



## Legislation Text

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File #: 21-1188, Version: 1

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**Dept./ Agency:** Economic and Housing Development

**Action:** ( ) Ratifying (X) Authorizing ( ) Amending

**Type of Service:** Waiving 20-day period for an ordinance to take effect

**Purpose:** This resolution seeks to authorize an emergency be declared to exist, for Ordinance 6F-aa August 4, 2021, which amends the City of Newark Zoning Ordinance, Title XLI, of the Revised General Ordinances of the City of Newark, New Jersey, 2000, by amending the definitions, amending permitted uses by district and adopting land use regulations pertaining to cannabis activities.

**Ordinance No(s):**

Ordinance 6F-aa adopted on First Reading by the Municipal Council on August 4, 2021.

Ordinance 6PSF-ab(S) is scheduled for a Public Hearing, Second Reading and Final Passage on August 17, 2021.

**Additional Information:**

**No Action Taken 7R2-q (s/as) 081721**

**WHEREAS**, the City of Newark Municipal Council (the “Municipal Council”), pursuant to N.J.S.A. 40:55D-62, may adopt or amend a Zoning Ordinance relating to the nature and extent of the uses of land and of buildings and structures thereon; and

**WHEREAS**, On November 3, 2020, voters in the State of New Jersey approved Public Question No. 1, which amended the Constitution of the State of New Jersey to legalize the Adult-Use of marijuana, also known as “cannabis”, for persons age 21 and older and legalizes the cultivation, processing and sale of retail marijuana; and

**WHEREAS**, on February 22, 2021, Governor Murphy signed into law P.L. 2021, c. 16, known as the “New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act” (the “Act”), which legalizes the Adult-Use of marijuana by adults 21 years of age or older, and establishes a comprehensive regulatory and licensing scheme for commercial recreation (“adult use”) cannabis operations, use, and possession; and

**WHEREAS**, the City of Newark is designated as an “Impact Zone”, which are defined in the Act for the purposes of furthering principles of social justice, and in which the Cannabis Regulatory Commission shall prioritize applications for licenses; and

**WHEREAS**, Section 31 of the Act authorizes municipalities to adopt an ordinance to permit or prohibit one or more classes of licensed business; and

**WHEREAS**, the Act establishes six marketplace classes of licensed cannabis businesses including:

Class 1 Cannabis Cultivator license, for facilities involved in growing and cultivating cannabis;

Class 2 Cannabis Manufacturer license, for facilities involved in the manufacturing, preparation, and packaging of cannabis items;

Class 3 Cannabis Wholesaler license, for facilities involved in obtaining and selling cannabis items for later resale by other licensees;

Class 4 Cannabis Distributer license, for businesses involved in transporting cannabis plants in bulk from on licensed cultivator to another licensed cultivator, or cannabis items in bulk from any type of licensed cannabis business to another;

Class 5 Cannabis Retailer license for locations at which cannabis items and related supplies are sold to consumers; and

Class 6 Cannabis Delivery license, for businesses providing courier services for consumer purchases that are fulfilled by a licensed cannabis retailer in order to make deliveries of the purchased items to a consumer, and which service would include the ability of a consumer to make a purchase directly through the cannabis delivery service which would be presented by the delivery service for fulfillment by a retailer and then delivered to a consumer; and

**WHEREAS**, Section 31 of the Act authorizes municipalities to regulate the number of permitted cannabis licensed businesses, and the time, manner, place, and other aspects of licensed cannabis business operations; and

**WHEREAS**, Section 31 of the Act authorizes municipalities to prohibit the operation of any one or more classes of licensed cannabis businesses, but not the delivery of cannabis items and related supplies by a delivery service, within the jurisdiction of the municipality and

**WHEREAS**, Section 31 of the Act stipulates that any municipal regulation or prohibition must be adopted within 180 days of the effective date of the Act (*i.e.* by August 21, 2021); and

**WHEREAS**, pursuant to Section 31 of the Act, the failure to adopt a municipal ordinance shall mean that for a period of five years thereafter, Class 1 Cultivator, Class 2 Manufacturer, Class 3 Wholesaler, and Class 4 Distributor licensed businesses shall be permitted uses in all industrial zones, and the Class 5 Retailer licensed business shall be a conditionally permitted use in all commercial / retail zones; and

**WHEREAS**, the Municipal Council previously adopted an ordinance permitting Medical Marijuana Alternative Treatment Centers (ATC), medical marijuana cultivation facilities, and medical marijuana manufacturing facilities in accordance with the Compassionate Use Medical Marijuana Act, P.L. 2009, c.307 (2010) codified at N.J.S.A. 24:61-1, **et seq.** (the "CUMMA"); and

**WHEREAS**, the Municipal Council seeks to amend the Newark Zoning and Land Use

Regulations at Title XLI of the Municipal Code and the City's Redevelopment Plans to permit the use of land and buildings within the City of Newark as adult use licensed cannabis businesses with regulations pertaining to each class of license as defined in the Act; and

**WHEREAS**, the Municipal Council, pursuant to N.J.S.A. 40:55D-64, sought the recommendations of the Newark Central Planning Board relative to these issues; and

**WHEREAS**, on November 5, 2020 the Municipal Council referred the draft proposed ordinance amending the Zoning Ordinance establishing permitted uses for cannabis activities, including cultivation, processing and retail sale for Adult-Use of marijuana, to the Central Planning Board for formal review, report and recommendations as required by N.J.S.A. 40:55D-26; and

**WHEREAS**, the Central Planning Board, at its July 12, 2021 regular meeting, confirmed that the proposed amendment is substantially consistent with the City's land use plan element, in accordance with the provisions of N.J.S.A. 40:55D-62, and made recommendations for modifications; and

**WHEREAS**, Ordinance 6-faa was advanced and adopted on first reading by the Municipal Council on August 4, 2021 and is scheduled for a public hearing, second reading and final passage on August 17, 2021; and

**WHEREAS**, there is an exigent need for Ordinance 6F-aa to be effective after being adopted upon Second Reading and Final Passage on August 17, 2021 as Section 31 of the Act, requires that municipalities adopt regulation ordinance on or before August 21, 2021; and

**WHEREAS**, the delay in the effective date of Ordinance 6F-aa is critically important the City of Newark in order to be compliant with the Act; and

**WHEREAS**, N.J.S.A. 40:69A-181(b) authorizes a Governing Body to adopt a resolution declaring an emergency and authorizing that an Ordinance take immediate effect so long as at least two-thirds of all the members of the Governing Body vote in favor of such resolution; and

**WHEREAS**, the Municipal Council recognizes the exigent need for the Ordinance to take immediate effect so that the City can be in compliance with Section 31 of the Act; and

**WHEREAS**, the Municipal Council has determined that it is therefore necessary and appropriate to adopt this resolution pursuant to N.J.S.A. 40:69A-181(b) declaring an emergency and determining that the Ordinance adopted on August 17, 2021 shall take immediate effect upon the Mayor's signature and publication.

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

1. For the reasons set forth herein and the important public policies enunciated, an emergency is hereby declared to exist and Ordinance 6-faa, amends the City of Newark Zoning Ordinance, Title XLI, of the Revised General Ordinances of the City of Newark, New Jersey, 2000, by

amending the definitions, amending permitted uses by district and adopting land use regulations pertaining to cannabis activities.

### **STATEMENT**

This Resolution hereby authorizes an emergency to be declared, and further authorizes Ordinance 6F-aa, adopted, as amended on First Reading by Municipal Council on August 4, 2021, which amends the City of Newark Zoning Ordinance, Title XLI, of the Revised General Ordinances of the City of Newark, New Jersey, 2000, by amending the definitions, amending permitted uses by district and adopting land use regulations pertaining to cannabis activities, to become effective after being adopted upon Second Reading and Final Passage on August 17, 2021, in accordance with N.J.S.A 40:69A-181(b) due to the exigent need for the City to be in compliance with Section 31 of the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act, pursuant to N.J.S.A. 24:61-1 et seq.