

THE CITY OF
EAST ORANGE, NEW JERSEY
ORDINANCE NO.13 OF 2022
On First Reading

**AN ORDINANCE AMENDING ORDINANCE NO. 43 OF 2021 WHICH
LEGALIZED AND REGULATED THE SALE OF CANNABIS AND
CANNABIS RELATED PRODUCTS WITHIN THE
CITY OF EAST ORANGE**

PURPOSE: An Ordinance Amending Ordinance No. 43 of 2021 which Legalized and Regulated the Sale of Cannabis and Cannabis related Products within the City of East Orange

Public Notice is hereby given that at a Regular Meeting of the East Orange City Council held on Monday, March 14, 2022, the following Ordinance was Introduced and passed on First Reading and that said Ordinance will be taken up for further consideration and final passage at a Meeting of the East Orange City Council to be held on Monday, March 28, 2022 at 6:00 PM at East Orange City Hall, 44 City Hall Plaza, East Orange, NJ in City Council Chambers

WHEREAS, historically, New Jersey has outlawed the manufacture, sale, possession and distribution of cannabis and cannabis related 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 related 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 related 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 related 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 related 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 related products by persons who are 21 or older and establishes a comprehensive regulatory and licensing scheme for cannabis and cannabis related products; and

WHEREAS, the act establishes six marketplace classes of licensed business, including:

1. **Class 1 Cannabis Cultivator license**, for facilities involved in growing and cultivating cannabis; and
2. **Class 2 Cannabis Manufacturer license**, for facilities involved in the manufacturing, preparation and packing of cannabis items; and

3. **Class 3 Cannabis Wholesaler license**, for facilities involved in obtaining and selling cannabis items for later resale by other licensees; and
4. **Class 4 Cannabis Distributer license**, for businesses involved in transporting cannabis plants in bulk from one licensed cultivator to another licensed cultivator, or cannabis items in bulk from any type of licensed cannabis business to another; and
5. **Class 5 Cannabis Retailer license**, for locations at which cannabis items and related supplies are sold to consumers; and
6. **Class 6 Cannabis Delivery license**, for business providing courier services for consumer purchase that are fulfilled by a licensed cannabis retailer in order to make deliveries of the 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.

WHEREAS, the act grants municipalities the authority to adopt Ordinances that govern the number of cannabis establishments, cannabis distributors or cannabis delivery services permitted to operate within their boundaries, as well as the location manner and times of operation of such establishments, distributors, or delivery services within the municipality.

WHEREAS, state law permits municipalities to impose a transfer tax on the sale of cannabis and/or cannabis related products that are sold from establishments located within the City of East Orange, N.J.S.A. 40:48I-1 9a(1); and

WHEREAS, the act permits municipalities to establish civil penalties for the violation of local ordinances that regulate the cultivation, manufacture, use, delivery and or sale of cannabis and cannabis related products within the City of East Orange; and

WHEREAS, the act permits municipalities to establish cannabis consumption areas; and

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, consumption and delivery of cannabis and cannabis related 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 establishments will be in consonance with the City's land use laws, it limits the consumption of cannabis products to certain designated areas, it allows law enforcement to direct its efforts and energies to curbing violent crimes.

SECTION 2. DEFINITIONS

The definitions promulgated under N.J.S.A., 24:6I-33 shall apply to this chapter of the municipal code of East Orange and other sections of the municipal code applicable to cannabis, cannabis establishments, distributors and delivery services, cannabis use and consumption. However, for purposes of local regulation the following definitions may supplement the meanings of terms used in the Act 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.

"Board" 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: medical cannabis dispensed to registered qualifying patients pursuant to the “Jake Honig Act,” and N.J.S.A. 18A:40-12.22, et al.); or 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.), or 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 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 consumption area” means, as further described in section 28 of the Act, a designated location operated by a licensed cannabis retailer or permit holder for dispensing medical cannabis, for which both a State and local endorsement has been obtained, that is either: (1) an indoor, structurally enclosed area of the cannabis retailer or permit holder that is separate from the area in which retail sales of cannabis items or the dispensing of medical cannabis occurs; or (2) an exterior structure on the same premises as the cannabis retailer or permit holder, either separate from or connected to the cannabis retailer or permit holder, at which cannabis items or medical cannabis either obtained from the retailer or permit holder, or brought by a person to the consumption area, may be consumed.

“Cannabis cultivator” means any licensed person or entity that grows, cultivates, or produces cannabis in this State, and sells, and may transport, this cannabis to other cannabis cultivators, or usable cannabis to cannabis manufacturers, cannabis wholesalers, or cannabis retailers, but not to consumers. This person or entity shall hold a Class 1 Cannabis Cultivator license.

“Cannabis delivery service” means any licensed person or entity that provides courier services for consumer purchases of cannabis items and related supplies fulfilled by a cannabis retailer in order to make deliveries of the cannabis items and related supplies to that consumer, and which services include the ability of a consumer to purchase the cannabis items directly through the cannabis delivery service, which after presenting the purchase order to the cannabis retailer for fulfillment, is delivered to that consumer. This person or entity shall hold a Class 6 Cannabis Delivery license.

“Cannabis distributor” means any licensed person or entity that transports cannabis in bulk intrastate from one licensed cannabis cultivator to another licensed cannabis cultivator, or transports cannabis items in bulk intrastate from any one class of licensed cannabis establishment to another class of licensed cannabis establishment and may engage in the temporary storage of cannabis or cannabis items as necessary to carry out transportation activities. This person or entity shall hold a Class 4 Cannabis Distributor license.

“Cannabis establishment” means a cannabis cultivator, a cannabis manufacturer, a cannabis wholesaler, or a 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 Cannabis Regulatory Commission by rule or regulation.

“Cannabis flower” means the flower of the plant *Cannabis sativa* L. within the plant family Cannabaceae.

“Cannabis item” means any usable cannabis, cannabis product, cannabis extract, and any other cannabis resin. “Cannabis item” does not include: any form of medical cannabis dispensed to registered qualifying patients pursuant to the “Jake Honig Act,” and N.J.S.A.18A:40-12.22, et al.); or 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 leaf**” means the leaf of the plant *Cannabis sativa* L. within the plant family Cannabaceae.

“**Cannabis manufacturer**” means any licensed person or entity that processes cannabis items in this State by purchasing or otherwise obtaining usable cannabis, manufacturing, preparing, and packaging cannabis items, and selling, and optionally transporting, these items to other cannabis manufacturers, cannabis wholesalers, or cannabis retailers, but not to consumers. This person or entity shall hold a Class 2 Cannabis Manufacturer license.”

“**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. “Cannabis paraphernalia” 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 product**” means a product containing usable cannabis, cannabis extract, or any other cannabis resin and other ingredients intended for human consumption or use, including a product intended to be applied to the skin or hair, edible cannabis products, ointments, and tinctures. “Cannabis product” does not include: (1) usable cannabis by itself; or (2) cannabis extract by itself; or (3) any other cannabis resin by itself.

“**Cannabis resin**” means the resin extracted from any part of the plant *Cannabis sativa* L., including cannabis extract and resin extracted using non-chemical processes, processed and used in accordance with the Act. “Cannabis resin” does not include: any form of medical cannabis dispensed to registered qualifying patients pursuant to the “Jake Honig Act,” and N.J.S.A. 18A:40-12.22, et al.); hashish 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 N.J.S.2C:35B-1, et seq., or as defined in section 2 of N.J.S.2C:24:21-2 and applied to any offense of the “New Jersey Controlled Dangerous Substances Act,” N.J.S.A. 24:21-1, et al.); or 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 retailer**” means any licensed person or entity that purchases or otherwise obtains usable cannabis from cannabis cultivators and cannabis items from cannabis manufacturers or cannabis wholesalers, and sells these to consumers from a retail store, and may use a cannabis delivery service or a certified cannabis handler for the off-premises delivery of cannabis items and related supplies to consumers. A cannabis retailer shall also accept consumer purchases to be fulfilled from its retail store that are presented by a cannabis delivery service which will be delivered by the cannabis delivery service to that consumer. This person or entity shall hold a Class 5 Cannabis Retailer license.

“**Cannabis testing facility**” means an independent, third-party entity meeting accreditation requirement established by the Cannabis Regulatory Commission that is licensed to analyze and certify cannabis items and medical cannabis for compliance with applicable health, safety, and potency standards.

“**Cannabis wholesaler**” means any licensed person or entity that purchases or otherwise obtains, stores, sells or otherwise transfers, and may transport, cannabis items for the purpose of resale or other transfer to either another cannabis wholesaler or to a cannabis retailer, but not to consumers. This person or entity shall hold a Class 3 Cannabis Wholesaler license.

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

“**Conditional license**” means a temporary license designated as either a Class 1 Cannabis Cultivator

license, a Class 2 Cannabis Manufacturer license, a Class 3 Cannabis Wholesaler license, a Class 4 Cannabis Distributor license, a Class 5 Cannabis Retailer license, or a Class 6 Cannabis Delivery license that allows the holder to lawfully act as a cannabis cultivator, cannabis manufacturer, cannabis wholesaler, cannabis distributor, cannabis retailer, or cannabis delivery service as the case may be, which is issued pursuant to an abbreviated application process, after which the conditional license holder shall have a limited period of time in which to become fully licensed by satisfying all of the remaining conditions for licensure which were not required for the issuance of the conditional 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.

“Delivery” means the transportation of cannabis items and related supplies to a consumer. “Delivery” also includes the use by a licensed cannabis retailer of any third party technology platform to receive, process, and fulfill orders by consumers, which third party shall not be required to be a licensed cannabis establishment, distributor, or delivery service, provided that any physical acts in connection with fulfilling the order and delivery shall be accomplished by a certified cannabis handler performing work for or on behalf of the licensed cannabis retailer, which includes a certified cannabis handler employed or otherwise working on behalf of a cannabis delivery service making off-premises deliveries of consumer purchases fulfilled by that cannabis retailer.

“Executive director” means the executive director of the Cannabis Regulatory Commission.

“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 percent 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 percent 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 percent 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 percent 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., 24:6I-1, *et al.* (2019), as may be amended in the future.

“License” means a license issued under the Act, including a license that is designated as either a Class 1 Cannabis Cultivator license, a Class 2 Cannabis Manufacturer license, a Class 3 Cannabis Wholesaler license, a Class 4 Cannabis Distributor license, a Class 5 Cannabis Retailer license, or a Class 6 Cannabis Delivery license. The term includes a conditional license for a designated class, except when the context of the provisions of the Act otherwise intend to only apply to a license and not a conditional license.

“Licensee representative” means an owner, director, officer, manager, employee, agent, or other representative of a licensee, to the extent that the person acts in a representative capacity.

“Manufacture” means the drying, processing, compounding, or conversion of usable cannabis into cannabis products or cannabis resins. “Manufacture” does not include packaging or labeling.

“Mature cannabis plant” means a cannabis plant that is not an immature cannabis plant.

“Microbusiness” means a person or entity licensed under the Act as a cannabis cultivator, cannabis manufacturer, cannabis wholesaler, cannabis distributor, cannabis retailer, or cannabis delivery service that may only, with respect to its business operations, and capacity and quantity of product: (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 resin, 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 resin, or any combination thereof.

“Permit” means a permit, issued under this ordinance including a permit that is designated as either a Class 1 Cannabis Cultivator permit, a Class 2 Cannabis Manufacturer permit, a Class 3 Cannabis Wholesaler permit, a Class 4 Cannabis Distributor permit, a Class 5 Cannabis Retailer permit, or a Class 6 Cannabis Delivery permit. The term includes a conditional permit for a designated class, except when the context of the provisions of this ordinance otherwise intends to only apply to a permit and not a conditional permit.

“Premises” or “licensed 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. “Produce” does not include 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 one or more dwelling units and solely contains residential as the principal use.

“Significantly involved person” means a person or entity who holds at least a five percent investment interest in a proposed or licensed cannabis cultivator, cannabis manufacturer, cannabis wholesaler, cannabis distributor, cannabis retailer, or cannabis delivery service, or who is a decision making member of a group that holds at least a 20 percent investment interest in a proposed or licensed cannabis cultivator, cannabis manufacturer, cannabis wholesaler, cannabis distributor, cannabis retailer, or cannabis delivery service, in which no member of that group holds more than a five percent interest in the total group investment interest, and the person or entity makes controlling decisions regarding the proposed or licensed cannabis cultivator, cannabis manufacturer, cannabis wholesaler, cannabis distributor, cannabis retailer, or cannabis delivery service operations.

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

“Usable cannabis” means the dried leaves and flowers of the female plant *Cannabis sativa* L., and does not include the seedlings, seeds, stems, stalks, or roots of the 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, use and consumption of cannabis and cannabis items 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 rules and regulations promulgated or to be promulgated by the New Jersey Cannabis Regulatory Commission, 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.

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 Cannabis Regulatory Commission or any other state agency with regard to the licensing and regulation of cannabis establishments by

the state, or in which state law requires any review or approval by the City of any action taken by the State permitting authority, 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 three (3) members appointed by the Mayor and confirmed by City Council. Each member shall serve a term of four (4) years. The Board of Cannabis Control shall consist of five (5) voting members and two (2) liaison members. The liaison members may be changed from time to time at the discretion of the Mayor and the City Council Chairperson. Three (3) members shall be appointed by the Mayor and two (2) members shall be appointed by City Council. Each voting member is subject to City Council confirmation. Each Board member shall serve a term of four (4) years. Once the Board is fixed, the Board shall elect a chairperson who shall hold that position for the Board's entire term. This clause shall not be construed so as to prevent the Board from relying on the expertise and experience of employees and/or external experts with whom the Board should consult. Board members may be removed from their positions for cause. Removal may only take place following a hearing before the City's governing body wherein a majority of the governing body votes in favor of removal.~~

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 with respect to the classes and number of cannabis establishments permitted, the location, manner and times of operation, the permitting requirements for all cannabis establishments in the City and municipal transfer and user taxes;
- B. Establishing licensing criteria and the process for awarding permits to cannabis establishments in the City;
- C. Issuing pre-licensing local approvals and post-licensing permits in accordance with the licensing provisions of the Act and Chapter 265 of the municipal code of East Orange;
- D. Enforcing all state and municipal rules and regulations applicable to the location, manner and times of operation of cannabis establishments in the City;
- E. Establishing civil penalties for violations of any ordinance or regulation governing the location, manner and times of operation of cannabis establishments in the City; and
- F. Any other powers and duties delegated to a municipality under the Act, by the Cannabis Regulatory Commission, 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.

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 rules and regulations promulgated or to be promulgated by the New Jersey Cannabis Regulatory Commission, 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.

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 concurrent permit holder operating more than one 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 license holder's establishment that is located in the city to any of the other license holder's establishments, 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.

- ~~C.~~ 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.
- ~~D.~~ 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 establishments gross sales during the preceding three-month period and shall be accompanied by appropriate reporting forms as designated by the Chief Financial Officer.
- ~~E.~~ 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.
- ~~F.~~ 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.

- ~~G.~~ 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 transfertax 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.
- ~~H.~~ 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 that 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 municipallien 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 so as 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 licensee.

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 ESTABLISHMENTS PERMITTING; RULES AND REGULATIONS

Purpose.

This chapter 265, titled "Cannabis Establishments" 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 establishments with respect to the cultivation, manufacturing, wholesale, distribution, retail, delivery, use and consumption 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 or to be promulgated by the New Jersey Cannabis Regulatory Commission (the "CRC"), 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.

General Provisions.

- A. Prior to the operation of any Cannabis Establishment in the city, a License must be obtained from the state pursuant to the Act and a permit must be obtained from the city pursuant to this chapter for the particular class of operation being conducted.
- B. No Cannabis Establishment is permitted to operate without a License and a Permit issued by the state and city, respectively.
- C. The city will not act on any application for a Permit until such time as the Cannabis Establishment has been awarded a License or a Conditional License from the state.
- D. All Cannabis Establishments must operate at all times in complete compliance with the terms and conditions of their state-issued License and city- issued Permit, as well as with any other applicable chapters of the municipal code of East Orange.
- E. Classification and Number of Permits. Effective August 20, 2021, the city shall initiate the process to award Permits for Cannabis Establishments, including Microbusinesses, licensed by the state in the following classes:

- Class 1 – Cultivators
- Class 2 – Manufacturer
- Class 3 – Wholesaler
- Class 4 – Distributor
- Class 5 – Retailer
- Class 6 – Delivery

The maximum number of Permits, if any, to be issued by the city 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.

- F. Zoning Generally. Cannabis Establishments shall only be permitted 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 Establishment must apply for a variance in accordance with applicable provisions of Chapter 51 of the municipal code of East Orange.

- G. There shall be a minimum setback of two hundred (200) feet from any Cannabis Establishment to any public or private school, child daycare center, place of worship or residential building as measured from the main entrance of each establishment.
- H. A Class 5 Retailer may apply for a Consumption Area endorsement in accordance with the provisions of this ordinance and Chapter 51 of the municipal code of East Orange.

Pre-License Local Support.

- A. Support Requirements. A prospective cannabis establishment seeking local support as part of the state's application process shall submit to the Board one (1) original and six (6) copies of a Proposal for Local Support (the "Proposal"), in the form and manner prescribed by the Board, which shall include, without limitation, the following information:
1. Applicant's name, principal address, telephone number, email address, contact name and title;
 2. Class of License sought; Proposed site location with evidence of site control or plans to obtain site control, floor plan(s), and a brief statement of suitability of the site for operation as a Cannabis Establishment;
 3. Certification that applicant has reviewed the city's zoning ordinances and that to the best of applicant's knowledge the proposed site location meets the requisite zoning applicable to the location for the class of License sought either on a permitted use or conditional use basis and, if permitted on a conditional use basis, the reasons why the city should grant the applicant a variance;
 4. Any prior experience owning, operating or working in cannabis establishments, or in other highly regulated industries such as pharmaceuticals, banking and insurance;
 5. Brief description of security plan that specifically addresses proposed on-site security and surveillance, diversion prevention and emergency management;
 6. Brief description of nuisance mitigation plan that specifically addresses proposed plans to address noise, odor, waste disposal and vehicular congestion mitigation;
 7. Brief description of community impact plan summarizing how the applicant intends to have a positive impact on the community in which the proposed cannabis establishment is to be located; applicant's ties to the proposed host community (including the percentage of owners, if any, that are residents of the city or a municipality bordering the city); and which shall include an economic impact plan and a description of community outreach activities.
 8. Brief description of workforce development and job creation plan ensuring that 35% or more of the applicant's workforce will come from city residents; and which may include information on the applicant's history of job creation or planned job creation at the proposed cannabis establishment; education, training and resources to be made available for employees; any relevant certifications, and an optional diversity plan;

9. A written description of the applicant's record of social responsibility, philanthropy, and ties to the proposed host community;
 10. Any other information, consistent with state licensing and city permitting requirements, which the Board requests; and
 11. Any other information, consistent with state licensing requirements, which the applicant wishes for the city to consider in reviewing its Proposal.
- B. Review Process. Upon receipt of a Proposal, the Board shall distribute copies of the Proposal to each member of the Board, the Chief of Police who will be required to review and approve applicant's security, diversion prevention and emergency management plans, the Zoning officer who shall determine whether the proposed site location meets applicable zoning requirements; and the council member of the district in which the proposed site is located for purposes of reviewing and approving applicant's nuisance mitigation, community impact and workforce development and job creation plans. To the extent the applicant's application complies with local requirements, the Board of Cannabis Control and the governing body shall issue resolutions indicating their support for the applicant.
- C. Initial Review Period. The Board shall have up to thirty (30) days from receipt of a Proposal to review it and issue a written determination to the applicant whether the city has approved or denied applicant's request for local support, which support shall be granted in the sole discretion of the Board and which shall not be unreasonably withheld. If approved, the written determination will be issued in the form of a letter of support addressed to the CRC on behalf of applicant. If denied, the written determination will be issued in the form of a denial letter addressed to the applicant and citing the reason(s) for denial of the request.
- D. Denials. Applicants who are denied local support will have thirty (30) days within which to correct any deficiency cited in the city's denial letter and to resubmit an amended Proposal. The Board will then have up to thirty (30) days from receipt of the amended Proposal within which to review the amended portions of applicant's Proposal. At the conclusion of this review period, the city will once again issue a written determination either approving or denying applicant's request in the form and manner prescribed in §265-5(C) above. There is no limitation on the number of times an applicant may resubmit amended Proposals for reconsideration by the Board. However, the times prescribed for resubmission and review herein shall remain in effect during each review period.
- E. Fees. A non-refundable, administrative fee of \$200 shall be submitted with each Proposal and amended Proposal submitted to the Board for review.

Pre-License Support – Conditional Application

- A. Support Requirements. If and when the State of New Jersey provides the City with a conditional license application, the City of East Orange Cannabis Control Commission shall have twenty-eight (28) days to advise the state as to its preference for licensure as is permitted by N.J.A.C. 17:30-6.3. If the City has sufficient licenses and the activity is a permitted use at the applicant's proposed location, the commission as well as the City's governing body shall issue a resolution expressing its preference for the application and noting that the proposed use complies with municipal zoning requirements. Applicants seeking local approval for a conditional application shall pay the City a fee of \$200 to review and process the state's request concerning their + application(s).**

Post-License Permit Approval.

- A. Permit Requirements. A Cannabis Establishment seeking a permit from the city to operate under the class of License awarded by the state shall submit to the Board one (1) original and five (5) copies of an Application for a Cannabis Establishment Permit (the "Application") in the form and manner prescribed by the Board, which shall include, without limitation, the following attachments:
1. A complete copy of the Cannabis Establishment's state License application;
 2. Documentary proof that Cannabis Establishment has been awarded a License or a Conditional License by the state;
 3. Documentary proof that the Cannabis Establishment has, or will have, lawful possession of the premises and/or vehicle(s) proposed for use, which evidence may consist of a deed, lease, real estate contract contingent upon successful licensing and permitting, or a letter of intent from the owner of the premises indicating an intent to lease the premises to the Cannabis Establishment upon successful licensing and permitting in the case of real property; or a motor vehicle registration card or a lease or financing agreement for each vehicle owned or operated by the Cannabis Establishment in the case of vehicles used for Distribution and Delivery services;
 4. Documentary proof that all owners, operators, directors, officers and employees required to submit to a background check under the Act have done so and passed;
 5. Documentary proof that applicant has the financial ability to open and operate the Cannabis Establishment for which the entity is seeking a permit based upon standards of proof of financial suitability established by the Board;
 6. Floor plans and/or architectural renderings showing the plans for build-out or retrofit of the interior and exterior of the Cannabis Establishment's premises;
 7. Drawings and specifications meeting the standards set forth by the state and the Board for vehicles to be used by Distributors and Delivery services;
 8. A map of nearby Cannabis Establishments indicating compliance with maximum number or set back requirements with respect to the proximity of public or private schools, child daycare centers, places of worship, residential buildings and other Cannabis Establishments as measured from the main entrance of each establishment;
 9. An affidavit certifying compliance with all state and local laws regarding

affirmative action, anti-discrimination and fair employment practices;

10. An affidavit certifying that (a) the Cannabis Establishment 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; and (b) 35% or more of the Cannabis Establishment's workforce does or will consist of city residents;
11. Site plan approval from the city's Planning Board or Board of Adjustment;
12. A certificate of zoning compliance from the city's Zoning Officer; and
13. Any other information, consistent with state licensing and city permitting requirements, which the Board requests.

- B. Review Process. Upon receipt of a complete Application, the Board shall distribute copies to each member of the Board, the Chief of Police who will be required to review and approve the Cannabis Establishment's security, diversion prevention and emergency management plan, and the council member of the district in which the proposed site is located for purposes of reviewing and approving Cannabis Establishment's nuisance mitigation, community impact and workforce development and job creation plans.
- C. Initial Review Period. The Board shall have up to sixty (60) days from receipt of a completed Application to review it and issue a written determination in the form of a Permit, if approved, or a denial letter citing the reason(s) for the denial and including steps to cure any deficiencies capable of cure within forty-five (45) days of the date of the denial letter.
- D. Denials. A Cannabis Establishment that is denied a Permit will have forty-five (45) days, unless extended by the Board in its sole discretion, within which to correct any curable deficiencies cited in the city's denial letter and to resubmit an amended Application solely with respect to those deficiencies cited in the denial letter. The Board will then have up to thirty (30) days from receipt of the amended Application within which to review the amended portions of the Application. At the conclusion of this review period, the city will once again issue a written determination in the form of a Permit or a final determination of denial citing the final reason(s) for denial of a Permit.
- E. Appeals. Any Cannabis Establishment issued a final determination of 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. The final determination of denial issued by the Board shall include the time frame within which the Cannabis Establishment may request a hearing and the procedure for same.
- F. Administrative Fees. A non-refundable, administrative fee of \$500 shall be submitted with each Application and amended Application submitted to the Board for review.

G. Initial Permit Fees. The initial Permit fees for each Cannabis Establishment under the provisions of this chapter shall be as follows:

	Class	Regular License	Microbusiness License
1.	Cultivator	\$10,000	\$5,000
2.	Manufacturer	\$10,000	\$5,000
3.	Wholesaler	\$10,000	\$5,000
4.	Distributor	\$10,000	\$5,000
5.	Retailer*	\$10,000	\$5,000
6.	Delivery	\$5,000	\$2,500

*The initial endorsement fee for a Consumption Area issued to a regular Retailer is \$2,500 and to a Microbusiness Retailer is \$1,250.

Cannabis Establishments must submit a check made payable to the City of East Orange in an amount representing the total amount of the initial Permit fee for the Class of Permit sought, and the initial endorsement fee for a Consumption Area, if applicable, with their Application. In the event the Cannabis Establishment's Permit is denied, the initial Permit fee check will be returned with the final determination of denial.

- H. To the extent an applicant achieves a minimum score of 85 points on the City's weighted criteria system and they have been awarded a license by the state of New Jersey, the City shall award the applicant a local license so long as licenses are still available.

Weighted Criteria

The City of East Orange will apply the following weighted criteria when reviewing and scoring cannabis applications:

<u>Applicant's commitment to local Employment</u>	<u>20</u>
<u>Applicant's commitment to diversity</u>	<u>20</u>
<u>Applicant's design and layout</u>	<u>20</u>
<u>Applicant's means and methods of operation</u>	<u>30</u>
<u>Impact of Applicant's Operation on the Surrounding Area</u>	<u>10</u>

Excess Applications

When the number of applicants who have secured state approval exceed the number of available licenses in a particular category, all applicants that have successfully completed the local approval process will be placed into a group. Once formed, the group will remain open for a period of ninety (90) days. At the conclusion of the ninety (90) day period, the City's Cannabis Control Board shall score and rank each proposal using the weighted criteria set forth within this Ordinance. The rankings will remain effective for a period of two (2) years. When and/if the City of East Orange decides to increase the number of local permits in particular category, the priority as to who will receive a local permit will be determined by the priority as set forth in the list.

Hours of Operation; Consumption.

- A. Except for Class 6 Delivery services whose hours of operation are regulated by the state, Class 1, 2, 3 and 4 Cannabis Establishments 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 Consumption Area endorsement may only permit consumption of Cannabis Items on the premises during hours of retail operation.
- C. A Consumption Area may not remain open after the Retailer has closed the retail area of the premises for the day.

Sale to Certain Persons Prohibited.

- A. No Retailer or Delivery service 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, or allow, permit or suffer the consumption of any Cannabis Item by any such person in or upon the premises.
- B. The Cannabis Establishment 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. Except as otherwise provided in this section, and without regard to whether the Permit is issued to a regular or Microbusiness Cannabis Establishment, the total number of Permits to be issued by the city per class of operation shall be as follows:

Permit	Total Regular Permits	Total 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 consumption area)	3	3
Class 6 Delivery	3	3

- B. The number of Permits to be issued by the city 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 one (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 a Cannabis Establishment’s state licensing and renewal schedule.
- B. Renewal of any Permit shall be governed by any code amendments, additional restrictions or changes in regulations adopted since the previous Permit was issued or renewed.
- C. Transfer of ownership of any Permit shall first require state 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 Establishment in the form and manner

prescribed by the Board. A transfer in location of any Permit or modification to expand a Permitted facility shall require state approval followed by site plan approval from the city's Planning Board and a certificate of zoning compliance from the city's Zoning Officer.

d.

Permit Renewal Fees.

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

	Class	Regular License	Microbusiness License
1.	Cultivator	\$3,000	\$1,500
2.	Manufacturer	\$3,000	\$1,500
3.	Wholesaler	\$3,000	\$1,500
4.	Distributor	\$2,500	\$1,250
5.	Retailer*	\$2,500	\$1,250
6.	Delivery	\$1,000	\$500

B. The annual endorsement renewal fee for a Consumption Area issued to a regular Retailer is \$1,250 and to a Microbusiness Retailer is \$750.

C. The fee for the transfer of a Permit from entity to entity is \$1,000 and from one (1) individual owner to another is \$500, whether the Cannabis establishment is a regular or a microbusiness licenseholder Establishment is a regular or a Microbusiness License 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 Establishment 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 Establishment'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 thirty (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 up to, but not to exceeding, \$2,500 per offense and/or suspension of the Permit for a period not to exceed six (6) months.

- 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 Establishment for at least six (6) months.
- E. State License. The Board may 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 establishment.

Changes or Alterations to Premises.

No Cannabis Establishment 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 Department and the Board.

SECTION 6. ZONING GENERALLY

General Provisions.

- A. Odor. All Cannabis Establishments 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 Establishments 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 Establishments shall adhere to city regulations regarding capacity. A maximum of twenty-five (25) consumers per one thousand (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 customer capacity.
- D. Parking. All Cannabis Establishments shall adhere to city regulations regarding parking. Class 1 and 2 Cannabis Establishments shall have one (1) parking space for every two (2) employees on peak shift but not less than one (1) parking space per two thousand (2,000) square feet of floor area. Class 3 and 4 Cannabis Establishments shall have one (1) parking space for every two (2) employees on peak shift but not less than one (1) parking space per five thousand (5,000) square feet of floor area. Class 5 Cannabis Establishments shall have one (1) parking space for every five hundred (500) square feet of floor area. Class 5 cannabis establishments shall not be required to have parking to the extent they are located in the Central Business District.
- E. Loading. All Cannabis Establishments shall adhere to city regulations regarding loading. Class 1 and 2 Cannabis Establishments shall have one (1) loading space for every two (2) employees on peak shift but not less than one (1) loading space per ten thousand (10,000) square feet of floor area. Class 3 and 4 Cannabis Establishments shall have one (1) loading space for every seven-thousand five hundred (7,500) square feet of floor area. Class 5 Cannabis Establishments shall have one (1) loading space for every five hundred (500) square feet of floor area.
- F. Signage. All Cannabis Establishments shall adhere to city regulations regarding signage. Cannabis Establishments shall be permitted one (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 Establishment 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 Establishments shall be secured in accordance with state statutes and regulations and shall have round-the-clock video surveillance system, 365 days a year. A minimum of one (1) 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 twenty-one (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 Establishments are between the hours of 8:00 am and 8:00 pm, seven (7) days per week.
- J. Separation Distances. No Cannabis Establishment shall be within ~~five hundred (500)~~ six hundred and twenty-five (625) feet of another ~~or within two hundred (200)~~

~~feet of a public or private school, place of worship, or residential building.~~

K. Conditional Use Applications. Above and beyond the general development application checklist items, a conditional use or variance application for a Cannabis Establishment shall include the following, as it relates to the manner of operation:

1. A community impact plan summarizing how the applicant intends to have a positive impact on the community in which the proposed Cannabis Establishment is to be located which shall include an economic impact plan and a description of outreach activities.
2. A written description of the applicant's record of social responsibility, philanthropy, and ties to the proposed host community.
3. A workforce development and job creation plan that ensures that 35% or more of the applicant's workforce will come from city residents and which may include information on the applicant's history of job creation and planned job creation at the proposed Cannabis Establishment; education, training and resources to be made available for employees; any relevant certifications, and an optional diversity plan.
4. A map of nearby Cannabis Establishments, public or private schools, child daycare centers, places of worship, or residential buildings indicating compliance with maximum number or set back requirements.

Zoning Districts.

A. Class 1, 2, 3 or 4 regular and Microbusiness Cannabis Establishments, as regulated herein, shall be permitted uses in Industrial (IND) and Mixed Industrial/ Commercial (IND-1) zoning districts provided that:

1. All Cannabis Establishments are required to comply with the general provisions of this section;
2. Outdoor cultivation is not permitted within thirty (30) feet of any property line;
3. Cultivators and Manufacturers shall comport with all regulations relating to manufacturing uses;
4. 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. Wholesalers and 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 Establishment.

B. Class 5 and Class 6 regular and Microbusiness Cannabis Establishments, as regulated herein, shall be permitted uses in Industrial (IND) and Mixed Industrial/Commercial (IND-1), Central Business (CBD), Central Avenue Commercial (CAC), and ~~Neighborhood Commercial (C-1)~~ zoning districts, Arts

& Cultural (ACD) and Commercial Zone (C2), provided that there shall not be more than two (2) Class 5 regular and Microbusiness Cannabis Establishments within ~~five (500)~~ six hundred and twenty-five (625) feet of one another 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 retail cannabis business establishment. Floor area that is not accessible to customers shall not be included in the gross floor area for purposes of this calculation.
- D. Consumption Areas are permitted uses or conditional uses, in accordance with the uses set forth in section (B) above for Class 5 regular and Microbusiness Cannabis Establishments, as regulated herein:
1. Compliance with applicable requirements for Class 5 regular and Microbusiness Cannabis Establishments, except that the following conditions shall supplement or supersede.
 2. An applicant must have a Class 5 License issued by the state and a Class 5 Permit issued by the City or is concurrently seeking approval as a Class 5 regular or Microbusiness Cannabis Establishment Permit.
 3. Standards for indoor Consumption Areas:
 - (a) An indoor 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.

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.

By Order of the East Orange City Council

CYNTHIA S. BROWN
City Clerk

CHRISTOPHER AWE
City Council Chairman

Copies of the above Ordinance are posted on the Bulletin Boards in the Council Chambers, City Hall Lobby and the City Clerk's Office. Additional copies are available upon request in the City Clerk's Office during regular business hours