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Title: AN ORDINANCE AMENDING AND SUPPLEMENTING, TITLE XIV, CANNABIS, TO THE REVISED GENERAL ORDINANCES OF THE CITY OF NEWARK, NEW JERSEY, 2000, AS AMENDED AND SUPPLEMENTED, TO PERMIT AND REGULATE ADULT-USE AND LICENSE CANNABIS ESTABLISHMENTS.

PUBLIC HEARING TO BE HELD NOVEMBER 23, 2021
Deferred 6PSF-c 111521

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11/23/2021	1	Municipal Council	Close on Public Hearing and Adopt	Pass
11/15/2021	1	Municipal Council	maintained on public hearing and deferred to Special meeting	Pass
11/4/2021	1	Municipal Council	Advance and Adopt on First Reading as 6F-	Pass

AN ORDINANCE AMENDING AND SUPPLEMENTING, TITLE XIV, CANNABIS, TO THE REVISED GENERAL ORDINANCES OF THE CITY OF NEWARK, NEW JERSEY, 2000, AS AMENDED AND SUPPLEMENTED, TO PERMIT AND REGULATE ADULT-USE AND LICENSE CANNABIS ESTABLISHMENTS.

**PUBLIC HEARING TO BE HELD NOVEMBER 23, 2021
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WHEREAS, Title 14, Cannabis, Section 1-1 et seq., sets forth Rules and Regulations governing Cannabis in the City of Newark; and

WHEREAS, the Administration desires to amend this section to include Rules and Regulations from New Jersey Cannabis Regulator Commission N.J.A.C. 17:30-1 et seq., and to revise and add additional City of Newark Rules and Regulations; and

WHEREAS, there is a need to provide specific information to the public and cannabis establishments desiring to operate within the City of Newark.

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

Note: Additions are shown in **Bold and Underlined**. Deletions are shown in **~~Strikeouts~~**.

Section 1. Title 14, Cannabis, Chapter 2, Cannabis Establishments, Section 14:2-2, Authorized Establishments, of the Revised General Ordinances of the City of Newark, New Jersey, 2000, as amended and supplemented, is amended by revising thereto subsection B:

- B. There shall be a limited number of cannabis establishments eligible for authorization, this numerical limitation shall be pursuant to section 14:4-5 **14:3-5** of this title.

Section 2. Title 14, Cannabis, Chapter 2, Cannabis Establishments, Section 14:2-4, Authorized Establishments, of the Revised General Ordinances of the City of Newark, New Jersey, 2000, as amended and supplemented, is amended by revising and adding thereto subsection A-C:

A. Class 5-Retailer (including microbusiness):

Shall be open to the public for purchasing between the following hours:

1. Monday through **Thursday** Friday: 9:00 a.m. until 9:00 **10:00** p.m.
2. **Friday through Sunday** Saturday: **8:00** 9:00 a.m. until **11:00** 10:00 p.m.
3. Sunday: 9:00 a.m. until 6:00 p.m.

Retail operating hours do not apply to sales for the sole purpose of consumption in indoor cannabis consumption area.

B. Indoor Cannabis Consumption

Shall be open to the public for the sole purpose for purchasing cannabis or cannabis items to consume on premises between the following hours:

1. **Monday through Thursday: 9:00 a.m. until 12:00 a.m., the following day.**
2. **Friday through Sunday: 8:00 a.m. until 2:00 a.m., the following day.**

~~B. Class 6-Delivery:~~

~~A delivery service who delivers directly to consumer shall operate between the following hours:~~

- ~~1. Monday through Friday: 9:00 a.m. until 9:30 p.m.~~
- ~~2. Saturday: 9:00 a.m. until 10:30 p.m.~~
- ~~3. Sunday: 9:00 a.m. until 6:30 p.m.~~

~~C. Microbusiness:~~

- ~~1. A microbusiness operating under a Class 5 License shall be Open to the Public:~~
 - ~~a. Monday through Friday: 9:00 a.m. until 9:00 p.m.~~
 - ~~b. Saturday: 9:00 a.m. until 10:00 p.m.~~
 - ~~c. Sunday: 9:00 a.m. until 6:00 p.m.~~
- ~~2. A microbusiness operating under a Class 6 License shall be Open to the Public:~~
 - ~~a. Monday through Friday: 9:00 a.m. until 9:30 p.m.~~
 - ~~b. Saturday: 9:00 a.m. until 10:30 p.m.~~

e. Sunday: 9:00 a.m. until 6:30 p.m.

Section 3. Title 14, Cannabis, Chapter 3, License, Section 14:3-4, License Fees, of the Revised General Ordinances of the City of Newark, New Jersey, 2000, as amended and supplemented, is amended by revising thereto:

A licensee must pay an annual fee, the fee for granting of all cannabis establishment licenses issued by the Issuing Authority are hereby fixed as follows:

- A. Class 1-~~4~~ 5: \$5,000.00, for each license used within the City.
- B. Class 5: \$10,000.00, for each license used within the City.**
- B- **C.** Class 6: \$3,000.00, for each license used within the City.
- C. **D.** Cannabis Consumption Establishment: ~~\$2,500.00~~ **\$20,000.00** for each establishment operating within the City, this is an additional fee outside of the ~~\$5,000.00~~ **\$10,000.00** license fee for a Class 5 establishment.
- D. **E.** Microbusiness: \$1,500.00 for each establishment operating within the City.
- E. **F.** Safety Compliance Establishments: \$1,000.00.
- F. **G.** The holder of a stacked grower license must pay a separate fee in the amount **listed above for the additional license being obtained** of ~~\$5,000~~ for each license.

The initial annual fee(s) must be paid to the City when the application for City approval is submitted **within ten (10) days of license approval. If the license fee is not paid within 10 days of approval, then the City may rescind approval and chose the next person on the waiting list.** This fee shall be refunded in the event the applicant does not receive a license from the State. In each subsequent year, fees are due on the date ~~on~~ **in** which the licensee submits an application to the **City** State for renewal of the ~~State Operating License~~.

Section 4. Title 14, Cannabis, Chapter 3, License, Section 14:3-5, Limitation on the Number of License Issued, of the Revised General Ordinances of the City of Newark, New Jersey, 2000, as amended and supplemented, is amended by revising thereto subsection H:

H. Not more than ~~two (2)~~ **five (5)** microbusinesses per Class can operate within the City;

Section 5. Title 14, Cannabis, Chapter 3, License, Section 14:3-9, Endorsement, of the Revised General Ordinances of the City of Newark, New Jersey, 2000, as amended and supplemented, is amended by revising and adding thereto subsection A 2 and 4:

2. Whether the business has at least 50% of its work force as Newark residents. These positions must be unionized, **unless the cannabis establishment is a microbusiness.**

4. Any and all other factors pursuant to section 14:4-2E of this title.

A proposed establishment is not eligible to operate until **the Office of the Business Administrator**

and the Department of Finance, Division of **Tax** Abatement and Special Taxes grants final authorization pursuant to this chapter; the applicant receives a special use permit under the city zoning ordinance; and all other required approvals and licenses from the State and the City.

Section 6. Title 14, Cannabis, Chapter 3, License, Section 14:3-10, Relocation of Establishments, Transfers of Licenses, and Expansion of Grow Operations, of the Revised General Ordinances of the City of Newark, New Jersey, 2000, as amended and supplemented, is amended by revising and adding thereto subsection C:

- C. A licensee may expand growing operations by upgrading the class of the license (e.g., from Class 1 to Class 2, or from Class 2 to Class 3), or by obtaining a stacked license, subject to all the limitations established in 14:3-6. To do so, the licensee must submit a new application to the city satisfying the requirements in chapter 14-4, which shall include payment of the application fee and an advance of any additional annual administrative fee that will be owed due to the addition of stacked licenses. The application shall be conditionally approved upon receipt of all required materials. **The license fee must be paid within 10 days of approval, if it is not paid the City will rescind the approval.**

Section 7. Title 14, Cannabis, Chapter 3, License, Section 14:3-11, Violations, of the Revised General Ordinances of the City of Newark, New Jersey, 2000, as amended and supplemented, is amended by revising and adding thereto subsection A and B:

- A. Request for revocation of state operating license **Suspension and/or Revocation of License.**

If at any time a cannabis establishment violates this chapter or any other applicable City ordinance, the City may **impose a penalty, suspend, or revoke a license. The City may also** request that the State revoke or refrain from renewing the establishment's state operating license. **Violations may include, but are not limited to the following:**

1. **Selling cannabis and/or cannabis items to a person not legally authorize to possess.**
2. **Failure to have a City or State license at any point during operation.**
3. **Failure to comply with the provisions in this Title.**
4. **Failure to comply with any City Ordinance.**
5. **Selling cannabis and/or cannabis items outside a brick and mortar business.**
6. **Failure to report change in ownership and/or corporate structure.**

- B. Penalty

Any person who violates any provision of this Chapter shall, upon conviction thereof, be punished in the following manner:

1. 1st offense; a minimum fine of \$100 with a maximum fine up to \$1000;
 2. 2nd offense; a minimum fine of \$100 with a maximum fine up to \$1500 and community service for a period of up to 90 days **or suspension of license**;
 3. 3rd or subsequent offense; a minimum fine of \$100 with a maximum fine up to \$2,000, permanent revocation of any license issued under the within Chapter, or a period of imprisonment for a term not exceeding ninety (90) days or both.
 - 4. If an entity operates without ever having a license from the City or the State, it will be barred from operating within the City.**
4. 5. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

Section 8. Title 14, Cannabis, Chapter 4, License, Section 14:4-2, Application for Authorization, of the Revised General Ordinances of the City of Newark, New Jersey, 2000, as amended and supplemented, is amended by revising and adding thereto subsection B-E:

A. Timing of submission.

Beginning on December 1, 2021, a person may apply for authorization to operate an establishment within the City by complying with the requirements of this section.

B. Required application materials.

An application is not considered complete until all of the following are received by the Division of Tax Abatement and Special Taxes:

1. A nonrefundable application fee shall be submitted with the application in accordance with the following fee schedule:
 - a. Class I: \$2,500 Cannabis Cultivation License
 - b. Class II: \$2,500 Cannabis Manufacturer License
 - c. Class III: \$2,500 Cannabis Wholesaler License
 - d. Class IV: \$2,500 Cannabis Distributor License
 - e. Class V: \$2,500 Cannabis Retailer License
 - f. Class VI: \$1,500 Cannabis Delivery License
 - g. Microbusiness: \$750
 - h. Safety Compliance Establishment: \$500

~~2. An advance of the annual administrative fee established by the state.~~

3. ~~2.~~ A photocopy of a valid, unexpired driver's license or state issued identification card for all owners, directors, and officers of the proposed establishment.

4. ~~3.~~ A signed application, which must include all of the following information and documents:

- a. If the applicant is an individual, the applicant's name; date of birth; Social Security number; physical address, including residential and any business address; copy of government-issued photo identification; email address; one or more phone numbers, including emergency contact information;
- b. If the applicant is not an individual, the names; dates of birth; physical addresses, including residential and any business address; copy of government-issued photo identifications; email address; and one or more phone numbers for each stakeholder of the applicant, including designation of the highest ranking representative as an emergency contact person; contact information for the emergency contact person; articles of incorporation or organization; assumed name registration; Internal Revenue Service EIN confirmation letter; copy of the operating agreement of the applicant, if a limited liability company; copy of the partnership agreement, if a partnership; names and addresses of the beneficiaries, if a trust, or a copy of the bylaws or shareholder agreement, if a corporation;
- c. The name, address, tax identification number, and current zoning designations of the proposed cannabis establishment;
- d. The name and address of the current property owner of record;
 - i. The applicant shall submit proof that the applicant has or will have lawful possession of the premises proposed for the cannabis establishment, which proof may consist of: a deed, a lease, a real estate contract contingent upon successful licensing, or a binding letter of intent by the owner of the premises indicating an intent to lease the premises to the entrant contingent upon successful licensing.
 - ii. An applicant may submit applications for multiple properties.
 - iii. However, only one application shall be submitted per property, unless the applications are for proposed co-located establishments;
- e. If the current property owner is different than the applicant (e.g. where the applicant has a lease, option, land contract, or other future interest in the property), the property owner's signature is required in addition to the applicant's **or provide a signed notarized letter from the property owner acknowledging the type of business; terms of contract between the owner and applicant; the revocation of any**

Federal, State, and/or Local incentive; etc.:

- f. The proposed establishment type;
- g. If the proposed establishment type involves stacked growing licenses, the number of licenses sought;
- h. A complete list of all cannabis permits and licenses held by the applicant;
- i. Written consent for the City to inspect the establishment at any time during normal business hours to ensure compliance with applicable laws and regulations;
- j. A location area map of the cannabis establishment and surrounding area that identifies the relative locations and the distances (closest property line to the subject cannabis establishment's building) to the closest real property comprising a public or private elementary, vocational or secondary school;
- k. A copy of financial documents and a financial institution letter certifying funds shall be submitted as proof of financial capability to open and operate the cannabis establishment for which the applicant is seeking a license;
- l. A copy of all documents submitted by the applicant to the State in connection with the application for a State Operating License under **A resolution from the City of Newark's Planning Board or a Permitted Use Letter from the Department of Economic and Housing Development, Division of Planning and Zoning;**
- m. A copy of all documents submitted by the applicant to the State in connection with the application for a State Operating License under the NJCREAMMA;
- n. A copy of all documents issued by State indicating that the applicant has been prequalified for a state operating license;
- o. An affidavit and documentary proof of compliance with all state and local laws regarding affirmative action, anti-discrimination and fair employment practices. The applicant shall also certify under oath that they will not and shall not discriminate based on race, color, religion (creed), gender, gender expression, age, national origin (ancestry), disability, marital status, sexual orientation, or military status, in any of its activities or operations;
- p. Any other information reasonably requested by the City relevant to the processing or consideration of the application.

C. Initial receipt period.

For any establishment type subject to numerical limitations under 14:3-5, the initial receipt period shall be December 1, 2021, and shall end at 12:00p.m. (noon) on Friday, December 31, 2021.

D. Municipal Action Upon Receipt.

The Division of Tax Abatement and Special Taxes will accept and receive any complete application that includes the information and documents required by 14:4-2B, unless the City has already received an application for the same property (other than an application for a proposed co-located establishment) from another applicant. Upon receiving a complete application, the Division of Tax Abatement and Special Taxes will time- and date-stamp the application and inform the applicant of the following:

1. The number of existing establishments of the proposed establishment type currently operating within the city;
2. The number of pending applications for the desired establishment type; and
3. The process by which an applicant will be selected pursuant to subsection E of this section.

E. Conditional authorization and competitive process.

The Division of Tax Abatement and Special Taxes will conditionally authorize establishments as follows:

1. If, after 12:00p.m. (noon) on the end date of the initial receipt period, the City has received more applications for a given establishment type than would be permitted under 14:3-5, the City will decide among competing applications by a competitive process intended to select applicants who are best suited to operate in compliance with the all regulations in the City. The City will provide applicants with 21 calendar days' notice that the applicants must provide supplemental written information and documentation to the City indicating whether the applicant satisfies each of the following criteria:

Scoring category	Available points
Current medical marijuana facility license status in the City and history of compliance with City and state regulations associated with existing medical marijuana facility licenses held in the City.	10 points
Background of the applicant, including past ownership interest in a business or businesses operating in the State of New Jersey; past compliance with business licensing requirements, including marijuana business licenses issued by the state.	10 points
Human resources, including the number of full-time equivalent employees and how many employees reside in the City of Newark.	10 points

Physical investment, including the applicant's proposed tangible capital investment; the current and proposed condition of the proposed location; and the applicant's ownership stake in the physical location of the establishment along with whether the business is a MBE or WMBE business.	20 points
Area impact, including the proximity of the establishment to properties zoned or used residentially; and plans for litter control, loitering, neighborhood outreach, noise mitigation, odor mitigation, resident safety, and traffic mitigation.	10 points
Business operations, including a business plan; financing plan; marketing and promotion plan, with an emphasis on reducing exposure to minors; and strategic plan.	10 points
Establishment design, including the provision of glazing, landscaping, and screening above City minimum requirements; the use of durable building materials; compliance with the Americans with Disabilities Act;	10 points
Energy efficiency, including Energy Star certification; New Jersey Energy Code compliance; use of energy from carbon-free sources; and use of Water Sense fixtures.	10 points
Infrastructure impact, including the utilization of green infrastructure or low-impact development design principles to manage storm water; and the provision of non-motorized transportation infrastructure in excess of City requirements.	10 points

Bonus Points:

Majority owner has resided within the City of Newark for at least five (5) years.	20 points
Majority owner of the cannabis establishment is Black and/or Brown.	30 15 points

An owner who owns 25% or more of the cannabis establishment and 15 points is considered to be rehabilitated pursuant to N.J.A.C. 17:30-7.12(e)

It shall be noted that a Cannabis Establishment will be subject to forfeiture of license if it is discovered that it has exploited an individual for the sole purpose of receiving bonus points.

Section 9. Title 14, Cannabis, Chapter 4, License, Section 14:4-2.1, Selection Committee, of the Revised General Ordinances of the City of Newark, New Jersey, 2000, as amended and supplemented, is amended by revising thereto subsection A:

A. The application and all supplemental information shall be delivered to the city's Adult-Use Cannabis Establishment Selection Committee ("Selection Committee"). The Selection Committee shall be comprised of:

- Office of the Business Administrator and/or designee (Presiding Officer)
- Finance Department, Division of Tax Abatements and Special Taxes
- Department of Public Works
- Department of Public Safety
- Department of Engineering

Department of Economic Housing and Development, City Planning Division
Law Department

Section 10. Title 14, Cannabis, Chapter 4, License, Section 14:4-2.2, Additional Licensing Procedures, of the Revised General Ordinances of the City of Newark, New Jersey, 2000, as amended and supplemented, is adding thereto:

A. Committee Interview.

The Selection may require that an applicant be interviewed before approving the license. To ensure that the applicant is:

1. **Fit to have a cannabis establishment;**
2. **Fit to operate within the City of Newark; or**
3. **To help decide between applicants within the same class, who has received the exact number of points from the scoring process pursuant to 14:4-2E.**

B. Licensing Lottery.

Where after all applicants have been scored pursuant to 14:4-2E; and it has been determined that several applicants in the same class have received the same number of points, and the amount of applicants exceeds the allowable amount of Cannabis Establishments in a particular class pursuant to 14:3-5 the Committee may conduct a public lottery among such applicants.

Section 11. Title 14, Cannabis, Chapter 4, License, Section 14:4-2.3, Final Authorization, of the Revised General Ordinances of the City of Newark, New Jersey, 2000, as amended and supplemented, is amended by revising and adding thereto:

The Division of Tax Abatement and Special Taxes will grant final authorization for the establishment if the applicant:

A.

1. Submits the paperwork for the establishment-specific step of the application for a state operating license (and all related applications for stacked licenses) to the state within 30 days of receiving conditional authorization;
2. Submits an application for special use authorization pursuant to the zoning ordinance within 30 days of receiving conditional authorization; ~~and~~
3. Obtains special use authorization within 6 months of receiving conditional authorization; ~~;~~
4. Receives all required operating licenses and approvals from the state within 18 months after

conditional authorization is granted;

(5.) Enters into a written agreement with the City confirming that the cannabis establishment will operate in accordance with the business plans, building plans, design standards, and all other operational standards described by the applicant in the application and in any supplemental materials submitted under Subsection 14:4-2.4 (E). The agreement shall further provide that if the establishment breaches the agreement, then the City may revoke authorization of the establishment following notice and a Public Hearing, and that in such event, the City shall be entitled to injunctive relief barring further operation of the establishment in the City.

B. Expiration of conditional authorization.

If the applicant for a conditionally authorized Cannabis Establishment fails to satisfy any of the deadlines established above, the conditional authorization will expire. **The Business Administrator is hereby authorized to enter into a maximum of one (1) six (6) month extensions of any timeframe set forth in this section. All other extensions must be approved by the** Municipal Council may extend any of the deadlines upon a showing of good cause.

C. ~~Waiting list and refund of administrative fee.~~

The Division of Tax Abatement and Special Taxes will keep and maintain the waiting lists established pursuant to this Chapter until the maximum number of Cannabis Establishments of the type to which the list pertains are operating in the City (at which time the waiting list will be discarded). If a conditional authorization for a proposed Cannabis Establishment of that establishment type expires, the Division of Tax Abatement and Special Taxes will conditionally authorize the next application on the waiting list. ~~Upon discarding the waiting list, the Division of Tax Abatement and Special Taxes and Abatement will refund the advance of the annual administrative fee established in section 14:3-4 to all applicants remaining on the waiting list.~~ **The waiting lists will be for Cannabis Establishments who have not received a disapproval from the City. The waiting list will expire within a one-year timeframe.**

D. Newly available authorizations.

1. For establishment types for which the maximum number of establishments specified in 14:3-5 are operating in the City, an authorization will become available when:
 - a. ~~The State operating license for an establishment with final authorization expires or is revoked; or~~
 - b. The City license expires or is revoked pursuant to Section 14:3-11; or**
 - c. This Chapter is amended to authorize additional establishments of that establishment type.

2. When an authorization **license** becomes available as described in subsection ~~(H)~~**(D)**(1) of this section, the Division of Tax Abatement and Special Taxes will select a date within the next 60 days on which the City will begin accepting applications from interested persons, and will publish notice of the selected date in a newspaper of general circulation.
3. On the selected date, the Division of Tax Abatement and Special Taxes will begin accepting applications using the same process **in accordance with 14:4-2 et seq. and 14:4-3 et seq.** described in subsections (C) and (D) above of this section. If multiple applications are received on that date, the Selection Committee will request supplemental information and conduct a competitive selection process as outlined in 14:4-1(E) above.

Section 12. Title 14, Cannabis, Chapter 4, License, Section 14:4-2.4, Renewal Application, of the Revised General Ordinances of the City of Newark, New Jersey, 2000, as amended and supplemented, is amended by revising and adding thereto:

Renewal applications for another annual license shall be filed no later than 90 days prior to the expiration of the cannabis establishment's license. The renewal application shall follow the same rules and guidelines laid out in this chapter, **and provide all necessary proof showing that the cannabis establishment is operating in compliance with this Title.**

Section 13. Title 14, Cannabis, Chapter 5, License, Section 14:5-2, Renewal Application, of the Revised General Ordinances of the City of Newark, New Jersey, 2000, as amended and supplemented, is amended by revising and adding thereto Subsection B:

B. Property Owner, Developer, or Operator:

1. A property owner, developer, or operator of a project to be used, in whole or in part, by or to benefit a cannabis establishment or employs a certified cannabis handler to perform work for or on behalf of a cannabis establishment shall not be eligible for a State or local economic incentive during the period of time that the economic incentive is in effect.
2. The issuance of a license to operate as a cannabis establishment or issuance of a certificate to perform work for or on behalf of a cannabis establishment at a location that is the subject of a State or local economic incentive shall invalidate the right of a property owner, developer, or operator to benefit from the economic incentive as of the date of issuance of the license or certificate from the State and/or the City.

Section 14. Title 14, Cannabis, Chapter 4, License, Section 14:6-11, Public Records, of the Revised General Ordinances of the City of Newark, New Jersey, 2000, as amended and supplemented, is adding thereto:

A. No application materials submitted to the City pursuant to this Title shall be considered public record pursuant to N.J.A.C. 17:30-7.10(f) and N.J.S.A. 47:1A-1 to -13 or the

common law concerning access to government records.

B. No materials submitted to the City for annual license renewal pursuant to this Title shall be considered public record pursuant to N.J.A.C. 17:30-7.16 and N.J.S.A. 47:1A-1 to -13 or the common law concerning access to government records.

C. Upon request from the NJCREAMMA, the City shall provide a redacted copy that may be released to the public.

- 1. Redactions shall be limited to information that is likely to be found to be exempted in accordance with N.J.S.A. 47:1A-1 to -13 or the common law on public records, this is pursuant to N.J.A.C. 17:30-9.4(d).**

Section 15. Any existing ordinance, or part thereof, inconsistent with this ordinance is hereby repealed to the extent of such inconsistency.

Section 16. Severability.

If any section, paragraph, subparagraph, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the specific section, paragraph, subparagraph, clause or provision so adjudged and the remainder of the Ordinance shall be deemed valid and effective.

Section 17. This Ordinance shall take effect upon final passage and publications in accordance with the laws of the State of New Jersey.

STATEMENT

This ordinance amends and revises Title XIV, Cannabis, of the Revised Ordinances of the City of Newark, New Jersey, 2000, as amended and supplemented.