

CITY COUNCIL OF EAST ORANGE

CITY CLERK'S OFFICE
EAST ORANGE, N.J.
RESOLUTION
No. 1 146

Resolution offered by Council Member HOLMAN

RESOLUTION AMENDING RESOLUTION I-135
RESOLUTION PROVIDING LOCAL SUPPORT FOR THE FLOWER GARDEN
DISPENSARY LLC TO OPERATE AS A CLASS 5 STANDARD RETAILER IN THE CITY

WHEREAS, pursuant to the provisions of P.L. 2021, c. 16, known as the “New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act,” the City of East Orange adopted Ordinance No. 45-2021 (as amended) to regulate and tax cannabis businesses within the City; and

WHEREAS, pursuant to N.J.A.C. 17:30-7.8, and N.J.A.C. 17:30-7.10 applicants for cannabis business licenses need to submit proof of local support from the City in the form of a resolution from the City Council as part of either their conversion-to-annual or annual license application(s) to the State Cannabis Regulatory Commission (“CRC”); and

WHEREAS, pursuant to a Notice of Local Support Application Acceptance dated October 17, 2022, the City’s Board of Cannabis Control (“BCC”) reviewed The Flower Garden Dispensary LLC’s (“Applicant”) local support application to operate as a Class 5 Standard Retailer in the City, and endorsed Applicant to the City Council for a resolution of local support pursuant to the BCC’s Resolution attached hereto; and

WHEREAS, Ordinance No. 45-2021 (as amended) authorizes up to three (3) Class 5 Standard Retailer permits to be issued to Applicants; and

WHEREAS, the City Council has determined that the issuance of a permit to Applicant by the CRC would not exceed any licensing limits; and

NOW, THEREFORE, BE IT RESOLVED, the East Orange City Council hereby authorizes the issuance of this resolution of local support to Applicant for the purpose described herein; and

NOW, THEREFORE, BE IT FURTHER RESOLVED, pursuant to Ordinance No. 26-2022 the foregoing resolution of support shall expire 180 days from the date of issuance, unless extended by the City Counsel in its sole discretion.

Council Member	AYE	NAY	N.V.	A.B.
GOMEZ	✓			
CLAYBROOKS	✓			
BRENT	✓			
GARRETT-WARD	✓			
LENEUS	✓			

Council Member	AYE	NAY	N.V.	A.B.
HOLMAN	✓			
PULLINS, JR.	✓			
LEWIS				✓
JAMES				✓
AWE	✓			

X - Indicates Vote A.B. – Absent
Action on Veto - ✓ To Sustain

N.V - Not Voting (Abstained or Excused)
✓✓ To Over-Ride

VOTES REQUIRED _____

Approved as to:
Factual Contents _____
Department Head _____

Form and Legality _____
Counsel _____

Tabled _____

Presented to Mayor April 25, 2023

Approved April 25, 2023

Vetoed _____

Mayor Ted R. Green

Appropriation _____
Comptroller _____

Removed from Table _____

Adopted April 24

Christopher Awe, City Council Chairman
City Clerk _____

Entered on Council Minutes, Page _____

RESOLUTION NO. 146

ADOPTED BY THE CITY COUNCIL OF EAST ORANGE AT ITS MEETING HELD April 24, 2023

City Clerk, East Orange, NJ

CITY CLERK'S OFFICE
EAST ORANGE, N.J.
RESOLUTION
No. 1 135

HOLMAN

**RESOLUTION PROVIDING LOCAL SUPPORT FOR THE FLOWER GARDEN
DISPENSARY LLC TO
OPERATE AS A CLASS 5 STANDARD RETAILER IN THE CITY**

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WHEREAS, the City Council has determined that the issuance of a permit to Applicant by the CRC would not exceed any licensing limits; and

NOW, THEREFORE, BE IT RESOLVED, the East Orange City Council hereby authorizes the issuance of this resolution of local support to Applicant for the purpose described herein.

I HEREBY CERTIFY THAT FOREGOING TO BE A TRUE COPY
OF RESOLUTION NO. 135 ADOPTED BY THE CITY
COUNCIL OF EAST ORANGE AT ITS MEETING HELD

CITY CLERK, EAST ORANGE, NJ

Council Member	AYE	NAY	N.V.	A.B
GOMEZ	✓			
CLAYBROOKS		✓		
BRENT				✓
GARRETT-WARD	✓			
LENEUS	✓			

X - Indicates Vote A.B. – Absent
Action on Veto - √ To Sustain

Council Member	AYE	NAY	N.V.	A.B.
HOLMAN	✓			
PULLINS, JR.	✓			
LEWIS	✓			
JAMES	✓			
AWE	✓			

N.V - Not Voting (Abstained or Excused)
√√ To Over-Ride

VOTES REQUIRED _____

**Approved as to:
Factual Contents**

Department Head

Appropriation

Comptroller

Form and Legality

Counsel

Tabled

Presented to Mayor

Removed from Table

Adopted

2023

Approved

Christopher Awe, City Council Chairman

Vetoed

City Clerk

Mayor

Entered on Council Minutes, Page

Ted R. Green

RESOLUTION

**City of East Orange
Board of Cannabis Control**

In the Matter of The Flower Garden Dispensary, LLC

**Approving an Endorsement to the City Council for a Resolution of Local Support to
Operate a Class 5 Retailer Cannabis Standard Business with Consumption Area**

**381 MLK Boulevard (aka 381 Main Street)
Block # 384, Lot # 2**

**BCC 22-004
Decided on December 8, 2022**

WHEREAS, pursuant to its Notice of Local Support Application Acceptance dated October 17, 2022 (the “*Notice*”), the Board of Cannabis Control (the “*BCC*”) of the City of East Orange (the “*City*”) opened an application acceptance period between October 21, 2022 and November 18, 2022 for applicants seeking Resolutions of Support from the City Council to operate Class 1 Cultivator, Class 2 Manufacturer and Class 5 Retailer Cannabis Establishments in the City; and

WHEREAS, The Flower Garden Dispensary, LLC (hereinafter the “*Applicant*”) filed a complete Local Support Application with the BCC proposing to operate a Class 5 Cannabis Retailer Standard Business with Consumption Area at premises located at 381 MLK Boulevard (aka 381 Main Street) and within an area governed by the ACD - Arts & Cultural Zoning District (the “*Premises*”), which Applicant has a contingent agreement to lease from its current owner, an affiliate of Applicant, on or before the submission deadline (the “*LSA*”); and

WHEREAS, pursuant to the Notice, that portion of Applicant’s LSA seeking a Resolution of Support to operate a Consumption Area on the Premises was bifurcated pending the CRC’s final adoption of consumption area rules; and

WHEREAS, the LSA was reviewed and scored by the BCC and having received a total final score of 89.5, Applicant was scheduled for a hearing before the BCC on December 8, 2022; and

WHEREAS, due notice of the special public meeting held on Thursday, December 8, 2022 for the purpose of hearing the LSA, among others, was provided in accordance with the Open Public Meetings Act (“*OPMA*”); and

WHEREAS, Applicant having appeared before the Board at a public hearing held on December 8, 2022, (the “*Hearing*”) and provided witness testimony from owners, Dana Rone, Dawn Middleton and Jose Rivera, as well as operations expert, Michael Furnam, who testified with respect to all aspects of the LSA including, without limitation, Applicant’s (a) collective business experience, (b) plans for education related to safe and proper consumption and mental health programming, (c) conduct of a traffic study and access to municipal parking for its customers, and (d) budget for charitable contributions to community based organizations; and

WHEREAS, Applicant having offered testimony and responded to inquiries from the BCC Commissioners to their satisfaction, and one member from the public, Joe Watson of Baked Goodz LLC having questioned Applicant’s proposed use of the municipal parking for customers during the public comment; and

WHEREAS, upon the affirmative vote of the BCC members, Applicant was approved for an endorsement to the City Council to operate a Class 5 Cannabis Retailer Standard Business at the Premises on December 8, 2022 (the “*Endorsement Date*”).

NOW, THEREFORE, the BCC makes the following findings of fact based upon the evidence presented at the aforesaid Hearing, at which a record was made.

FINDINGS OF FACT

1. All the Recitals set forth above are incorporated herein by reference. Further, the LSA with all drawings, exhibits and supporting documents, Applicant's own testimony and that of any sworn witnesses, are hereby incorporated by reference.

2. Applicant is a MWBE Certified business, owned by New Jersey residents, Dana Rone of Newark, Dawn Middleton of West Orange and Jose Rivera of Union.

3. Applicant entered into a letter of intent to lease the Premises (totaling approximately 9,796 square feet) which is located in the ACD subdistrict of the TVD Redevelopment Area.

4. Pursuant to the City's Cannabis Ordinance, all Retailer (with or without consumption areas) and Delivery Service Cannabis Business operations shall be permitted uses in IND, IND-1, CBD, CAC, ACD, and C2 zones.

5. Further, Applicant's Zoning Determination Letter provides the ACD District permits Cannabis Retail operations "as long as parking is provided and the site conforms with applicable state and local ordinances."

6. Applicant proposes to operate a Class 5 Cannabis Retailer Standard Business with Consumption Area to be located in upper floors upon State and local licensure.

7. Applicant has not yet applied for a Class 5 Retailer License from the CRC, as Applicant has indicated its intent to apply for an Annual License upon receipt of a Resolution of Support.

8. On March 1, 2023, Applicant's landlord received preliminary site plan approval from the City's Department of Policy, Planning and Development (the "***Planning Board***") for interior alterations, and/or façade and signage changes consistent with architectural renderings submitted with the LSA.

9. Pursuant to the LSA and/or testimony offered at the Hearing, the Premises are not located within 100 feet of a daycare, elementary school, or high school, as measured from the main entrance of each establishment (the “*School Buffer*”).

10. As of the Endorsement Date, the BCC has not issued any permits to operate Class 5 Retailer Cannabis Businesses (whether a Microbusiness or Standard Business), in the City. Consequently, the Premises are not currently determined to be situated within 625 of another Cannabis Business, as measured from the main entrance of each establishment (the “*Cannabis Business Buffer*”).

11. Applicant will seek approval to operate an on-site Consumption Area at the Premises. However, the Applicant does not propose to conduct curb-side pick-up or home delivery services from the Premises, at this time.

NOW, THEREFORE, the BCC makes the following conclusions of law based upon the foregoing Findings of Fact.

CONCLUSIONS OF LAW

The New Jersey Cannabis Regulatory Enforcement Assistance and Marketplace Modernization Act, N.J.S.A. 24:61-31, et al. (2021) (the “*Act*”), grants municipalities the authority to adopt ordinances governing: the classes, types and number of Cannabis Businesses permitted to operate within their boundaries; zoning and land use requirements for the premises of permitted Cannabis Businesses; the location, manner and times of operation for permitted Cannabis Businesses, the establishment and collection of local transfer and user taxes; and civil penalties for local violations of the Act.

Pursuant to the Act, the City passed a cannabis ordinance, most recently amended on or about September 12, 2023 (No. 26 of 2022), which established the BCC 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 Act (the “*Cannabis Ordinance*”).

The Cannabis Ordinance authorizes the BCC to, among others, establish criteria and a formal process for applicants to apply for a Resolution of Support for their Conditional License Conversion or Annual License applications and to hear applications for Resolutions of Support, determine whether applicants meet the applicable criteria, and issue recommendations for endorsement to the Council for applicants that meet the applicable criteria or denials to applicants that do not.

The BCC evaluated the measures contained in the Cannabis Ordinance and the Notice including, without limitation, Applicant's business experience, the suitability of the Premises for its intended use, the location of the Premises with respect to any School or Cannabis Establishment Buffers, any vehicle information provided, Applicant's business, security, workforce development, community impact plan and nuisance mitigation plans, its social responsibility statement and Bonus Point eligibility for East Orange residency and site control. Having weighed the measures and finding that Applicant has met the standards required by the Cannabis Ordinance and the Notice for a Resolution of Support, a motion to approve Applicant for an Endorsement to the City Council for a Resolution of Local Support to Operate a Class 5 Cannabis Retailer Standard Business with Consumption Area was made.

NOW, THEREFORE, BE IT RESOLVED, by the BCC that the LSA of The Flower Garden Dispensary, LLC (Case No. 22-004) seeking approval for an Endorsement to the City Council for a Resolution of Local Support to Operate a Class 5 Cannabis Retailer Standard Business at the Premises, is approved with the following conditions:

1. All testimony given by the Applicant and any witnesses in accordance with this Application shall be binding;
2. Prior to the issuance of any Cannabis Business Permit, the Applicant shall seek and receive any site plan approvals required for the intended use of the Premises by the Planning Board and an Annual License from the CRC; and

3. Applicant shall adhere to any conditions of approval set forth on the record by the BCC, the City Council and/or the Planning Board.

BE IT FURTHER RESOLVED by the BCC that a copy of this Resolution shall be forwarded to the City Clerk and made available to Applicant upon request.

Adopted this 2nd day of March 2023 by a majority of the members of the Board present at such a meeting who voted for the action to be taken on the 8th day of December 2022.

ENDORSEMENT
City of East Orange
Board of Cannabis Control
In the Matter of The Flower Garden Dispensary, LLC
BCC 22-004
Decided on December 8, 2022
Memorialized on March 2, 2023
Resolution of Local Support

DATES OF HEARING:

December 8, 2022

VOTE:

5-0

VOTING IN FAVOR:


Chairwoman Aziza McGill-Ayinde
Vice Chairwoman Theresa Pollard
Commissioner Thomas Bullock
Commissioner Phillip Reed
Commissioner Kevin T. Mickens


VOTING AGAINST:

None

ABSTAINING:

None


AZIZA MCGILL-AYINDE, CHAIRWOMAN
EAST ORANGE BOARD OF CANNABIS
CONTROL


DONYALE HARRIS, SECRETARY
EAST ORANGE BOARD OF CANNABIS
CONTROL

APPROVED AS TO LEGAL FORM:


ROSEMARIE MOYENO MATOS, ESQ.
EAST ORANGE BOARD OF CANNABIS
CONTROL

DATE OF MEMORIALIZATION:

March 2, 2023