

**AN ORDINANCE ADDING CHAPTER 93, CANNABIS TO THE CITY OF
LACKAWANNA MUNICIPAL CODE**

BE IT ENACTED by the City Council of the City of Lackawanna, New York that the following Chapter 93, Cannabis shall be added as follows:

Chapter 93

CANNABIS

ARTICLE I

Permitted Cannabis Uses

- § 93-1. **Purpose; legislative intent.**
- § 93-2. **Restrictions.**
- § 93-3. **Security.**
- § 93-4. **Signage.**
- § 93-5. **General regulations.**
- § 93-6. **Definitions.**
- § 93-7. **Locations.**
- § 93-8. **Penalties.**

ARTICLE I

Permitted Cannabis Uses

§ 93-1. Purpose; legislative intent.

In order to promote the health, safety and general welfare of the residents of the City of Lackawanna, including property values, community character, quality of life, business climate and the prevention of crime, this article is intended to restrict cannabis uses, including but not limited to cultivators, processors, distributors, on-site cannabis consumption, and retail dispensaries, to being located in certain zoning districts as more fully set forth herein. Further, that all cannabis uses proposed to operate within the City and any cannabis license applicants must:

- Be licensed by and comply with all the requirements of the New York State Office of Cannabis Management (“OCM”);
- Notify the City of its intent to file an application for the applicant’s premises located in the City to be a cannabis establishment. The notice must be filed with the municipal clerk not less than thirty (30) days nor more than two hundred seventy (270) days before filing the license application with the State;
- Obtain all appropriate approvals, including Special Use Permit (Chapter 75) by the Zoning Board of Appeals and Planning & Development Board to ensure the strict compliance with these regulations; and then apply to register its business with the City Clerk’s Office (Chapter 88).

§ 93-2. Restrictions.

Cannabis uses, including retail dispensaries, storage facilities, warehouses, cultivators, nurseries, processing facilities, on-site consumption, distributors and distribution centers, adult-use cooperatives, adult-use microbusinesses, and delivery services and operations shall be permitted subject to the following restrictions.

- A. No such cannabis uses shall be located within 1,000 feet of another existing cannabis facility set forth above.

- B. No such cannabis use shall be located within 500 feet of the property line at locations of community facilities and/or where children or those seeking treatment for substance abuse are known to gather, including, but not limited to, public parks, childcare centers, playgrounds, drug rehabilitation centers, medical practitioner's offices, community centers, and other similar facilities.
- C. No such cannabis use facility shall be located within 500 feet of a school building or property and/or within 200 feet of a religious house or place of worship.
 - (1) In the event that a school existing and authorized by the State Education Department is located on property where a place of worship also exists, no such cannabis use facility shall be located within 500 feet of the school building or property onto which the building is located.
- D. No cannabis use facility shall be located in any area zoned Single Family Residential (SFR) or Mixed Residential (MR) in any form
- E. No cannabis use facility may be located in any historic district.
- F. No retail dispensaries, distribution centers and/or on-site consumption may operate or occur on-site between the hours of 1:00 a.m. and 7:00 a.m.

§ 93-3. Security.

Any cannabis use set forth above, regardless of its location, shall take all necessary security measures at any facility permitted by a special use permit. Unless otherwise required as a condition of the special use permit, the following requirements must be met.

- A. All facilities where a cannabis use shall be established shall provide for fencing and/or other screening or security feature acceptable to the City Zoning Board and the City Council around the perimeter of the property at the height and type established by the Planning Board.
- B. All facilities where a cannabis use shall be established shall install a fully operational 4K camera system, at a minimum, sufficient to be used at night and covering all areas on the property to be so used. The system used shall be capable for video and audio recordings and all recordings must be kept for a minimum of thirty (30) calendar days.
- C. In any facility where a cannabis use is established where the general public and/or customers are invited shall provide for continual armed security guard presence while such facility is open to the public. Any such security presence shall be certified by the local, state, or federal government and shall provide such information as may be required by any local police agency from time to time.
- D. In any facility where a cannabis use is established where the general public and/or customers are invited shall provide for secure locations where cash is to be kept on the premises.
- E. In the event of deliveries from the cannabis use facility, provisions shall be made for adequate security consistent with these regulations which must be provided in advance to the Lackawanna Police Department and any local, state, and/or federal police agency.
- F. Home cultivation cannabis shall be screened from view from neighboring properties and shall otherwise be secured with appropriate fencing to deter removal by third parties.
 - (1) No cannabis shall be cultivated, grown, planted, and/or maintained in any front or sideyard.
 - (2) Individuals cultivating, planting, growing, or maintaining any cannabis plants shall register with the Code Enforcement Office providing their name, address, and location of any plants prior to cultivating, planting, growing or maintaining any cannabis plants.
 - (3) Sufficient setbacks shall be maintained at all times of no less than fifteen (15) feet from any property line.

§ 93-4. Signage.

- A. Only one sign advertising the business shall be permitted on the building and same shall not exceed 10% of the size of the wall upon which the sign is located. No freestanding signs shall be permitted.
- B. Any illuminated sign shall not be flashing, rotating, or otherwise have any movement whatsoever as to not distract highway traffic or disturb any adjoining residential properties.
- C. Motor vehicles, vans, trucks, trailers, and/or similar items shall not be parked on the property which advertise the business in any way beyond the name of the business in lettering not to exceed twelve (12) inches per letter. Such vehicles shall not be left on the premises except in a fully enclosed garage during any period of time that the cannabis use facility is not open to the public.
- D. Any murals or other painting options shall be set forth in the application for a special use permit and are subject to the further reasonable requirements of the Planning Board. No paintings or murals that might distract drivers on any public highway or that could reasonably be interpreted as advertising to minors shall be permitted.

§ 93-5. General regulations.

- A. Odor at the facility where a cannabis use shall be established shall be maintained to limit odors onto adjoining properties to the greatest extent possible.
- B. Sufficient parking shall be provided on the premises for any customers and employees such that no on-street parking shall be required or permitted.
- C. Mobile sales shall be strictly prohibited. Nothing herein shall prevent licensed delivery vehicles with sufficient security features from making deliveries. All delivery operations shall be listed and described as part of the special use permit application.
- D. Any permitted use shall be pursuant to a special use permit as provided for under the Zoning Code of the City of Lackawanna.
 - (1) Reasonable conditions with respect to lighting, signage, hours of operation, parking, and other restrictions may be applied as part of the special use permit grant.
- E. Sufficient setbacks shall be maintained in a manner consistent with city zoning area requirements.
- F. Drive-through service windows and/or customer pick-up lanes must provide sufficient security features and shall not provide for direct access between a vehicle in the drive-through and the cannabis employee.
 - (1) License plate recognition cameras shall be placed such that they record the rear license plate of the vehicle while the vehicle is at the drive-through window and at the entrances to the property. Such placement shall be reviewed by the Lackawanna Police Department at the time of installation. Videos must be retained for a minimum of thirty (30) days.
 - (a) The Lackawanna Police Department shall be provided access to the monitoring system upon request. Alternatively, the cannabis use facility may provide a direct link of such camera system to the Police Department.
 - (2) No sliding windows may be used for drive-through access. Windows must provide sufficient protection from breaking from the outside.
 - (3) There shall be no direct contact between the employee and the customer. Retractable receipt/delivery devices shall be used at all times the drive-through window is used.
 - (4) There shall be adequate space on any site which uses a drive-through window to provide for the

stacking of vehicles to prevent vehicles from waiting on any public roadway and/or blocking any other sidewalk or area of ingress and egress.

- G. Prior to opening any cannabis use facility, the Code Enforcement Office, Development Office, and the Lackawanna Police Department shall have the right to inspect all premises to ensure compliance with these provisions and all other provisions of law.
- (1) The City of Lackawanna and its respective departments shall have the right to periodically inspect all cannabis use facilities to ensure compliance with these provisions and all other provisions of law without the necessity of an administrative search warrant.

§ 93-6. Definitions.

As used in this article, the following terms shall have the meanings indicated:

CANNABIS USE FACILITY or CANNABIS ESTABLISHMENT— Any location, property, building, structure, accessory structure, or facility where cannabis, cannabis products, and/or related materials are located, stored, warehoused, sold, manufactured, used, smoked, ingested, processed, grown, cultivated, bartered, delivered, transported, advertised, or stored including retail dispensaries, cultivators, nurseries, processing facilities, distributors and distribution centers, adult-use cooperatives, adult-use microbusinesses, warehouses, and delivery services and operations.

COMMUNITY FACILITIES — Any location where children congregate including, but not limited to, playgrounds, libraries, public parks, bicycle paths, public pools, splash pads, athletic facilities and fields, and child-care centers.

CONSUMPTION — Any building, structure, location, property, business, or entity that is licensed by the state for the purposes of consuming, smoking, ingesting, injecting, or otherwise using cannabis, any cannabis product, and/or any cannabis-related product.

COOPERATIVE — A state-issued cooperative license authorizes the acquisition, possession, cultivation, processing and sale from the licensed premises of the adult-use cooperative by such licensee to duly licensed distributors, on-site consumption sites, registered organization and/or retail dispensaries; but not directly to cannabis consumers.

CULTIVATOR — The growing, cloning, harvesting, drying, curing, grading, and trimming of cannabis plants. A state-issued cultivator's license authorizes the acquisition, possession, distribution, cultivation and sale of cannabis from the licensed premises of the adult-use cultivator to a licensed processor.

DELIVERY — A state-issued delivery license authorizes the delivery of cannabis and cannabis products by licensees, independent of another adult-use cannabis license, to cannabis consumers. Delivery licenses may not have a total of more than 25 individuals, or the equivalent thereof, providing full-time paid delivery services to cannabis consumers per week under one license.

DISTRIBUTOR — Any person who sells at wholesale any cannabis product for which a license is required. A state-issued distributor's license authorizes the acquisition, possession, distribution and sale of cannabis from the licensed premises of a licensed adult-use processor, adult-use cooperative, microbusiness, or registered organization authorized to sell adult-use cannabis, to duly licensed retail dispensaries, on-site consumption sites and adult-use delivery licensees.

HOME CULTIVATION — Growing cannabis on any residential property for personal use.

MICROBUSINESS — A licensee that may act as a cannabis producer for the cultivation of cannabis, a cannabis processor, a cannabis distributor, and a cannabis retailer. A microbusiness license authorizes the limited cultivation, processing, distribution, delivery, and sale of their own adult-use cannabis and cannabis products.

NURSERY — A licensee that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of cannabis by licensed adult use cannabis cultivators, microbusinesses, cooperatives and registered organizations. A state-issued nursery license

authorizes the production, sale and distribution of clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of cannabis by licensed adult-use cultivators, cooperatives, microbusinesses, or registered organizations.

PROCESSOR — A licensee that extracts concentrated cannabis and/or compounds, blends, extracts, infuses, or otherwise manufactures concentrated cannabis or cannabis products. A state-issued processor's license authorizes the acquisition, possession, processing, and sale of cannabis from the licensed premises of adult-use cultivators to licensed distributors.

RETAIL DISPENSARY — "Retailer" means any person who sells at retail any cannabis product, to cannabis consumers. A state-issued retail dispensary license authorizes the acquisition, possession, sale and delivery of cannabis from the licensed premises of the retail dispensary by such licensee to cannabis consumers.

WAREHOUSE — Any building, structure, location, property, business, or entity where any cannabis and/or cannabis product is maintained and/or stored for any length of time.

§ 93-7. Locations.

The following cannabis uses are permitted in the city zoning areas (table below) in compliance with all Restrictions noted in section 93-8, and contingent upon receipt of all appropriate approvals, including but not limited to issuance of a special use permit and site plan review by the City Zoning Board of Appeals and Planning & Development Board.

Zoning Area	Allowable Adult Use Cannabis Types
Single Family Residential (SFR)	NONE;
Mixed Residential (MR)	NONE;
Central Business District (CBD)	Retail dispensary; on-site consumption;
Neighborhood Commercial (NC)	Retail dispensary; on-site consumption;
Regional Commercial (RC)	Retail dispensary; on-site consumption;
Mixed Commercial & Industrial (MCI)	Cooperative, delivery, distribution, microbusiness, nursery, retail dispensary, warehouse;
Industrial (I)	Cultivator, nursery, warehouse;
Bethlehem Redevelopment Area (BRA)	Cultivator, nursery, warehouse.

§ 93-8. Penalties.

- A. Any business or entity operating without the required notification to the City, business registration or special use permit, or otherwise in violation of this ordinance shall be subject to a fine of up to one thousand five hundred dollars (\$1,500).
- B. Any business or entity operating without the required OCM license shall be considered a separate violation and subject to a daily fine of one thousand five hundred dollars (\$1,500) per day until the OCM license is obtained.

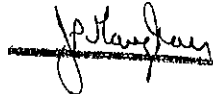
THIS ORDINANCE SHALL TAKE EFFECT IMMEDIATELY.

Dated: March 19, 2024
Lackawanna, New York

APPROVED:


ANNETTE IAFALLO
Mayor

APPROVED
AS TO FORM AND SUFFICIENCY



City Attorney