

ORDINANCE OF THE CITY OF EAST ORANGE, NEW JERSEY

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Corporation Counsel

Department Head

Appropriations:

Tabled: / /

Comptroller

Removed From Table: / /

Councilman/Councilwoman

Presents the following Ordinance:

ORDINANCE NO. 26 OF 2022

AN ORDINANCE AMENDING ORDINANCE 13 OF 2022 WHICH LEGALIZED AND REGULATED THE SALE OF RECREATIONAL CANNABIS AND CANNABIS PRODUCTS WITHIN THE CITY OF EAST ORANGE

WHEREAS, historically, New Jersey has outlawed the cultivation, manufacture, sale, possession, distribution and consumption of cannabis and cannabis products; and

WHEREAS, seeking to enforce the prohibition against cannabis, New Jersey has spent approximately \$143,000,000 per year; and

WHEREAS, as the result of the State’s prohibition, a burgeoning black market for cannabis and cannabis products has grown within the State of New Jersey; and

WHEREAS, efforts to combat this market have disproportionately impacted minorities in the State as African Americans are three times more likely to be arrested for the possession of cannabis and cannabis products than non-minorities; and

WHEREAS, realizing the folly of this approach, the New Jersey Municipal Prosecutor’s Association, whose members are primarily responsible for prosecuting cannabis possession arrests, voted to publicly support the legalization of cannabis subject to reasonable regulations; and

WHEREAS, in July of 2019, the State of New Jersey began to reverse course concerning its enforcement of cannabis prohibitions when it enacted the Jake Honig Compassionate Use Medical Cannabis Act, which authorized the cultivation, sale, processing, manufacturing, preparing, packaging, use and consumption of cannabis and cannabis products for qualified patients; and

WHEREAS, in 2020, New Jersey voters approved Public Question No. 1, which amended the New Jersey Constitution to allow for the legalization of cannabis and cannabis products for adults; 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 recreational use of cannabis and cannabis products by persons who are 21 or older and establishes a comprehensive regulatory and licensing scheme for its purchase, sale, cultivation, production, manufacturing, transportation, delivery, and consumption; and

WHEREAS, the Act establishes six marketplace classes of Licensed recreational cannabis businesses, including:

- 1. Class 1 Cannabis Cultivator License, for establishments growing, packaging and selling cannabis; and
- 2. Class 2 Cannabis Manufacturer License, for establishments manufacturing, preparing, packaging and selling cannabis products in

forms approved by the CRC; and

3. **Class 3 Cannabis Wholesaler License**, for establishments purchasing, storing, and selling cannabis and cannabis items for later resale; and
4. **Class 4 Cannabis Distributer License**, for businesses transporting, and temporarily storing as needed, cannabis and cannabis items in bulk from 1 Licensee to another; and
5. **Class 5 Cannabis Retailer License**, for establishments selling cannabis, cannabis products and Cannabis Paraphernalia directly to consumers; and
6. **Class 6 Cannabis Delivery License**, for businesses providing courier delivery service of cannabis, cannabis products and Cannabis Paraphernalia to consumers.

WHEREAS, the Act grants municipalities the authority to adopt ordinances governing: (a) the classes, types and number of Cannabis Businesses, as well as Cannabis Testing Laboratories, permitted to operate within their boundaries, (b) zoning and land use requirements for the premises of permitted Cannabis Businesses, and (c) the location, manner and times of operation for permitted Cannabis Businesses, except for the times of operation of Cannabis Delivery Services within the City; and

WHEREAS, the Act grants municipalities the authority to establish separate local licensing requirements for permitted cannabis businesses; and

WHEREAS, the Act permits municipalities to adopt a local tax ordinance that imposes a: (a) transfer tax on the sale of cannabis or cannabis items sold from cannabis establishments located within their boundaries, and (b) a user tax on a concurrent License holder operating more than 1 cannabis establishment in the State; and

WHEREAS, the Act permits municipalities to establish civil penalties for the violation of local ordinances established pursuant to the Act.

NOW, THEREFORE, BE IT ORDAINED AS FOLLOWS:

SECTION 1. PURPOSE

The purpose of this Ordinance is to establish a local regulatory system in compliance with State law pertaining to the cultivation, manufacture, sale, resale, transportation, delivery, possession, consumption, and use of Cannabis and Cannabis Products within the City of East Orange. This Ordinance promotes the health, safety and general welfare of the residents of the City of East Orange in the following ways: it increases local tax revenue, it ensures that any and all permitted Cannabis Businesses will be in consonance with the City's land use laws, it limits the consumption of Cannabis and Cannabis Products to certain designated areas, and it allows law enforcement to direct its efforts and energies to curbing violent crimes.

SECTION 2. DEFINITIONS

The definitions promulgated under the Act, as supplemented by the CRC Rules, shall apply to this chapter of the municipal code of East Orange and other sections of the municipal code applicable to Cannabis Business operations and the possession,

consumption, use and local taxation of Cannabis and Cannabis Products. However, for purposes of local regulation the following definitions may supplement the meanings of terms used in the Act and the CRC Rules as follows:

“Act” means the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act, N.J.S.A., 24:6I-31, et al. (2021), as may be amended in the future.

“Annual License” see the definition of “License” further herein.

“Board” or **“BCC”** means the Board of Cannabis Control established under this Ordinance.

“Cannabis” means all parts of the plant Cannabis sativa L., whether growing or not, the seeds thereof, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds, except those containing resin extracted from the plant, which are cultivated and, when applicable, manufactured in accordance with the Act for use in Cannabis Products as set forth in this Act, but shall not include the weight of any other ingredient combined with cannabis to prepare topical or oral administrations, food, drink, or other product; “Cannabis” does not include: (1) medical cannabis dispensed to registered qualifying patients pursuant to the “Jake Honig Act,” and N.J.S.A. 18A:40-12.22, et al.); (2) marijuana as defined in N.J.S. 2C:35-2 and applied to any offense set forth in chapters 35, 35A, and 36 of Title 2C of the New Jersey Statutes, or P.L. 2001, c. 114 (C.2C:35B-1 et seq.), (3) marijuana as defined in section 2 of P.L.1970, c. 226 (C.24:21-2) and applied to any offense set forth in the “New Jersey Controlled Dangerous Substances Act,” N.J.S.A. 24:21-1, et al.; or (4) hemp or a hemp product cultivated, handled, processed, transported, or sold pursuant to the “New Jersey Hemp Farming Act,” N.J.S.A. 4:28-6 et seq.

“Cannabis Business” means a Cannabis Cultivator, Cannabis Manufacturer, Cannabis Wholesaler, Cannabis Distributor, Cannabis Retailer, or Cannabis Delivery Service, and includes an Expanded ATC but not a Cannabis Testing Facility.

“Cannabis Concentrate” means a product manufactured by a Cannabis Manufacturer, either in solid form or in liquid form such as oil, including Cannabis Extracts and resin extracted using non-chemical processes that contains only the resin, cannabinoids, terpenes and other substances extracted from any part of the Cannabis plant.

“Cannabis Consumption Area” means a designated location in or on the Premises of a Cannabis Retailer, for which both a State and City Endorsements have been obtained, where Cannabis Items may be consumed. A Cannabis Consumption Area may only be located in: (1) an indoor, structurally enclosed area of the Cannabis Retailer’s Premises but separate from the area where retail sales occur; or (2) an exterior structure on the same Premises as the Cannabis Retailer, either separate from or connected to the Premises.

“Cannabis Cultivator” means the holder of a Class 1 Cannabis Cultivator License to possess, propagate, germinate, plant, cultivate, grow, harvest, dry, cure, process and package Cannabis. A Cannabis Cultivator is authorized to transfer, supply or sell, and optionally transport: (1) Usable or Unusable Cannabis to other Cannabis Cultivators or Cannabis Manufacturers; and (2) Usable Cannabis to Cannabis Wholesalers or Cannabis Retailers.

“Cannabis Delivery Service” means the holder of a Class 6 Cannabis Delivery License authorized to provide courier delivery service of Cannabis, Cannabis Products and Cannabis Paraphernalia purchased from Class 5 Retailers to Consumers. Cannabis Delivery Service includes the ability to accept purchase orders directly from Consumers for fulfillment by Cannabis Retailers prior to delivery.

“Cannabis Distributor” means the holder of a Class 4 Cannabis Distributor License authorized to provide bulk, intrastate transportation of: (1) Cannabis from one Cannabis Cultivator to another; and (2) Cannabis Items from any Cannabis Establishment to another. A Cannabis Distributor is permitted to temporarily store Cannabis and Cannabis Items as necessary to carry out transportation activities.

“Cannabis Establishment” means a Cannabis Cultivator, Cannabis Manufacturer, Cannabis Wholesaler, or Cannabis Retailer.

“Cannabis Extract” means a substance obtained by separating resins from Cannabis by: (1) a chemical extraction process using a hydrocarbon-based solvent such as butane, hexane, or propane; (2) a chemical extraction process using the hydrocarbon-based solvent carbon dioxide, if the process uses high heat or pressure; or (3) any other process identified by the CRC by rule.

“Cannabis-Infused Product” means a product manufactured by a Cannabis Manufacturer in an authorized form that contains Usable Cannabis or Cannabis Concentrate, in solid or liquid form, and 1 or more ingredients intended for human consumption or use, including an ingestible product, inhalable product, or dermal product.

“Cannabis Item” means any Usable Cannabis or Cannabis Product that is cultivated, produced, manufactured or consumed.

“Cannabis Manufacturer” means the holder of a Class 2 Manufacturer License to develop, produce, manufacture, prepare, or otherwise create and package Cannabis Products. A Class 2 Manufacturer is authorized to: (1) transfer, supply or sell, and optionally transport (directly or through a Class 4 Distributor) Cannabis Items to other Cannabis Manufacturers, Cannabis Wholesalers and Cannabis Retailers; and (2) purchase or obtain (a) Usable Cannabis from Cannabis Cultivators or other Cannabis Manufacturers, and (b) Cannabis Products from other Cannabis Manufacturers.

“Cannabis Paraphernalia” means any equipment, products, or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, composting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, vaporizing, or containing Cannabis, or for ingesting, inhaling, or otherwise introducing a Cannabis Item into the human body; but does not include drug paraphernalia as defined in N.J.S. 2C:36-1 and which is used or intended for use to commit a violation of Chapter 35 or 36 of Title 2C of the New Jersey Statutes.

“Cannabis Permit Application” means the Board approved application form to be completed by applicants seeking a Permit to operate a permitted Cannabis Business from the City.

“Cannabis Product” means a Cannabis Concentrate or a Cannabis-Infused Product, that a Cannabis Manufacturer manufactures, produces, or creates from Usable Cannabis or Cannabis Concentrate.

“Cannabis Retailer” means the holder of a Class 5 Cannabis Retailer License to furnish or sell Usable Cannabis, Cannabis Products, Cannabis Paraphernalia and related supplies. A Cannabis Retailer is authorized to:

- (1) purchase or acquire (a) Usable Cannabis from Cannabis Cultivators or other Cannabis Retailers; (b) Cannabis Products and related supplies from Cannabis Manufacturers, Cannabis Wholesalers or other Cannabis Retailers; and (c) Cannabis Paraphernalia;
- (2) transport, transfer, supply, furnish or sell Usable Cannabis, Cannabis

Products, Cannabis Paraphernalia, and related supplies to Consumers or other Cannabis Retailers; and

(3) furnish Usable Cannabis, Cannabis Products, Cannabis Paraphernalia, and related supplies to Cannabis Delivery Services for delivery to Consumers.

“Cannabis Testing Facility” means an independent, third-party laboratory Licensed by the CRC pursuant to N.J.A.C. 17:30-15 to perform testing services, including analysis and certification of compliance with applicable health, safety, and potency standards, on Usable Cannabis for personal use and Cannabis Products pursuant to N.J.A.C. 17:30-16.

“Cannabis Wholesaler” means the holder of a Class 3 Cannabis Wholesaler License authorized to obtain, store, sell or otherwise transfer, and optionally transport Cannabis Items for the purpose of resale or other transfer to another Cannabis Wholesaler or a Cannabis Retailer.

“CRC” means the Cannabis Regulatory Commission established pursuant to section 31 of the Act.

“CRC Rules” means the rules implementing the Act as promulgated by the Cannabis Regulatory Commission and codified at N.J.A.C. 17:30-1.1, et seq.

“Conditional License” means a temporary License issued by the CRC to Cannabis Establishments, Cannabis Distributors and Cannabis Delivery Services pursuant to an abbreviated application process following which the Conditional License holder has 120 days, with the possibility of a 45 day-extension in the CRC’s discretion, to submit a conversion application that satisfies all the remaining conditions for licensure, allowing the Conditional License holder to convert the Conditional License to an Annual License. A Conditional License holder may not engage in any Cannabis Business activities during the Conditional License Conversion phase.

“Conditional License Conversion” means the process prescribed in the CRC Rules by which a Conditional License holder submits a conversion application that satisfies all the remaining conditions for licensure to convert the Conditional License into an Annual License.

“Consumer” means a person 21 years of age or older who purchases, directly or through a Cannabis Delivery Service, acquires, owns, holds or uses Cannabis Items for personal use by a person 21 years of age or older, but not for resale to others.

“Consumption” means the Act of ingesting, inhaling or otherwise introducing Cannabis Items into the human body.

“Cultivate” means the propagation, germination, planting, growing, harvesting, drying, curing and processing of Cannabis.

“Expanded ATC” means an “Alternative Treatment Center” or “ATC” that has already been issued a State permit to cultivate, manufacture, and dispense Medical Cannabis and related paraphernalia pursuant to the Jake Honig Act, and which is also authorized by the CRC to operate as a Cannabis Cultivator, Cannabis Manufacturer, Cannabis Wholesaler, Cannabis Distributor, Cannabis Retailer and/or Cannabis Delivery Service, in addition to its ATC operations.

“Diversely Owned Business” means a License applicant or holder where the entity has been certified, pursuant to the criteria at N.J.A.C. 17:30-6.4, as:

- (1) a minority-owned business pursuant to N.J.S.A. 52:27H-21.18 et seq.;
- (2) a women-owned business pursuant to N.J.S.A. 52:27H-21.18 et seq.;
- (3) a disabled-veterans-owned business, as defined at N.J.S.A. 52:32-31.2; or

(4) any combination of paragraphs 1, 2, or 3 above.

“Economically Disadvantaged Area” means a zip code that meets all the following socioeconomic criteria:

- (1) has a median income that is 80 percent or less of the average median household income in the State, as determined annually by the U.S. Census Bureau; and
- (2) has a health uninsured rate that is at least 150% of the health uninsured rate in the State, as determined annually by the U.S. Census Bureau.

“Endorsement” means the State and municipal authorizations or approvals issued in accordance with the Act, the CRC Rules and this Ordinance, issued by the CRC and the Board respectively, to a Cannabis Retailer to operate a Cannabis Consumption Area on its Premises.

“Immature Cannabis Plant” means a Cannabis plant that is not flowering.

“Impact Zone” means any municipality, based on past criminal marijuana enterprises contributing to higher concentrations of law enforcement activity, unemployment, and poverty, or any combination thereof, within parts of or throughout the municipality, that:

- (1) has a population of 120,000 or more according to the most recently compiled federal decennial census as of the effective date of the Act;
- (2) based upon data for calendar year 2019, ranks in the top 40% of municipalities in the State for marijuana or hashish-related arrests for violation of paragraph (4) of subsection a. of N.J.S.2C:35-10; has a crime index total of 825 or higher based upon the indexes listed in the annual Uniform Crime Report by the Division of State Police; and has a local average annual unemployment rate that ranks in the top 15% of all municipalities, based upon average annual unemployment rates estimated for the relevant calendar year by the Office of Research and Information in the Department of Labor and Workforce Development;
- (3) is a municipality located in a county of the third class, based upon the county’s population according to the most recently compiled federal decennial census as of the effective date of the Act, that meets all of the criteria set forth in paragraph (2) other than having a crime index total of 825 or higher; or
- (4) is a municipality located in a county of the second class, based upon the county’s population according to the most recently compiled federal decennial census as of the effective date of the Act:
 - (a) with a population of less than 60,000 according to the most recently compiled federal decennial census, that for calendar year 2019 ranks in the top 40% of municipalities in the State for marijuana or hashish-related arrests for violation of paragraph (4) of subsection a. of N.J.S.2C:35-10; has a crime index total of 1,000 or higher based upon the indexes listed in the 2019 annual Uniform Crime Report by the Division of State Police; but for calendar year 2019 does not have a local average annual unemployment rate that ranks in the top 15% of all municipalities, based upon average annual unemployment rates estimated for the relevant calendar year by the Office of Research and Information in the Department of Labor and Workforce Development;

or

- (b) with a population of not less than 60,000 or more than 80,000 according to the most recently compiled federal decennial census; has a crime index total of 650 or higher based upon the indexes listed in the 2019 annual Uniform Crime Report; and for calendar year 2019 has a local average annual unemployment rate of 3.0 percent or higher using the same estimated annual unemployment rates.

“Jake Honig Act” means the Jake Honig Compassionate Use Medical Cannabis Act, N.J.S.A. 24:61- 1, et al. (2019), as may be amended in the future.

“License” means an authorization or approval issued by the CRC in accordance with the Act and the CRC Rules to operate as a Cannabis Cultivator, Cannabis Manufacturer, Cannabis Wholesaler, Cannabis Distributor, Cannabis Retailer, Cannabis Delivery Service, Expanded ATC or Cannabis Testing Facility. Licenses are issued by the CRC to Microbusinesses, Standard Cannabis Businesses and Cannabis Testing Facilities, and must be renewed on an annual basis.

“Licensee” means the holder of a Cannabis Business or Cannabis Testing Facility License.

“Licensee Representative” means an owner, director, officer, manager, employee, agent, or other representative of an applicant or holder of a Cannabis Business or Cannabis Testing Facility License, to the extent that the person acts in a representative capacity.

“Local Support Application” means the Board approved application form to be completed by applicants seeking a Resolution of Support to operate a permitted Cannabis Business from the City.

“Manufacture” means preparing, compounding, mixing or converting Usable Cannabis to produce, make, or otherwise create a Cannabis Product.

“Mature Cannabis Plant” means a harvestable female Cannabis Plant that is flowering.

“Medical Cannabis” means cannabis in various forms dispensed to registered qualifying patients and designated caregivers pursuant to the Jake Honig Act.

“Microbusiness” means the holder of a License to operate as a Cannabis Establishment, Cannabis Distributor or Cannabis Delivery Service with a smaller footprint than a Standard Cannabis Establishment, Cannabis Distributor or Cannabis Delivery Service and which, with respect to its operations, capacity and quantity of product, may only:

- (1) employ no more than 10 employees;
- (2) operate a Cannabis Establishment occupying an area of no more than 2,500 square feet, and in the case of a Cannabis Cultivator grow Cannabis on an area no more than 2,500 square feet measured on a horizontal plane and grow above that plane not higher than 24 feet;
- (3) possess no more than 1,000 Cannabis plants each month, except that a Cannabis Distributor’s possession of Cannabis plants for transportation shall not be subject to this limit;
- (4) acquire each month, in the case of a Cannabis Manufacturer, no more than 1,000 pounds of Usable Cannabis;
- (5) acquire for resale each month, in the case of a Cannabis Wholesaler, no more than 1,000 pounds of Usable Cannabis or the equivalent amount in any form

of manufactured Cannabis Product or Cannabis Extract, or any combination thereof; and

(6) acquire for retail sale each month, in the case of a Cannabis Retailer, no more than 1,000 pounds of Usable Cannabis or the equivalent amount in any form of manufactured Cannabis Product or Cannabis Extract, or any combination thereof.

“Ordinance” means this ordinance, number ____ of 2022, as it amends or supplements the municipal code of the East Orange with respect to the cultivation, manufacture, sale and resale, transportation and delivery, possession, consumption, use and local taxation of Cannabis and Cannabis Products within the City.

“Permit” means an authorization or approval issued by the Board in accordance with this Ordinance to operate as a Cannabis Cultivator, Cannabis Manufacturer, Cannabis Wholesaler, Cannabis Distributor, Cannabis Retailer or Cannabis Delivery Service. Permits are issued by the Board to those Microbusinesses and Standard Cannabis Businesses permitted under this Ordinance and must be renewed on an annual basis.

“Permittee” means the holder of a Cannabis Business or Cannabis Testing Facility Permit.

“Premises” includes the following areas of a location Licensed under the Act: all public and private enclosed areas at the location that are used in the business operated at the location, including offices, kitchens, rest rooms, and storerooms; all areas outside a building that the Cannabis Regulatory Commission has specifically Licensed for the production, manufacturing, wholesaling, distributing, retail sale, or delivery of Cannabis Items; and, for a location that the commission has specifically Licensed for the production of Cannabis outside a building, the entire lot or parcel that the Licensee owns, leases, or has a right to occupy.

“Produce” means the planting, cultivation, growing or harvesting of Cannabis, but not the drying of Cannabis by a Cannabis Manufacturer if the Cannabis Manufacturer is not otherwise manufacturing Cannabis.

“Public Place” means any place to which the public has access that is not privately owned; or any place to which the public has access where alcohol consumption is not allowed, including, but not limited to, a public street, road, thoroughfare, sidewalk, bridge, alley, plaza, park, playground, swimming pool, shopping area, public transportation facility, vehicle used for public transportation, parking lot, public library, or any other public building, structure, or area.

“Residential Building” means a building that contains 1 or more dwelling units and solely contains residential as the principal use.

“Resolution of Support” means a resolution issued by East Orange’s City Council demonstrating proof of local support for the suitability of a Cannabis Business’ proposed location, as required by the CRC Rules, to apply for an Annual License or Conditional License Conversion to operate as a Microbusiness or Standard Cannabis Business.

“Significantly Involved Person” means a person or entity who: (1) holds at least a 5% investment interest in a Cannabis Business License applicant or holder, or (2) who is a decision making member of a group that holds at least a 20% investment interest in a Cannabis Business License applicant or holder, in which no member of that group holds more than a 5% interest in the total group investment interest and the person or entity makes controlling decisions regarding the Cannabis Business License applicant or holder’s operations.

“Standard Cannabis Business” means the holder of a License to operate a Cannabis Business that is not subject to any of the limitations imposed on Microbusinesses with respect to its operations, capacity, and quantity of product.

“THC” means delta-9-tetrahydrocannabinol and its precursor, tetrahydrocannabinol acid, the main psychoactive chemicals contained in the Cannabis plant.

“Unusable Cannabis” means the Cannabis seeds, stems, stalks, roots, or any part of the immature Cannabis plant.

“Usable Cannabis” means the dried leaves and flowers of the Mature Cannabis Plant; but does not include the Cannabis seeds, seedlings, stems, stalks, roots, or any part of the immature Cannabis plant.

SECTION 3. BOARD OF CANNABIS CONTROL

Purpose.

This Article XVII, titled “Board of Cannabis Control,” is created and added to the administrative ordinances of the municipal code of East Orange for the purpose of establishing a Board of Cannabis Control to Act as the local permitting and regulating authority for recreational cultivation, manufacturing, wholesale, distribution, retail, delivery, possession, consumption, use and local taxation of Cannabis and Cannabis Items in the City in accordance with the provisions of the Act, the CRC Rules, and the rules and regulations of East Orange not inconsistent with the Act or other applicable rules and regulations of the State of New Jersey.

Definitions.

Supplement from Section 2, above.

Board Established.

There is hereby established in the City a Board of Cannabis Control. Under all circumstances in which State law requires communication to the City by the CRC or any other State agency regarding the licensing and regulation of Cannabis Businesses by the State, or in which State law requires any review or approval by the City of any action taken by the CRC, the exclusive authority for receiving such communications and granting such approvals shall be exercised by the Board of Cannabis Control.

Membership; Appointments; Terms of Office.

The Board of Cannabis Control shall consist of 5 members and 2 liaisons. Only members shall have voting rights. The liaisons may be changed from time to time at the discretion of the Mayor and the City Council Chairperson who shall each appoint 1 liason.

The Mayor shall appoint 3 members to the Board and the remaining 2 members shall be appointed by City Council; *provided, however,* each member is subject to City Council confirmation. Members shall be appointed for a term of 4 years and shall serve until their successors have been appointed or qualified, unless sooner terminated by death, incapacity, resignation or removal. The terms of the members shall be staggered such that each year at least 1 member’s term is expiring. At each reorganization meeting of the Board, the Board shall elect from among its members a chairperson and vice chairperson to serve for the ensuing year. There shall be no limit to the number of terms a member may be appointed to serve the Board or the

number of times a member may be elected chairperson and vice chairperson.

Powers and Duties.

The powers and duties of the Board of Cannabis Control shall include, without limitation:

- A. Making recommendations to the Mayor and Council, consistent with the Act, the CRC Rules, the stated purposes of this Ordinance and the applicable rules and regulations of East Orange not inconsistent with the Act or other applicable rules and regulations of the State, regarding the: (1) classes, types and number of Cannabis Businesses permitted to operate in the City; (2) location, manner and times of operation of each Cannabis Business, except for the times of operation of Cannabis Delivery Services; (3) local application and permitting requirements for permitted Cannabis Businesses; and (4) collection and use of municipal transfer and user taxes;
- B. Establishing criteria and a formal process for applicants to apply for a Resolution of Support for their Conditional License Conversion or Annual License applications;
- C. Hearing applications for Resolutions of Support, determining whether applicants meet the applicable criteria, and issuing recommendations for endorsement to the Council for applicants that meet the applicable criteria or denials to applicants that do not;
- D. Establishing criteria and a formal process for applicants to apply for a post-License Permit and a Consumption Area Endorsement in order to operate as a Microbusiness or Standard Cannabis Establishment, Cannabis Distributor or Cannabis Delivery Service in the City;
- E. Hearing applications for post-License Permits and Consumption Area Endorsements, and any renewals thereof, in accordance with the licensing provisions of the Act and Chapter 265 of the municipal code of East Orange, and awarding Permits to those applicants that meet the applicable criteria or denials to applicants that do not;
- F. Enforcing all State and municipal rules and regulations applicable to the location, manner and times of operation of a Cannabis Business' Premises located in the City;
- G. Establishing civil penalties for violations of any local ordinance or regulation governing the location, manner and times of operation of Cannabis Business' Premises located in the City; and
- H. Any other powers and duties delegated to a municipality under the Act, by the CRC, under other applicable State laws or the municipal code of East Orange.

Operation in Accordance with State Law.

The Board of Cannabis Control shall be operated in accordance with the provisions of the Act and the CRC Rules.

SECTION 4. CANNABIS TRANSFER AND USER TAXES

Purpose.

This Article IV, titled “Cannabis Transfer and User Taxes,” is created and added to the general ordinances of the municipal code of East Orange for the purpose of establishing local transfer and user taxes on the sale of Cannabis or Cannabis Items by a Cannabis Establishment located in the City in accordance with the provisions of the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act, N.J.S.A. 24:6I-31, et al. (the “Act”), the Cannabis Regulatory Commission (“CRC”) Rules, and the rules and regulations of the City not inconsistent with the Act or other applicable rules and regulations of the State of New Jersey.

Definitions.

Supplement from Section 2, above.

Tax Established; Amount.

- A. There is hereby established a transfer tax on the sale of Cannabis or Cannabis Items by a Cannabis Establishment located in the City which shall be fixed at a uniform percentage rate of 2% of the receipts from each sale by a Cannabis Cultivator; 2% of the receipts from each sale by a Cannabis Manufacturer; 1% of the receipts from each sale by a Cannabis Wholesaler; and 2% of the receipts from each sale by a Cannabis Retailer pursuant to N.J.S.A. 24:48I-1, et seq.
- B. There is further hereby established a user tax at the equivalent transfer tax rates, on any Permit holder concurrently operating more than 1 Licensed Cannabis Establishment in the State on the value of each transfer or use of Cannabis or Cannabis Items not otherwise subject to the transfer tax imposed pursuant to paragraph (A) of this section, from the Permit holder’s Cannabis Establishment that is located in the City to any of the other Permit holder’s Cannabis Establishment(s), whether located in the City or another municipality.

Effect on Other Taxes.

- A. Any transfer tax or user tax imposed pursuant to this section shall be in addition to any other tax imposed by the Act.
- B. Any transaction for which the transfer tax or user tax is imposed, or could be imposed, pursuant to this section, other than those which generate receipts from the retail sales by Cannabis Retailers, shall be exempt from the tax imposed under the “Sales and Use Tax Act,” N.J.S.A. 54:32B-1, et seq., as amended.

Collection of Tax.

- A. The transfer tax or user tax shall be remitted to the City’s Chief Financial Officer by the Cannabis Establishment from its purchasing or receiving the Cannabis or Cannabis Item, or from the Consumer at the point of sale, on behalf of the City by the Cannabis Retailer selling the Cannabis Item to that Consumer.

- B. Transfer and user taxes are due and payable quarterly on April 1, July 1, October 1 and January 1 of each year. Each payment shall be based on the Cannabis Establishment's gross sales during the preceding three-month period and shall be accompanied by appropriate reporting forms as designated by the Chief Financial Officer.
- C. The transfer tax or user tax shall be stated, charged, and shown separately on any sales slip, invoice, receipt, or other statement or memorandum of the price paid or payable, or equivalent value of the transfer, for the Cannabis or Cannabis Item.
- D. Every Cannabis Establishment required to collect a transfer tax or user tax imposed by Ordinance pursuant to this section shall be personally liable for the transfer tax or user tax imposed, collected, or required to be collected under this section.
- E. Any Cannabis Establishment shall have the same right with respect to collecting the transfer tax or user tax from another Cannabis Establishment or the Consumer as if the transfer tax or user tax was a part of the sale and payable at the same time, or with respect to non-payment of the transfer tax or user tax by the Cannabis Establishment or Consumer, as if the transfer tax or user tax was a part of the purchase price of the Cannabis or Cannabis Item, or equivalent value of the transfer of the Cannabis or Cannabis Item, and payable at the same time; provided, however, that the City's Chief Financial Officer shall be joined as a party in any action or proceeding brought to collect the transfer tax or user tax.
- F. No Cannabis Establishment required to collect a transfer tax or user tax imposed pursuant to this section shall advertise or hold out to any person or to the public in general, in any manner, directly or indirectly, that the transfer tax or user tax will not be separately charged and Stated to another Cannabis Establishment or the Consumer, or that the transfer tax or user tax will be refunded to the Cannabis Establishment or the Consumer.

Enforcement; Penalties.

- A. The City shall enforce the payment of delinquent transfer taxes or user taxes imposed under this section in the same manner as provided for municipal real property taxes.
- B. In the event the transfer tax or user tax imposed under this section is not paid as and when due by a Cannabis Establishment, the unpaid balance, and any interest accruing thereon, shall be a lien on the parcel of real property comprising the Cannabis Establishment's Premises in the same manner as all other unpaid municipal taxes, fees, or other charges. The lien shall be superior and paramount to the interest in the parcel of any owner, lessee, tenant, mortgagee, or other person, except the lien of municipal taxes, and shall be on a parity with and deemed equal to the municipal lien on the parcel for unpaid property taxes due and owing in the same year.
- C. A statement showing the amount and due date of the unpaid balance and identifying the lot and block number of the parcel of real property that comprises the delinquent Cannabis Establishment's Premises shall be filed in the office of the City's tax collector.

- D. Any lien created under this section shall be enforced as a municipal lien in the same manner as all other municipal liens are enforced.
- E. The penalty for violation of the foregoing provisions shall be a minimum of \$1,000. This clause shall not be construed to limit or otherwise interfere with the ability of the City to pursue all remedies that are available to it at law and/or equity in connection with any municipal liens that are imposed against the property that houses the subject Permittee.

Distribution of Provisions of this Article.

A copy of this article shall be transmitted to the State treasurer and to each Cannabis Establishment located within the City.

SECTION 5. CANNABIS BUSINESS PERMITTING; RULES AND REGULATIONS

Purpose.

This Chapter 265, titled “Cannabis Businesses” is created and added to the general ordinances of the municipal code of East Orange for the purpose of establishing local permitting requirements and regulating the operations of Cannabis Businesses with respect to the cultivation, manufacturing, wholesale, distribution, retail, delivery, consumption, use and local taxation of recreational Cannabis and Cannabis Items in the City in accordance with the provisions of the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (the “Act”), any supplements and amendments thereto, and in accordance with the rules and regulations promulgated by the Cannabis Regulatory Commission (the “CRC Rules”), and in accordance with the rules and regulations of the City not inconsistent with the Act or the rules and regulations of the State of New Jersey.

The regulations of this Ordinance are subject to the enabling authority of the State pursuant to N.J.S.A. 24:6I-45 and are subject to compliance with all statutes and regulations adopted by the State or its instrumentalities, including the CRC. If any provision of this Ordinance is inconsistent with State statutes or any regulations thereof, the State statutes and regulations shall prevail.

Definitions.

Supplement from Section 2, above.

General Provisions.

- A. State License and City Permit Required. Prior to the operation of any Microbusiness or Standard Cannabis Business in the City, a License from the State pursuant to the Act and a Permit from the City pursuant to this chapter, must first be obtained for the class of Cannabis Business permitted herein. No Microbusiness or Standard Cannabis Business may operate without having been issued a License and Permit by the State and City, respectively. The City will not act on any Cannabis Permit Application until such time as the applicant has been awarded a License from the State.
- B. Compliance with the Act, CRC Rules and East Orange Municipal Code. All permitted Microbusiness and Standard Cannabis Businesses must operate in strict compliance with the terms and conditions of their State-issued License and City-issued Permit, the Act, the CRC Rules and any other applicable

chapters of the municipal code of East Orange, as may be amended in the future.

- C. Permitted Cannabis Business Operations. Effective August 20, 2021, East Orange shall permit Microbusinesses and Standard Cannabis Businesses to perform the following operations in the City:

Class 1 – Cultivators

Class 2 – Manufacturer

Class 3 – Wholesaler

Class 4 – Distributor

Class 5 – Retailer

Class 6 – Delivery Service

Expanded ATCs and Cannabis Testing Facilities are not permitted to operate in the City. The maximum number, if any, of Microbusiness and Standard Cannabis Business Permits available per Class of operation, and the zoning districts in which they are permitted, shall be set forth in Chapter 51 of the municipal code of East Orange in accordance with the provisions of this Ordinance.

- D. Zoning Generally. Cannabis Businesses shall only be allowed to operate in zoning districts within the City that specifically allow for such class of operation as a permitted use or a conditional use. If a zoning district within the City allows for a particular class of operation on a conditional use basis, the Cannabis Business must apply for a variance in accordance with applicable provisions of Chapter 51 of the municipal code of East Orange.
- E. Separation Distance Requirements. No Cannabis Business shall operate within 100 feet of a child day care center, elementary school or high school and 625 feet from another Cannabis Establishment, as measured from the main entrance of each establishment.
- F. Consumption Areas. A Cannabis Retailer may apply for a Cannabis Consumption Area Endorsement in accordance with the Act, the provisions of this Ordinance and Chapter 51 of the municipal code of East Orange.
- G. Notice of Application Acceptance. Upon organization of the Board, the Board shall issue a notice of application acceptance for applications for Resolutions of Support and Permits (the “Notice of Application Acceptance”). The Notice of Application Acceptance shall, minimally, set forth the criteria, process, period and manner in which the Board will accept and review Local Support Applications and Cannabis Permit Applications, and the fees associated with same.

Resolutions of Support.

- A. Resolution of Support Requirements. Any Microbusiness or Standard Cannabis Business permitted to operate in the City that is seeking a Resolution of Support, shall submit to the Board a fully completed application for local support with required attachments, in the form and manner prescribed by the Board (the “Local Support Application”) along

with payment of the applicable fees prescribed herein. The Local Support Application shall include, without limitation, the following information and attachments:

1. Applicant’s name, principal address, telephone number, email address, contact name and title (the “Applicant Information”);
2. Type and class of Permit sought (the “License Information”);
3. Location of the proposed Premises with documentary evidence that applicant has, or plans to obtain, lawful possession of the Premises, and a brief statement of the Premises’ suitability for the proposed Cannabis Business operation (the “Site Information”);
4. The number of vehicles applicant proposes to use and store at the Premises for Cannabis Distributors and Cannabis Delivery Services, home delivery by Retailers and any other transport of Cannabis and Cannabis Items permitted by the CRC Rules (the “Vehicle Information”);
5. A zoning certification letter issued by the City’s Zoning Official certifying that the Premises are properly zoned for the Cannabis Business operation proposed by applicant and setting forth any zoning and land use requirements applicable to the Premises (the “Zoning Certification Letter”);
6. Any site plan approvals (including variances for the Cannabis Operations proposed) obtained from the City’s Planning Board of Adjustment, or plans to obtain any site plan approval needed for build-out or retrofit of the interior and exterior of the Premises (the “Site Plan Approvals”);
7. A map of the applicant’s site location, evidencing compliance with the maximum separation distances required between Cannabis Establishments and child day care centers, elementary schools, high schools, and other Cannabis Establishments (the “Separation Distance Map”);
8. Organizational charts identifying applicant’s ownership, control, and operational structures (the “Organizational Charts”);
9. Applicant’s work history and experience in the Cannabis industry or other highly regulated industries (“Applicant Experience”);
10. A brief description of the proposed Cannabis Business’ operation, financing, product and pricing plans, market analysis and method of operation (the “Business Plan”);
11. A brief description of applicant’s safety and security plan (the “Security Plan”);
12. A brief description of applicant’s community impact plan (the “Community Impact Plan”);
13. A brief description of applicant’s workforce development and job

- creation plan that ensures 35% or more of applicant's workforce will come from City residents (the "Workforce Development Plan");
14. A brief description of applicant's history of, or plans regarding, social responsibility, philanthropy, community engagement and community outreach, and any local ties (collectively, "Social Responsibility");
 15. A brief description of applicant's nuisance mitigation plan (the "Nuisance Mitigation Plan"); and
 16. Any other information, consistent with State licensing and City permitting requirements, which the Board requests.
- B. Review Process. Upon receipt of a fully complete Local Support Application, the Board shall distribute copies of the Local Support Application to each member of the Board, the Board's attorney, the Chief of Police and the City Administrator. The Chief of Police and the City Administrator may, at any time following receipt of a Local Support Application and until the time of hearing, offer comment to the Board on any portion of same.
- C. Initial Review Period. Within 30 days of receipt of a fully complete Local Support Application the Board notify the applicant when the application is scheduled to be heard. The Board shall have the discretion to hold as many hearings as it deems necessary to decide on each Local Support Application. To the extent applicant's Local Support Application meets all application requirements, the Board shall within 10 days of its decision issue a written endorsement for a Resolution of Support to the Council. If applicant's Local Support Application fails to meet all application requirements, the Board shall within 10 days of its decision issue written notice to applicant citing the reason(s) for its denial of an endorsement for a Resolution of Support (the "Notice of Denial").
- D. Denials. Applicants denied an endorsement for a Resolution of Support will have 30 days within which to correct any deficiency cited in the Notice of Denial and submit an amended Local Support Application solely with respect to those deficiencies cited. The Board will then have up to 30 days from receipt of the amended Local Support Application to hold hearings and decide on the amended application, following which the Board will issue either a written endorsement for a Resolution of Support or a written Notice of Denial to applicant, as prescribed in subsection (C) above. There is no limitation on the number of amended Local Support Applications an applicant may submit for reconsideration by the Board. However, the times prescribed herein for submission and processing of an amended Local Support Application shall apply to each subsequent submission.
- E. Limitations on Resolutions of Support. Resolutions of Support shall only be issued by the Council in the manner prescribed by the CRC Rules. Applicants may, in the Council's discretion, be required to appear before the Council for issuance of a Resolution of Support. The Council shall only issue Resolutions of Support for the maximum number of Annual Licenses available to operate in the City. Unless such time is extended by the Council, in its sole discretion, Resolutions of Support shall expire [180] days following the date of issuance.
- F. Local Support Fees. A non-refundable, administrative fee of \$250 shall be

submitted with each Local Support Application and amended Local Support Application submitted to the Board for review.

Additionally, the non-refundable processing fees for issuance of a Resolution of Support, due at the time of submission of the Local Support Application, for each Cannabis Business allowed under the provisions of this chapter shall be as follows:

Permit Class	Standard Permit	Microbusiness Permit
1. Cultivator	Up to \$12,500	\$1,250
2. Manufacturer	Up to \$7,500	\$750
3. Wholesaler	\$2,500	\$500
4. Distributor	\$2,500	\$250
5. Retailer*	\$2,500	\$250
6. Delivery	\$1,250	\$125

*The processing fee for a Cannabis Consumption Area Endorsement issued to a Standard Cannabis Retailer is \$1,250 and to a Microbusiness Retailer is \$125.

Applicants must submit payment of the total amount of applicable administrative and processing fees with their Local Support Application, and any amended Local Support Application, in the manner prescribed by the Board. No fees will be refunded in the event applicant is not issued a Resolution of Support.

Municipal Preference.

Pursuant to the Act and the CRC Rules, within 28 days of receipt of any License application from the CRC, a municipality shall inform the CRC whether such License application complies with its ordinance or regulation, as may be applicable. Failure of a municipality to respond to the CRC within the designated time may result in the CRC deeming the License application in compliance with any pertinent ordinance or regulation. Where the Board receives a Conditional License application from the CRC from an applicant that has not already obtained a Resolution of Support, the Board shall inform the CRC whether such applicant’s proposed location and use complies with the applicable zoning and land use provisions of this Ordinance within the time prescribed by the CRC.

The Act and CRC Rules further provides that a municipality may provide input to the CRC as to the municipality’s preferences for licensure pursuant to N.J.A.C. 17:30-6.3. Whenever the City is requested by the CRC to indicate municipal preference where the number of applicants exceed the number of Annual Permits available to operate in the City, the Board shall indicate its preference based upon the scoring of weighted criteria to be established by the Board, with preference going to applicants with the highest scores for the number of Permits then available.

Permit Approval.

- A. Permit Requirements. A Microbusiness or Standard Cannabis Business seeking a Permit from the City to operate pursuant to a License awarded by the State shall submit to the Board a fully completed application for a Cannabis Business Permit with attachments, in the form and manner prescribed by the Board (the “Cannabis Permit Application”), along with the

applicable fees prescribed herein. The Cannabis Permit Application shall include, without limitation, the following information and attachments:

1. Applicant's name, principal address, telephone number, email address, contact name and title;
2. Type and class of Permit sought;
3. To the extent any of the following information provided by applicant in its Local Support Application has changed since the Resolution of Support was issued, applicant shall provide current information with respect to:
 - a. Site Information, required only to the extent: (a) applicant changed the proposed location or use of the Cannabis Business' Premises, or (b) the manner of site control has changed;
 - b. Vehicle Information, required only to the extent: (a) applicant has changed vehicles, or (b) the ownership or control of each vehicle has changed;
 - c. New or amended Zoning Certification Letter, required only to the extent: (a) applicant changed the proposed location or use of the Cannabis Business' Premises, or (b) the zoning or land use provisions of this Ordinance were amended, since applicant submitted its Local Support Application;
 - d. New or updated Site Plan Approvals, required only to the extent: (a) applicant changed the proposed location or use of the Cannabis Business' Premises, (b) modified its previously approved plans for build-out or retrofit of the interior and exterior of the Premises, or (c) the zoning or land use provisions of this Ordinance were amended, since applicant submitted its Local Support Application;
 - e. Updated Separation Distance Map, required only to the extent (a) applicant changed the proposed location or use of the Cannabis Business' Premises, (b) the locations of child day care centers, elementary schools, high schools, and other Cannabis Establishments within the separation distance buffer have changed, or (c) the zoning or land use provisions of this Ordinance were amended, since applicant submitted its Local Support Application;
 - f. Updated Organizational Charts, required only to the extent (a) applicant has changed its ownership, control, or operational structures, or (b) applicant's owners, principals, management services contractors, managers, as well as all parent companies, subsidiaries, affiliates, predecessors, and successors have changed, since applicant submitted its Local Support Application;
 - g. Applicant's Experience;
 - h. Applicant's Business Plan;

- i. Applicant's Safety Plan;
 - j. Applicant's Community Impact Plan;
 - k. Applicant's Workforce Development Plan;
 - l. Applicant's record of Social Responsibility;
 - m. Applicant's Nuisance Mitigation Plan;
4. True and complete copies with attachments of the Conditional License and Conversion License Applications or the Annual License Application submitted by applicant to the CRC;
 5. A true and complete copy of the award letter issued to applicant by the CRC for its Annual License;
 6. Verified proof of funds for financing applicant's Cannabis Business operation;
 7. Documentary evidence that all owners, principals and employees required to submit to a background check under the CRC Rules have done so and passed;
 8. An affidavit certifying that (a) the Cannabis Business will not discriminate based on race, color, religion or creed, gender, gender expression, age, national origin or ancestry, disability, marital status, sexual orientation or military status in any of its hiring practices or business activities; (b) compliance with all State and local laws regarding affirmative action, anti-discrimination and fair employment practices; and (c) 35% or more of the Cannabis Business' workforce does or will consist of City residents.
 9. Any other information, consistent with State licensing and City permitting requirements, which the Board requests.
- B. Review Process. Upon receipt of a fully complete Cannabis Permit Application, the Board shall distribute copies of the Cannabis Permit Application to each member of the Board, the Board's attorney, the Chief of Police, the City Administrator and the Council member of the ward/district in which the Premises are located.
- C. Initial Review Period. Within 60 days of receipt of a fully complete Cannabis Permit Application the Board notify the applicant when the application is scheduled to be heard. To the extent applicant's Cannabis Permit Application meets all application requirements, the Board shall within 10 days of its decision issue a Permit to applicant provided there remain Permits available pursuant to the maximum number of Permits allowed for applicant's Cannabis Business operation in the City. If applicant's Cannabis Permit Application fails to meet all the application requirements, the Board shall issue applicant a written notice to cure citing the deficiencies in the Cannabis Permit Application (the "Notice of Cure").
- D. Notices to Cure. Applicants issued a Notice to Cure shall have 45 days, unless extended by the Board in its sole discretion, within which to cure

deficiencies cited therein and submit an amended Cannabis Permit Application solely with respect to those deficiencies. The Board will then have up to 30 days from receipt of the amended Cannabis Permit Application within which to hold hearings and decide on the amended Cannabis Permit Application, following which the Board will either award a Permit to applicant, provided there remain Permits available pursuant to the maximum number of Permits allowed for applicant’s Cannabis Business operation in the City, or issue a written notice of denial (the “Notice of Permit Denial”). Notices of Permit Denial issued pursuant to this subsection shall be final.

- E. Appeals. Any applicant issued a Notice of Permit Denial will be afforded the opportunity for a hearing in accordance with the “Administrative Procedure Act,” N.J.S.A. 52:14B-1, et seq. All Notices of Permit Denial shall include the time and framework within which the applicant may request a hearing and the procedure for same.
- F. Administrative Fees. A non-refundable, administrative fee of \$500 shall be submitted with each Cannabis Permit Application and amended Cannabis Permit Application submitted to the Board for review.
- G. Initial Permit Fees. The initial Permit fees, due at the time of submission of the Cannabis Permit Application, for each Cannabis Business allowed under the provisions of this chapter shall be as follows:

Permit Class	Standard Permit	Microbusiness Permit
1. Cultivator	Up to \$12,500	\$1,250
2. Manufacturer	Up to \$7,500	\$750
3. Wholesaler	\$2,500	\$500
4. Distributor	\$2,500	\$250
5. Retailer*	\$2,500	\$250
6. Delivery	\$1,250	\$125

*The initial Permit fee for a Cannabis Consumption Area issued to a Standard Cannabis Retailer is \$1,250 and to a Microbusiness Retailer is \$125.

Applicants must submit payment of the total amount of applicable administrative and Permit fees with their initial Cannabis Permit Application, and any amended Cannabis Permit application, in the manner prescribed by the Board. In the event applicant is denied a Permit, the Permit Fee will be returned to applicant with the Notice of Permit Denial.

Weighted Criteria

The Board shall establish weighted criteria for the purpose of reviewing and scoring all Local Support Applications and Cannabis Permit Applications, which shall include consideration of the design and layout of the Premises, and Applicants’ Experience, Business Plan, Safety Plan, Community Impact Plan, Workforce Development Plan, Social Responsibility and Nuisance Mitigation Plans and shall award bonus points for Applicants with site control and ties to the local community.

Hours of Operation; Consumption.

- A. Except for Class 6 Cannabis Delivery Services whose hours of operation are regulated by the CRC, Class 1, 2, 3 and 4 Cannabis Businesses in the City may operate daily between the hours 8:00 am and 8:00 pm only. A Class 5 Retailer may operate Sunday through Wednesday between the hours of 10:00 am to 10:00 pm only and Thursday through Saturday between the hours of 10:00 am and 11:59 pm only.
- B. A Class 5 Retailer with a Cannabis Consumption Area Endorsement may only allow consumption of Cannabis Items on the Premises during hours of retail operation.
- C. A Cannabis Consumption Area may not remain open after the Retailer has closed the retail area of the Premises for the day.

Sale and Onsite Consumption to Certain Persons Prohibited.

- A. No Cannabis Retailer or Cannabis Delivery Service allowed under this chapter shall sell or deliver or permit or suffer the sale or delivery of any Cannabis Item, directly or indirectly, to any individual under the legal age to purchase or consume Cannabis Items.
- B. No Cannabis Retailer with a Consumption Area shall allow, permit or suffer the consumption of any Cannabis Item by any individual under the legal age to purchase or consume Cannabis Items in or upon the Cannabis Consumption Area.
- C. The Cannabis Business shall be strictly liable for any violations of this provision and subject to penalties and fines, including suspension or revocation of their Permit.

Number of Permits Limited.

- A. The total number of Permits to be issued by the City per type and class of operation shall be as follows:

Permit Class	Maximum Standard Permits	Maximum Microbusiness Permits
Class 1 Cultivation	2	2
Class 2 Manufacturer	2	2
Class 3 Wholesaler	2	2
Class 4 Distributor	1	1
Class 5 Retailer (with or without a Cannabis Consumption Area)	3	3
Class 6 Delivery	3	3

- B. The number of Permits to be issued by the Board per zoning district shall be as set forth Chapter 51 of the municipal code of East Orange.

Permit Terms; Renewals; and Transfers.

- A. Any Permit issued pursuant to this chapter shall be valid for a period of 1 year from the date of issuance and shall be renewed in accordance with the provisions of this Chapter. The Board may adjust the renewal date of the Permit to correlate with applicant’s Annual License renewal schedule.
- B. Renewal of any Permit shall be governed by any amendments to the CRC Rules, the East Orange municipal code, and any additional restrictions set forth by the Board since the previous Permit was issued or renewed.
- C. A request to transfer ownership of any Permit shall first require CRC approval followed by delivery to the Board of documentary proof that the new owner(s) meet all State and City requirements for ownership of a Cannabis Business in the form and manner prescribed by the Board, and payment of applicable fees as established by the Board.
- D. A request to transfer the location of any Permit or a modification to expand the existing operations of a Cannabis Business within the City shall first require CRC approval followed by a Zoning Certification Letter and Site Plan Approvals from the City’s Planning Board of Adjustment, and payment of applicable fees as established by the Board.

Permit Renewal Fees.

- A. The annual Permit renewal fees for Cannabis Business Permits under the provisions of this chapter shall be as follows:

Permit Class	Standard Permit	Microbusiness Permit
1. Cultivator	Up to \$25,000	\$2,500
2. Manufacturer	Up to \$15,000	\$1,500
3. Wholesaler	\$10,000	\$1,000
4. Distributor	\$5,000	\$500
5. Retailer*	\$5,000	\$500
6. Delivery	\$2,500	\$250

- B. The annual endorsement renewal fee for a Cannabis Consumption Area issued to a Standard Retailer is \$2,500 and to a Microbusiness Retailer is \$250.
- C. The fee for the transfer of a Permit from entity to entity is \$1,000 and from 1 individual owner to another is \$500, whether the Cannabis Business is a Standard or a Microbusiness Permit holder.

Investigations; Sanctions; and Penalties.

- A. Any Permit issued pursuant to this chapter may be suspended or revoked by the Board for any violation of any provision of this chapter or for the violation of any provision of N.J.S.A. 24:6I-31, et al. including amendments or additions thereto, or of any of the rules and regulations promulgated by the CRC or the Board.
- 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 set forth by the Board. Penalties for such violations shall be assessed as follows:

1. 1st Offense: Fines starting at \$50 per violation per day;
 2. 2nd Offense: Fines starting at \$100 per violation per day; and
 3. 3rd Offense: Fines starting at \$250 per violation per day; and including summary suspension.
- C. Summary Suspension. Notwithstanding the foregoing section, when the Board has reasonable grounds to believe that a Cannabis Business 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 Board may enter a summary suspension order for the immediate suspension of such Cannabis Business's Permit pending further investigation. The Board shall convene a review panel consisting of the Board, a second administrative officer designated by the Mayor, and the Chief of Police. The hearing shall be scheduled within 30 days of the date of the order. The review panel is authorized to impose any fines, conditions, restrictions, suspensions, or a combination thereof, authorized by the State. In the absence of State specified penalties, the City may issue fines starting at \$500 per offense and/or suspension of the Permit.
- D. Inactive Permits. Following the commencement of retail sales of Cannabis and Cannabis Products, the Board may suspend or revoke any Permit if the Premises have been inactive or unoccupied by the Cannabis Business for at least 6 months.
- E. State License. The Board shall suspend or revoke any Permit if the corresponding State License for the subject location is expired, surrendered, suspended, or revoked.
- F. Any action taken by the Board pursuant to this section shall be reported to the CRC in accordance with reporting protocols established by the CRC.

Conspicuous Posting of Permit.

The holder of each Permit issued by the Board under this chapter of the municipal code of East Orange shall display the Permit certificate conspicuously in the Cannabis Business.

Changes or Alterations to Premises.

No Cannabis Business under this chapter shall make, cause to be made, or permit any addition to, alteration of, or other change in the physical structure of the Premises without first having submitted to the Board plans and specifications for such addition, alteration or change in the physical structure of the Premises and having first obtained the written approval thereof from the Planning Board of Adjustment and the Board.

SECTION 6. ZONING GENERALLY

Definitions.

Supplement from Section 2, above.

General Provisions.

- A. Odor. All Cannabis Businesses shall adhere to City regulations regarding odor and have the equipment to mitigate Cannabis-related odor in accordance with the Clean Air Act. Buildings and vehicles shall be equipped with ventilation systems with carbon filters sufficient in type and capacity to eliminate Cannabis odors emanating from their interior. Carbon filters are required to be replaced regularly for the best effectiveness to mitigate odor.
- B. Noise. All Cannabis Businesses shall adhere to City regulations regarding noise. Outside generators and other mechanical equipment used for any kind of power supply, cooling, or ventilation shall be enclosed and have appropriate baffles, mufflers, and/or other noise reduction systems to mitigate noise pollution.
- C. Capacity. All Cannabis Businesses shall adhere to City regulations regarding capacity. A maximum of 25 patrons per 1,000 square feet of gross floor area shall be permitted. Floor area that is not accessible to customers shall not be included in the calculation of maximum capacity.
- D. Parking. All Cannabis Businesses shall adhere to City regulations regarding parking. Cannabis Cultivators and Cannabis Manufacturers shall have 1 parking space for every 2 employees on peak shift but not less than 1 parking space per 2,000 square feet of floor area. Cannabis Wholesalers, Cannabis Distributors and Cannabis Delivery Services shall have 1 parking space for every 2 employees on peak shift but not less than 1 parking space per five thousand (5,000) square feet of floor area. Cannabis Retailers shall have 1 parking space for every 500 square feet of floor area. Cannabis Retailers shall not be required to have parking to the extent they are in the Central Business District.
- E. Loading. All Cannabis Businesses shall adhere to City regulations regarding loading. Cannabis Cultivators and Cannabis Manufacturers shall have 1 loading space for every 2 employees on peak shift but not less than 1 loading space per 10,000 square feet of floor area. Cannabis Wholesalers, Cannabis Distributors and Cannabis Delivery Services shall have 1 loading space for every 7,500 square feet of floor area. Cannabis Retailers shall have 1 loading space for every 500 square feet of floor area.
- F. Signage. All Cannabis Businesses shall adhere to City regulations regarding signage. Cannabis Businesses shall be permitted 1 sign outside of the Premises which may not include the following words: “weed,” “pot,” “marijuana,” or “cannabis.” Outdoor signs shall not depict any image, symbol, logo, shape, or any other image of Cannabis, Cannabis Paraphernalia, smoke, or anything other conspicuous image or symbol that could be interpreted as Cannabis or a Cannabis Product. Initial signage and any subsequent changes made thereto must be approved by the Board of

Cannabis Control.

- G. Operational Controls. Cannabis and Cannabis Products cannot be displayed on any window or door facing a public right-of-way or street. No Cannabis Business shall operate in the same building or on the same lot as a Residential Building. All Cannabis and Cannabis Products must be stored onsite and indoors in secure locations. Disposal of Cannabis and Cannabis Products must be performed in accordance with a City approved waste management plan.
- H. Security. All Cannabis Businesses shall be secured in accordance with the Act and the CRC Rules and shall have round-the-clock video surveillance system, 365 days a year. A minimum of one licensed, armed security guard shall be present during all hours of operation. Said security guard shall screen all patrons to ensure they are a minimum age of 21 years old and monitor capacity.
- I. Hours of Operation. Unless provided otherwise in this chapter, or under any other provision of the municipal code of East Orange regulating the sale and consumption of Cannabis and Cannabis Products, the standard operating hours of Cannabis Businesses are between the hours of 8:00 am and 8:00 pm, 7 days per week.
- J. Separation Distances. No Cannabis Business shall be within 625 feet of another or within 100 feet of a day care, elementary school or high school, as measured from the main entrance of each establishment.
- K. Conditional Use Applications. Above and beyond the general development Cannabis Permit Application checklist items, a conditional use or variance application for a Cannabis Business shall include the following, as prescribed in Chapter 265:
 - 1. A Community Impact Plan;
 - 2. Applicant’s Record of Social Responsibility;
 - 3. A Workforce Development Plan; and
 - 4. A Separation Distance Map.

Zoning Districts.

- A. Cannabis Cultivators, Cannabis Manufacturers, Cannabis Wholesalers and Cannabis Distributors, whether Microbusinesses or Standard Cannabis Businesses shall be permitted uses in Industrial (IND) and Mixed Industrial/Commercial (IND-1) zoning districts provided that:
 - 1. All Cannabis Businesses are required to comply with the general provisions of this section;
 - 2. Outdoor cultivation is not permitted within 30 feet of any property line;
 - 3. Cannabis Cultivators and Cannabis Manufacturers shall comport with all regulations relating to manufacturing uses;

4. Cannabis Manufacturers shall prove that proper and adequate conditions and safeguards are provided to mitigate any detrimental impacts to the public health, safety or general welfare of nearby residential uses;
 5. Cannabis Wholesalers and Cannabis Distributors shall comport with all regulations relating to warehousing uses;
 6. If a zone does not include the land use categories listed above, the most restrictive regulations or standards of that particular zone shall apply to that Cannabis Business.
- B. Cannabis Retailers and Cannabis Delivery Services, whether Microbusiness or Standard Cannabis Businesses shall be permitted uses in Industrial (IND) and Mixed Industrial/Commercial (IND-1), Central Business (CBD), Central Avenue Commercial (CAC), Arts & Cultural (ACD) and Commercial Zone (C2), provided that there shall not be more than 2 Cannabis Retailers, whether Microbusinesses or Standard Cannabis Businesses, within 625 feet of each other in the same zoning district as measured from the main entrance of each establishment.
- C. A maximum of 30 patrons per 1,500 square feet of gross floor area shall be permitted in any Cannabis Retailer Cannabis Establishment. Floor area that is not accessible to customers shall not be included in the gross floor area for purposes of this calculation.
- D. Cannabis Consumption Areas are permitted uses or conditional uses, in accordance with the uses set forth in section (B) above for Cannabis Retailers, whether Microbusinesses or Standard Cannabis Businesses, as regulated herein:
1. Compliance with applicable requirements for Cannabis Retailers, whether Microbusinesses or Standard Cannabis Businesses, except that the following conditions shall supplement or supersede.
 2. An applicant must have a Cannabis Retailer License issued by the State and a Cannabis Retailer Permit issued by the City or is concurrently seeking approval as a Cannabis Retailer Microbusiness or Standard Cannabis Business Permit.
 3. Standards for indoor Cannabis Consumption Areas:
 - (a) An indoor Cannabis Consumption Area shall be a structurally enclosed area within a retail establishment that is separated by solid walls or windows from the area in which retail sales of Cannabis Items occur, shall only be accessible through an interior door after first entering the retailer, and shall comply with all ventilation requirements applicable to cigar lounges, as that term is defined in N.J.S.A. 26:3D-57, in order to Permit indoor smoking, vaping, or aerosolizing that is the equivalent of smoking tobacco not in violation of the "New Jersey Smoke-Free Air Act," N.J.S.A. 26:3D-55 et seq.
 - (b) Outdoor Cannabis Consumption Areas are not permitted under

this Ordinance.

SECTION 7. All ordinances or parts thereof in conflict or inconsistent with this Ordinance are hereby repealed, but only to the extent of such conflict or inconsistency, it being the legislative intent that all such ordinances or part of ordinances now existing or in effect unless the same are in conflict or inconsistent with any provision of this Ordinance shall remain in effect.

SECTION 8. The provisions of this Ordinance are declared to be severable and if any section, subsection, sentence, clause or phrase thereof for any reason be held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses and phrases of this Ordinance, but shall remaining in effect; it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

FIRST READING

Councilmember	AYE	NAY	NV	AB	VETO
GOMEZ	✓				
BRENT		✓			
GARRETT- WARD		✓			
LENEUS	✓				
CLAYBROOKS	✓				

Councilmember	AYE	NAY	NV	AB	VETO
HOLMAN		✓			
PULLINS	✓				
LEWIS				✓	
JAMES	✓				
AWE	✓				

RECORD OF COUNCIL VOTE ON SECOND READING & FINAL PASSAGE

Councilmember	AYE	NAY	NV	AB	VETO
GOMEZ	✓				
BRENT		✓			
GARRETT- WARD		✓			
LENEUS				✓	
CLAYBROOKS	✓				

Councilmember	AYE	NAY	NV	AB	VETO
HOLMAN				✓	
PULLINS	✓				
LEWIS	✓				
JAMES	✓				
AWE	✓				

X - Indicates Vote AB - Absent NV - Not Voting (Abstain/Excused)

ACTION ON VETO: ✓ to Sustain ✓✓ to Override

Passed on First Reading: 8 / 22 / 2022
Adopted on Final Reading: 9 / 10 / 2022
Presented to Mayor: 9 / 13 / 2022
Approved: _____ Vetoed: _____

Reconsidered by Council: _____

Mayor

Council Chairman/Chairwoman

City Clerk