AND ESTABLISH RULES AND REGULATIONS.

Deferred 8-a 022124

WHEREAS, the municipality is instituting an ordinance to be adopted establishing Rules and Regulations for local businesses categorized as Smoke Shop Establishments; and

WHEREAS, the purpose of this section is to regulate the operation of retailers also known as sellers, vendors, and suppliers of tobacco and tobacco products, and smoking paraphernalia, in the City of Newark (the "City") in order to sustain the vitality of the City's commercial areas and the quality of life for the City's residents and visiting patrons; and

WHEREAS, establishing the appropriate regulations will assist with alleviating public nuisances and shall prohibit violating state Cannabis Law and the unauthorized sale of Cannabis in such establishments; and

WHEREAS, the City of Newark's objective is to adequately maintain and protect public health while effectively serving the business and residential community, and promoting economic expansion and redevelopment throughout the City; and

WHEREAS, N.J.S.A. 40:48-2 authorizes a municipality to make, amend, repeal, and enforce such other ordinances, regulations, rules and by-laws not contrary to the laws of this state or of the United States, as it may deem necessary and proper for the good government, order and protection of persons and property, and for the preservation of the public health, safety and welfare of the municipality and its inhabitant.

NOW THEREFORE, BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF NEWARK, NEW JERSEY, THAT:

Note: Additions are shown as **underlined and bold**. Deletions are shown as ~~strikethroughs~~.

SECTION 1: Title VIII, Businesses and Occupations be amended to add Chapter 39, entitled "Smoke Shops" as follows:

SMOKE SHOPS

§8:39-1 DEFINITIONS.

HOOKAH means a pipe commonly, but not always, made of glass, used for vaporizing and smoking tobacco, flavored tobacco, non-flavored tobacco, shisha, dried fruits, cannabis or other substances in which vapor or smoke is passed through a water basin before inhalation.

HOOKAH BAR/LOUNGE means business establishments devoted primarily to the on-site sale or rental of shisha (hookah) and paraphernalia for consumption or use on the premises of alcoholic and/or nonalcoholic establishments.

LICENSEE means person(s) holding a City of Newark business license for the operation of a smoke shop.

SMOKING PARAPHERNALIA means any equipment, apparatus or furnishings that is used in or necessary for the activity of smoking. This includes, but is not limited to, ashtrays, rolling paper, pipes, hookah pipes, electronic vapor devices, electronic vapor inhalation substances, cigarettes, and cigars.

SMOKE SHOP means any premises dedicated to the display, sale distribution, delivery, offering, furnishing, or marketing of tobacco, tobacco products, tobacco paraphernalia including, but not limited to, providing an area for smoking tobacco products but excluding any grocery store, supermarket, convenience store or similar retail use that sale tobacco products shall not be included within the definition of smoke shop.

SMOKE SHOP LICENSE shall mean a license that is issued by the City of Newark's Office of Central Licenses and Permits allowing and permitting the operations of smoke shop establishments, and the sale of smoking paraphernalia which includes, but is not limited to, ashtrays, rolling paper, pipes, hookah pipes, electronic vapor devices, electronic vapor inhalation substances, cigarettes, cigars, etc.

§8:39-2 GENERAL STANDARDS & SPECIFICATIONS.

Smoke Shop Establishments

- a) All Smoke Shops shall be located within the designated C-2 and C-3 zones. Establishments located outside of the zoning classification shall not be permitted.
- b) No person or business shall sell tobacco, electronic smoking devices, and/or products used to deliver nicotine without possessing the required state and municipal licensing.
- c) No person shall sell or offer for sale tobacco, electronic smoking devices, and/or products used to deliver nicotine including, but not limited to, an electronic

cigarette, cigar, cigarillo, pipe, and/or cartridges to any persons under the age of 21 years.

- d) Establishments shall not be permitted to sell flavored electronic vapor devices.
- e) Pursuant to N.J.A.C. 8:6, all acts of smoking in an indoor public place is strictly prohibited.
- f) Pursuant to N.J.S.A. 54:40A-4.1, all licensed Smoke Shops (merchants) must post the required signage within the establishment, in a visible area with the following verbiage:

"A PERSON WHO SELLS OR OFFERS A TOBACCO PRODUCT TO A PERSON UNDER 21 YEARS OF AGE SHALL PAY A PENALTY OF UP TO \$1,000 AND MAY BE SUBJECT TO A LICENSE SUSPENSION OR REVOCATION. PROOF OF AGE MAY BE REQUIRED FOR PURCHASE."

- g) No owner, operator, and/or attendant shall engage in the selling of Cannabis in any form without obtaining the required state and municipal licensing.
- h) Establishments shall be permitted to sell hemp-derived cannabinoids including, but not limited to, CBD oil, capsules, gel, edibles (non-perishables), etc.
- i) No business shall sell hemp-derived cannabinoids exceeding a THC (tetrahydrocannabinol) level of 0.3%.
- j) All hemp-derived cannabinoids shall be appropriately packaged in pre-packaged containers, identified and labeled by the manufacturer. Labeling shall include:
 - 1. Name, address, and telephone number of the manufacturer
 - 2. Sequential serial number and barcode to identify batch
 - 3. Serving size and the total number of servings
 - 4. THC and CBD amount in milligrams and number of milligrams in a single serving size.
 - 5. Net weight and quantity of the items contained in the package
 - 6. Ingredients
 - 7. Allergens
 - 8. Nutritional content
 - 9. Expiration Date and Manufacturing Date

10. Warning and caution statement

11. Proper use and storage instructions

Hookah Bar/Lounge Establishments

- a) Hookah Bars/ Lounges are prohibited within the City of Newark.
- b) No establishment shall sell hookah and/or allow patrons to partake in the consumption of hookah on the premises.

§8:39-3 LICENSE REQUIRED.

Any person (licensee) who owns or operates an establishment classified as a Smoke Shop and/or intends to participate in the offering of such services and associated products shall be required to file a Smoke Shop Business License application with the Office of Central Licensing and Permits. The appropriate license fee to operate said establishment must be rendered to the municipality prior to operating lawfully in the City of Newark.

§8:39-4 APPLICATION FOR LICENSE & TERM OF LICENSE.

- a) Applications for licenses in accordance with the regulations for Smoke Shops shall be filed with the Office of Central Licensing and Permits via the designated Business License portal. The following shall ensue upon completion of the application:
 - 1. Applicant shall remit the established license fee.
 - 2. Applicant must complete and file additional applications for licensing coinciding with the primary license described.
 - 3. Applicant shall comply with all respective City agencies including the Department of Finance, Health Department, Department of Engineering, Newark Police Department, and the Newark Fire Department.
- b) No person shall operate in the manner to sale or distribute under these regulations without first obtaining the proper permit from the Office of Central Licensing and Permits.
- c) A license fee of One Thousand Dollars and Zero Cents (\$1,000.00) shall be remitted to the Office of Central Licensing and Permits prior to the distribution of licensing.
- d) Licenses issued pursuant to the promulgated regulations shall be deemed an annual license which shall expire on the 31st of December of each calendar

year regardless of issuance date. Owner must renew license in accordance with the City's biennial schedule.

- e) Smoke Shop licenses shall not be transferrable or assignable by sale or otherwise.

§8:39-5 HOURS OF OPERATIONS.

- a) Smoke Shops may only operate between the hours of 9:00am through 10:00p.m. daily.

§8:39-6 INSPECTION.

All Smoke Shop establishments must allow the City access to its premises at any given time during operating hours to conduct an inspection. Refusal to provide access will consequently result in immediate closure of the establishment. Owners/ Operators shall be allowed to resume operations upon the completion of inspection and a formal hearing.

§8:39-7 MERCHANDISING & ADVERTISEMENT.

- a) All items appealing to likeness of minors shall be kept in a secured location on the premises in which an operating attendant only has access for distribution.
1. Secured location may be defined as locked glass casing and/or shelving with limited to no public access.
- b) To ensure safety and the prohibition of underage use no person shall advertise any product in a manner that will target, appeal to, and or attract any individual under the legal age limit.

§8:39-8 VIOLATION PENALTY.

- a) Any person in violation of this Chapter provisions shall be subjected to the issuance of summons and all established fines:
1. 1st offense, a minimum fine of \$750 with a maximum fine of up to \$1,000.00;
 2. 2nd offense, a minimum fine of \$750 with a maximum fine of up to \$1,500.00 and community service for a period of 90 days;
 3. 3rd offense, a minimum fine of \$750 with a maximum fine of up to \$2,000.00 and permanent revocation of license issued.
- b) Person(s) in violation or found guilty of offenses spelled out in this Chapter

shall be considered guilty of each offense each day of occurrence. All violating parties shall be punishable as stated in the City of Newark's Code.

§8:39-9 REVOCATION OR SUSPENSION OF LICENSE.

The Director and/or the designee shall have the power to suspend or revoke for cause any such license. Reasonable causes for suspension or revocation of a license issued according to the provisions of this chapter shall include, but are not limited to the following:

1. Licensee has habitual offenses violating the provisions of this chapter.
2. Licensee fails to possess a Certificate of Occupancy establishing authorized use for a "Smoke Shop".
3. Licensee fails to obtain and/or renew proper licensure within the designated time period from the Office of Central Licensing and Permits.

§8:39-10 ENFORCEMENT.

Provisions of this Chapter may be enforced by the City of Newark's Code Enforcement Division, designated members of the Newark Police Department, and Health Officers.

SECTION 2. The provisions of this Ordinance are severable. To the extent any clause, phrase, sentence, paragraph or provision of this Ordinance shall be declared by a court of competent jurisdiction to be invalid, illegal, or unconstitutional, the remaining provisions shall continue in full force and effect.

SECTION 3. The Ordinance shall take effect upon final passage and publication in accordance with the laws of the State of New Jersey.

SECTION 4. Codification. This Ordinance shall be a part of the Code of the City of Newark as though codified and fully set forth therein. The City Clerk shall have this Ordinance codified and incorporated in the official copies of the Code. The City Clerk and the Corporation Counsel are authorized and directed to change any Chapter, Article and/or Section number of the Code of the City of Newark in the event that the codification of this Ordinance reveals that there is a conflict between the numbers and the existing Code, and in order to avoid confusion and possible accidental repealers of existing provisions not intended to be repealed.

STATEMENT

This Ordinance amends Title VIII, Businesses and Occupations to create Chapter 39, entitled "Smoke Shops".

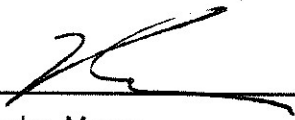
Approval History

| Version | Seq # | Action Date | Approver | Action | Due Date |
|---------|-------|-------------|--------------------|----------------------|-----------|
| 1 | 1 | 1/30/2024 | Jolanda Williams | Approved | 2/1/2024 |
| 1 | 3 | 1/31/2024 | Jeannet Pavez | Delegated | |
| 1 | 4 | 2/1/2024 | Megan Oduyela | Approved as Modified | 2/2/2024 |
| 1 | 6 | 2/2/2024 | Eric S. Pennington | Approved | 2/5/2024 |
| 1 | 7 | 2/5/2024 | Safiyah Wadud | Approved as Modified | 2/9/2024 |
| 1 | 8 | 2/14/2024 | Michelle Nelson | Approved as Modified | 2/7/2024 |
| 1 | 9 | 2/15/2024 | Kenyatta Stewart | Approved | 2/16/2024 |

History of Legislative File

| Ver- sion: | Acting Body: | Date: | Action: | Sent To: | Due Date: | Return Date: | Result: |
|---------------|---|---|--------------------------------------|----------|-----------|-----------------|---------|
| 1 | Municipal Council | 02/21/2024 | Defer | | | | Pass |
| | Action Text: A motion was made by Council, seconded by Kelly to Defer. The motion was adopted by the following votes: | | | | | | |
| Mover: | Patrick O. Council | Yes: 9 - Patrick Council, C. Lawrence Crump, Carlos Gonzalez, Dupre' Kelly, Luis Quintana, Anibal Ramos Jr., Louise Scott-Rountree, Michael Silva and LaMonica McIver | | | | | 9 |
| 1 | Municipal Council | 03/06/2024 | Advance to First Reading | | | | Pass |
| | Action Text: A motion was made by Council, seconded by Ramos, Jr. to Advance to First Reading. The motion was adopted by the following votes: | | | | | | |
| Mover: | Patrick O. Council | Yes: 9 - Patrick Council, C. Lawrence Crump, Carlos Gonzalez, Dupre' Kelly, Luis Quintana, Anibal Ramos Jr., Louise Scott-Rountree, Michael Silva and LaMonica McIver | | | | | 9 |
| 1 | Municipal Council | 03/20/2024 | Adopt on First Reading | | | | Pass |
| | Action Text: A motion was made by Council, seconded by Scott-Rountree to Adopt on First Reading. The motion was adopted by the following votes: | | | | | | |
| Mover: | Patrick O. Council | Yes: 9 - Patrick Council, C. Lawrence Crump, Carlos Gonzalez, Dupre' Kelly, Luis Quintana, Anibal Ramos Jr., Louise Scott-Rountree, Michael Silva and LaMonica McIver | | | | | 9 |
| 1 | Municipal Council | 04/10/2024 | Close on Public Hearing and Adopt | | | | Pass |
| | Action Text: Eric S. Pennington, Business Administrator, commented. Public Hearing opened. Comments were made by Felicia Alston-Singleton and Shakir McDougald. A motion was made by Council, seconded by Scott-Rountree to Close on Public Hearing and Adopt. The motion was adopted by the following votes: | | | | | | |
| Mover: | Patrick O. Council | Yes: 9 - Patrick Council, C. Lawrence Crump, Carlos Gonzalez, Dupre' Kelly, Luis Quintana, Anibal Ramos Jr., Louise Scott-Rountree, Michael Silva and LaMonica McIver | | | | | 9 |

Approved or Rejected By

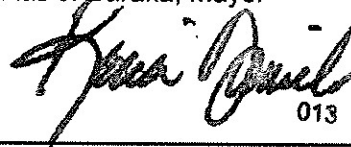


Ras J. Baraka, Mayor

Date

4/17/24

Certified By



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Kecia Daniels, City Clerk

Date

4/17/24