



Legislation Text

File #: 21-1086, Version: 1

AN ORDINANCE CREATING 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.

No Action Taken 6PSF-aa (s) 081721

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

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

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

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

WHEREAS, the Act establishes six (6) marketplace classes of licensed cannabis businesses including:

- Class 1 Cannabis Cultivator license - for facilities involved in growing and cultivating cannabis;
- Class 2 Cannabis Manufacturer license - for facilities involved in the manufacturing, preparation, and packaging of cannabis items;
- Class 3 Cannabis Wholesaler license - for facilities involved in obtaining and selling cannabis items for later resale by other licensees;
- Class 4 Cannabis Distributer license - for businesses involved in transporting cannabis plants in bulk from one licensed cultivator to another licensed cultivator, or cannabis

items in bulk from any type of licensed cannabis business to another;

- Class 5 Cannabis Retailer license - for locations at which cannabis items and related supplies are sold to consumers; and
- Class 6 Cannabis Delivery license - for businesses providing courier services for consumer purchases that are fulfilled by a licensed cannabis retailer in order to make deliveries of the purchased items to a consumer, and which service would include the ability of a consumer to make a purchase directly through the cannabis delivery service which would be presented by the delivery service for fulfillment by a retailer and then delivered to a consumer; and

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

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

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

WHEREAS, pursuant to Section 31 of the Act, the failure to adopt a municipal ordinance shall mean that for a period of five (5) years thereafter, Class 1 Cultivator, Class 2 Manufacturer, Class 3 Wholesaler, and Class 4 Distributor, Class 5 Retailer, and Class 6 Delivery licensed businesses shall not be numerically limited, shall be permitted automatically in the municipality, and shall not be regulated by the municipality it sits in but regulated by the overall State regulations; and

WHEREAS, the enforcement of cannabis laws has led to the unequal treatment and targeting of minority communities and has contributed to the mass incarceration of Black and Brown people in New Jersey and throughout the country; and

WHEREAS, regulating the manufacture, distribution, and sale of cannabis is of paramount concern to the Mayor and the Municipal Council and must be designed and tailored in such a way that complies with the change in the law, yet strengthens our ability to keep cannabis away from minors; and

WHEREAS, a controlled system of cannabis manufacturing, distribution, and sale must be designed in a way that enhances public health, safety and welfare of the citizens of Newark and minimizes potential harm to Newark families; and

WHEREAS, N.J.S.A. 40:48-2 authorizes a municipality to make, amend, repeal and enforce such other ordinances, regulations, rules and by-laws not contrary to the laws of this state or of the

United States, as it may deem necessary and proper for the good government, order and protection of persons and property, and for the preservation of the public health, safety and welfare of the municipality and its inhabitants; and

WHEREAS, the Municipal Council seeks to create Title XIV, Cannabis, to the Newark Municipal Code to permit and regulate Adult-Use and License Cannabis Establishments; and

WHEREAS, the Municipal Council seeks to establish and regulate a legalized cannabis market and industry in the City of Newark to allow for stringent quality control and best practices, and to better ensure a safer product than an unregulated market in order to promote public health, wealth, and safety.

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

Section 1. The Revised General Ordinances of the City of Newark, New Jersey, 2000, as amended and supplemented, is amended to adopt Title XIV, Cannabis, as follows:

CANNABIS

14:1 PURPOSE AND DEFINITIONS

This Chapter shall be known and cited as “Purpose and Definitions”.

14:1-1. PURPOSE

This Title is enacted to regulate the adult-use cannabis industry in the City of Newark in accordance with the provisions of an act of the Legislature of the State of New Jersey entitled the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act, comprising Assembly Bill No. 21, L.2021, c.16, its supplements and amendments, and also comprising N.J.S.A. 24:6i-1 et seq., and in accordance with the rules and regulations of the Cannabis Regulatory Commission.

14:1-2. DEFINITIONS

The following words and phrases have the meanings ascribed to them when used in this chapter:

CANNABIS means all parts of the plant genus cannabis, growing or not; the seeds of that plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin. Cannabis does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other

compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted from those stalks, fiber, oil, or cake, or any sterilized seed of the plant that is incapable of germination. Cannabis does not include industrial hemp.

CANNABIS CONSUMPTION AREA means a designated location operated by a licensed cannabis retailer, for which both a State and City endorsement has been obtained, that is either: (1) an indoor, structurally enclosed area of the cannabis retailer, that is separate from the area in which retail sales of cannabis items; or (2) an exterior structure on the same premises as the cannabis retailer, either separate from or connected to the cannabis retailer, at which cannabis items obtained from the retailer.

CANNABIS CULTIVATOR (a/k/a CANNABIS GROWER) means a person licensed by the State to cultivate, grow, or produce cannabis and sells and/or otherwise transports cannabis to other cultivators, or useable cannabis to manufacturers, wholesalers or retail establishments, but not to consumer.

CANNABIS DELIVERY means a person licensed by the State to provide courier services for consumer purchases of cannabis items and related supplies fulfilled by a 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 may also include a third-party technology platform, used by a licensed cannabis retailer, which receives, processes, and fulfills orders by consumers these acts must be accomplished by a certified cannabis handler.

CANNABIS DISTRIBUTOR means a person licensed by the State to transfer cannabis items in bulk intrastate from one license cultivator to another license cultivator, or transports cannabis items in bulk intrastate from any one class or licensed cannabis establishment to another class of licensed cannabis establishment; and may temporarily store cannabis or cannabis items when it is necessary to provide transportation activities.

CANNABIS ESTABLISHMENT means a cannabis cultivator, cannabis safety compliance establishment, cannabis processor, cannabis microbusiness, cannabis retailer, cannabis secure transporter, cannabis wholesaler, cannabis manufacturer, cannabis delivery service, or any other type of cannabis-related business licensed by the State.

CANNABIS EVENT ORGANIZER means a person licensed to apply for a temporary cannabis event license under the Emergency Rules.

CANNABIS-INFUSED PRODUCT means a topical formulation, tincture, beverage, edible substance, or similar product containing cannabis and other ingredients and that is intended for human consumption.

CANNABIS ITEM means any usable cannabis, cannabis product, cannabis extract, and any other cannabis resin. It does not include medical cannabis dispensed to registered qualifying patients; or hemp or hemp product cultivated, handled, processed, transported, or sold.

CANNABIS MANUFACTURER means a person licensed by the State to processes cannabis items in the State by purchasing or otherwise obtain usable cannabis, manufacture, prepare, package cannabis items, and sell; can transport these items to other processors, wholesalers, or retailers, but not to consumer.

CANNABIS MICROBUSINESS means a person licensed by the State to cultivate not more than 150 cannabis plants; process and package cannabis; and sell or otherwise transfer cannabis to individuals who are 21 years of age or older or to a cannabis safety compliance establishment, but not to other cannabis establishments.

CANNABIS RETAILER means a person licensed by the State to purchase or obtain useable cannabis and cannabis items from cultivators, manufacturers, and wholesalers and to sells to a consumers at a retail store and may sell to a consumer using a delivery service or a certified cannabis handler for the off-premises delivery of cannabis items and related supplies to consumers.

CANNABIS SAFETY COMPLIANCE ESTABLISHMENT a person licensed by the State to test cannabis, including certification for potency and the presence of contaminants.

CANNABIS SECURE TRANSPORTER means a person licensed by the State to obtain cannabis from cannabis establishments in order to transport cannabis to cannabis establishments.

CANNABIS WHOLESALE means a person licensed by the State to purchase, obtain, store, sell, or transfer cannabis; may transport cannabis items for resale or transfers to wholesalers or retailers, but not to consumer.

CERTIFIED CANNABIS HANDLER means a person licensed by the State who performs work for or on behalf of a cultivator, manufacturer, retailer, or participates in transporting, transferring, or delivering cannabis.

CITY means the City of Newark, New Jersey.

CO-LOCATION or CO-LOCATED means the siting and operation of a combination of multiple establishments or establishment types at a single location.

COMMISSION means the Cannabis Regulatory Commission established pursuant to section 31 of P.L.2019, c.153 (C.24:6i-24).

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.

CUMCA means the Jake Honig Compassionate Use Medical Cannabis Act.

DESIGNATED CONSUMPTION ESTABLISHMENT means a commercial space that is licensed by the state and authorized to permit adults 21 years of age and older to consume cannabis products at the location indicated on the state license, must be a part of a Cannabis Retail Establishment.

EDIBLE CANNABIS PRODUCT means any cannabis-infused product containing cannabis that is intended for human consumption in a manner other than smoke inhalation.

EMERGENCY RULES means the emergency rules for adult-use cannabis establishments issued by the State.

FEDERAL, STATE, AND/OR LOCAL ECONOMIC INCENTIVE means a financial incentive, awarded by the Federal and/or State government, any political subdivision of the State, or any agency or instrumentality of the State or political subdivision of the State, to any non-governmental person, association, for-profit or non-profit corporation, joint venture, limited liability company, partnership, sole proprietorship, or other form of business organization or entity, or agreed to between the government and non-governmental parties, for the purpose of stimulating economic development or redevelopment in New Jersey, including, but not limited to, a bond grant, loan, loan guarantee, matching fund, tax credit, financial and/or tax abatement, or tax expenditure. Local in this context means Essex County and/or the City of Newark.

LICENSEE means person holding a state operating license for a cannabis establishment.

NJCREAMMA means the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act.

PERSON means any natural person, association, entity, partnership, or corporation.

PREMISES means a building, together with its land and outbuildings, occupied by a business.

PREQUALIFICATION STEP or PREQUALIFIED means the portion of the application for a state operating license pertaining to the applicant's financial background and the criminal history of the applicant and other associated persons.

PUBLIC PARK means a State, County, or City park within the boundary of the City of Newark.

PUBLIC PLACE means a structurally enclosed place of business, commerce or other service-related

activity, whether publicly or privately owned or operated on a for-profit or nonprofit basis, which is generally accessible to the public, including, but not limited to: a commercial or other office building; office or building owned, leased or rented by the State or by a County or Municipal Government; public and nonpublic elementary or secondary school building; board of education building; theater or concert hall; public library; museum or art gallery; bar; restaurant or other establishment where the principal business is the sale of food for consumption on the premises, including the bar area of the establishment; garage or parking facility; any public conveyance operated on land or water, or in the air, and passenger waiting rooms and platform areas in any stations or terminals thereof; health care facility licensed pursuant to N.J.S.A. 26:2H-1 et seq.; patient waiting room of the office of a health care provider licensed pursuant to Title 45 of the Revised General Ordinances; child care center licensed pursuant to N.J.S.A. 30:5B-1 et seq.; race track facility; facility used for the holding of sporting events; ambulatory recreational facility; shopping mall or retail store; hotel, motel or other lodging establishment; apartment building lobby or other public area in an otherwise private building; or a passenger elevator in a building other than a single-family dwelling.

RETAIL STORE means a place of business affixed to a particular location, solely brick and mortar.

STACKED GROWER LICENSE means more than one state operating license issued to a single licensee to operate as a grower of class C-2,000 cannabis plants as specified in each license at an establishment.

STATE means the state of New Jersey.

STATE OPERATING LICENSE or, unless the context requires a different meaning, a license that is issued by the State that allows the licensee to operate a cannabis establishment.

14:2 CANNABIS ESTABLISHMENTS

This Chapter shall be known and cited as the “Cannabis Establishments”.

14:2-1. TYPES OF ESTABLISHMENTS.

- A. There are 6 Classes of businesses who may obtain a license from the State to operate a Cannabis Establishment, which are:
1. Class 1: Cannabis Cultivator
 2. Class 2: Cannabis Manufacturer
 3. Class 3: Cannabis Wholesaler
 4. Class 4: Cannabis Distributor
 5. Class 5: Cannabis Retailer
- a. Only an establishment who operates under this class may also be permitted to operate a Designated Consumption Establishment.

6. Class 6: Cannabis Delivery Service

B. Other Establishments

1. Microbusinesses
2. Safety Compliance Establishments

14:2-2. AUTHORIZED ESTABLISHMENTS.

- A. Authorization and special use permits are required in order to operate an establishment. No person shall operate a cannabis establishment in the City without an authorization issued by the City pursuant to the provisions of this Title and a special use permit pursuant to this Title and the City's Zoning Ordinance.
- B. There shall be a limited number of Cannabis Establishments eligible for authorization, this numerical limitation shall be pursuant to section 14:4-5 of this title.
- C. No person shall operate a temporary cannabis event in this city.

14:2-3. AUTHORIZED LOCATIONS FOR CANNABIS ESTABLISHMENTS.

- A. A Cannabis Establishment location must be approved by the City Planning Division, Department of Economic and Housing Development, pursuant to Title XLIII Zoning and Land Use Regulations.
- B. All establishments must operate in an affixed structure.
- C. No establishment shall be operated within a residence.
- D. No establishment shall be operated in a vehicle or any moveable or mobile structure.
- E. No cannabis retailer shall be located in or upon any premises in which operates a grocery store, delicatessen, indoor food market, or other store engaging in retail sales of food, or in or upon any premises in which operates a store that engages in licensed retail sales of alcoholic beverages.

14:2-4. HOURS OF OPERATION.

A Cannabis Establishment may only operate between the following hours:

A. Class 5-Retailer:

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

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

B. Class 6- Delivery:

A delivery service that delivers directly to consumers 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.
 - c. Sunday: 9:00 a.m. until 6:30 p.m.

14:2-5. MANNER OF OPERATION.

14:2-5.1 Armed Security

A. All Cannabis Establishments must have armed security guards or off-duty police officer(s) at every entrance and exit point of its facility; except locked emergency doors and/or fire doors.

1. During the hours of non-operation there must be at least one armed security guard or off-duty police officer guarding or patrolling the establishment, and all doors must be locked and secured, but must allow this guard or officer access to the properly to secure the establishment.

B. Retail Establishments

1. Security shall be responsible for ensuring that every person who comes in to purchase cannabis or cannabis items shall be 21 years of age or older.
 - a. Must check official government identification by using an electric identification verification.

14:2-5.1.1 Penalty

Any owner/operator who fails to provide and maintain armed security in accordance with the provisions herein shall, upon conviction, be punished by a fine of not less than \$1000.00, for each day the owner/operator is found to be in violation of this section.

14:2-5.2 Security System

A. View of the Exterior:

1. Any holder of a cannabis license shall place and maintain security cameras that can monitor and record all entrances and exits of the establishment, as well as the front perimeter of the same extending to the curb line and parking lot.
2. The security camera(s) shall be operational 24 hours, seven days a week. The recordings contained therein shall be made available to sworn officers of the Department of Public Safety, Police Division pursuant to any investigation being conducted regarding activity at or in the immediate area of the establishment.
3. Any recording contained therein shall be maintained for a minimum of ninety (90) days, and shall also be made available to sworn officers of the Department of Public Safety, Police Division to aid in the investigation of crimes occurring at the establishment or in the immediate area of the establishment.

B. View of the Interior:

All retail Cannabis Establishments must have video surveillance cameras inside the building monitoring all locations accessible to the public, excluding the restrooms. These security cameras shall be:

1. Operational 24 hours, seven days a week. The recordings contained therein shall be made available to sworn officers of the Department of Public Safety, Police Newark Division of Police pursuant to any investigation being conducted regarding activity at the establishment.
2. Any recording contained therein shall be maintained for a minimum of 90 days, and made available to sworn officers of the Newark Division of Police to aid in the investigation of crimes occurring at the establishment.

14:2-5.2.1 Penalty.

Any owner/operator who fails to provide and maintain video surveillance cameras in accordance with the provisions herein upon conviction, shall be subjected to a fine of not less than One Thousand Dollars and Zero Cents (\$1,000.00), for each day the owner/operator is found to be in violation of this section..

14:2-5.3 Burglary and Robbery Alarms.

All Cannabis Establishments must have a Burglary and Robbery Alarm system in accordance with all applicable rules and regulations, including Newark Municipal R.O. 20:4 et seq.

14:2-5.4 Ventilation System.

All Cannabis Establishments shall have equipment to mitigate odor. The building shall be equipped with a ventilation system with carbon filters sufficient in type and capacity to mitigate cannabis odors emanating from the interior of the premises and/or a ventilation system that is customarily used in this industry to prevent odors and emissions of gasses.

14:2-5.5 Mitigation of 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.

14:2-5.6 Random Inspection.

All Cannabis Establishments must allow the City access to its premises for random inspection. These inspections will happen during business hours of the establishment. If the City is denied access to inspect the premises, then the establishment will have to immediately stop operations, lock, and close down the establishment. The City will only allow the establishment to reopen once it has completed its inspection.

14:2-5.7 Date of Sales.

A retailer cannot begin selling cannabis until the Commission gives its authorization to all retailers throughout the State. The retailer must comply with all license requirements from Chapter 14:3, State licensing requirements, and any other applicable City Ordinances.

14:3 LICENSES

14:3-1. LAWS APPLICABLE.

All applications for licenses, all licenses issued and all proceedings under this Title shall be in accordance with the Act, rules, and regulations referred to in Section 14:1, and all other applicable laws of the State of New Jersey.

14:3-2. ISSUING AUTHORITY.

All licenses required by this Chapter shall be issued by Finance Department, Division of Tax Abatement and Special Taxes and the Business Administrator's Office, which shall also administer the provisions of this title. 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 of cannabis establishments by the State, or in which State law requires any review or approval by the City or any action taken by the State licensing authority, the exclusive authority for receiving such communications and granting such approvals shall be exercised by the Business Administrator.

14:3-3. LICENSE REQUIRED.

Under no circumstances shall a local license for a Cannabis Establishment issued by the Business Administrator and the Division of Tax Abatement and Special Taxes be effective until or unless the State has issued the requisite permits or licenses to operate such a facility. It is the intent of this Chapter that no Cannabis Establishment may lawfully operate in the City without the issuance of a State permit or license and full regulatory oversight of the Cannabis Establishment by the Cannabis Regulatory Commission or other State licensing authority as well as oversight and issuance of a license by the City. Any person who operates without a license will be subject to penalties, pursuant to section 14:3-11.

14:3-4. LICENSE FEES.

A licensee must pay an annual fee. The fee for granting all Cannabis Establishment licenses issued by the Issuing Authority are hereby fixed as follows:

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

The initial annual fee(s) must be paid to the City when the application for City approval is submitted. 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 which the licensee submits an application to the State for renewal of the State Operating License.

14:3-5. LIMITATION ON THE NUMBER OF LICENSE ISSUED.

The numerical limitation of cannabis establishment licenses to be issued in the City shall be subject to the following:

- A. Not more than five (5) cannabis growers operating under Class 1 licenses;
- B. Not more than five (5) cannabis manufactures operating under Class 2 licenses;
- C. Not more than three (3) cannabis wholesalers operating under Class 3 licenses;
- D. Not more than three (3) cannabis distributors operating under Class 4 licenses;
- E. Not more than five (5) cannabis retailers operating under Class 5 licenses;
- F. Not more than five (5) cannabis delivery service and cannabis secure transporters operating under Class 6 licenses;
- G. Not more than three (3) safety compliance establishments shall operate within the City;
- H. Not more than two (2) microbusinesses per Class can operate within the City;

I. Not more than two (2) designated consumption establishments shall operate within the City. A person may hold multiple licenses in different classes; however a person may not hold more than one (1) Class 5 cannabis retailer license. A large Class 1 - Class 3 Cannabis Establishment cannot operate a Class 5 retail establishment.

14:3-6. CO-LOCATION AND STACKED LICENSES.

Co-location and stacked grower licenses (with up to three grower licenses per zoning lot) are permitted in the City. For purposes of the limitations provided below:

- A. An establishment with a stacked grower license counts as a single grower;
- B. On a site with co-location, each license (other than stacked grower licenses) authorized to operate within a single location counts as a separate establishment.

14:3-7. CERTAIN LICENSE NOT TO BE GRANTED.

No seasonal or temporary cannabis license of any kind shall be granted in the City.

14:3-8. INDIVIDUAL RESPONSIBLE PARTY.

A Cannabis Establishment must have a specific individual responsible party in order to obtain a license. This party will be responsible for ensuring compliance with all regulations in this title and all other applicable City ordinances shall be able to receive service of process; and ensure that the Cannabis Establishment pays all, fees, taxes, penalties, and fines. This individual responsible party's name, address, and social security shall be listed on the application in such capacity.

14:3-9. ENDORSEMENT.

The State requires that a business applying for a License to operate a Recreation Cannabis Establishment shall secure either the support of the community or a recommendation from the municipality where the establishment will be located.

- A. In order for a business to secure the recommendation from the City of Newark, the following factors must be considered:

- 1. Whether the business is a MBE or WMBE.

For such purpose a MBE/WBE business is a business (1) that is at least fifty-one (51%) percent owned by one (1) or more minority persons or women or, in the case of any business whose stock is publicly held, at least fifty-one (51%) percent of the stock is owned by one (1) or more minority persons or women and (2) whose management and daily business

operations are controlled by one (1) or more minority persons or women.

In order to be eligible as a minority business, a business must be a sole proprietorship, partnership or corporation at least fifty-one (51%) percent of which is owned and controlled by persons who are minorities as defined in accordance with R.O. 2:2-28.3f.

In order to be eligible as a female business, a business must be a sole proprietorship, partnership or corporation at least fifty-one (51%) percent of which is owned and controlled by women.

2. Whether the business has at least 50% of its work force as Newark residents. These positions must be unionized.
3. All large Cannabis Establishments shall contribute to a business development fund, in which a macro-licensed cannabis establishment would assist small business owners with securing a microbusiness license.

A proposed establishment is not eligible to operate until the Department of Finance, Division of 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.

14:3-10. RELOCATION OF ESTABLISHMENTS, TRANSFERS OF LICENSES, AND EXPANSION OF GROW OPERATIONS.

- A. An existing establishment may move to a new location in the City, subject to applicable zoning regulations, Municipal Council approval, and approval by the State. In deciding whether to approve a new location for an existing establishment, the Municipal Council shall consider the following nonexclusive factors:
 1. The impact of the establishment's new location on the community as a whole; and
 2. The existing establishment's compliance with City ordinances and with state law and administrative rules.
- B. A license for an existing establishment may be transferred to a new licensee that intends to continue operating at the same location, subject to approval by the Municipal Council and the State.
- 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.

14:3-11. VIOLATIONS.

A. Request for revocation of state operating license.

If at any time a Cannabis Establishment violates this Chapter or any other applicable City ordinance, the City may request that the State revoke or refrain from renewing the establishment's state operating license.

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 \$100.00 with a maximum fine up to \$1000.00;
2. 2nd offense; a minimum fine of \$100.00 with a maximum fine up to \$1500.00 and community service for a period of up to 90 days;
3. 3rd or subsequent offense; a minimum fine of \$100.00 with a maximum fine up to \$2,000.00, 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. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

C. Other remedies.

The foregoing sanctions are in addition to the city's right to seek other appropriate and proper remedies, including actions in law or equity.

14:4 APPLICATIONS FOR NEW AND RENEWED LICENSES.

14:4-1. APPLICATION FOR LICENSE

Any person wishing to obtain any classification of cannabis license shall file a license application with the Division of Tax Abatement and Special Taxes, on a standardized form established by the Division of Tax Abatement and Special Taxes and the Business Administrator. The City will establish a reasonable application period and deadline for all applications. An application shall be deemed incomplete and shall not be processed by the Division of Tax Abatement and Special Taxes and the Business Administrator, if all required documents and application fees are not submitted.

14:4-2. APPLICATION FOR AUTHORIZATION

A. Timing of submission.

Beginning December 1, 2021, a person may apply for authorization to operate a Cannabis 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. 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. 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.
 - 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;
- 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 12:00 p.m. 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 12:00 p.m. 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. Bonus Points: Majority owner of the cannabis establishment is Black and/or Brown. 30 points Majority owner has resided within the City of Newark for at least five (5) years.	10 points
	20 points

14:4-2.1. SELECTION COMMITTEE

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 one (1) representative from each of the following Departments:

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

1. Submission of supplementary information to the City.

Applicants for City authorization and persons operating existing establishments in the City must provide the Division of Tax Abatement and Special Taxes with copies of all documents submitted to the State in connection with the initial license application, subsequent renewal applications, or investigations conducted by the State. The documents must be provided to the Division of Tax Abatement and Special Taxes within seven (7) days of submission to the State, and may be submitted by electronic media unless otherwise requested.

B. Upon timely receipt of the supplemental information described in Subsection 14:4-2.1(E)(1), the Selection Committee shall hold a meeting and assign points for each criterion that is satisfied and

shall, based on the resulting scores, select applicants who are best suited to operate in compliance with the regulations in the City. The Division of Tax Abatement and Special Taxes shall notify the selected applicants that they have been granted conditional authorization. In the event of a tied score, the Selection Committee shall conduct a random drawing from among the applicants with tied scores to determine which applicant shall receive conditional authorization. The City's decision to grant conditional authorization is final and is not appealable.

C. If an applicant does not timely submit the supplemental information described in Subsection A of this Section, then the application shall be discarded and shall not be considered under Subsection A of this Section.

D. Once the Division of Tax Abatement and Special Taxes has issued conditional authorizations for all of the establishments of a given establishment type that would be permitted under 14:3-5, Subsequent applications will be placed at the end of the waiting list for that establishment type. Applications shall be included on the waiting list in the order designated by the Selection Committee under subsection.

14:4-2.2. FINAL AUTHORIZATION

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 14:4-2.1 (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 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.

D. Newly available authorizations.

1. For Cannabis 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. This Chapter is amended to authorize additional establishments of that establishment type.
2. When an authorization becomes available as described in Subsection (1)(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 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.

14:4-2.3. RENEWAL APPLICATION.

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.

14:5. FEDERAL, STATE, AND/OR LOCAL INCENTIVES.

14:5-1. FEDERAL INCENTIVES.

No Federal funds, incentives, or anything of the like shall be awarded or expended to any cannabis establishment or any other entity having to do with the cannabis industry.

14:5-2. STATE AND/OR LOCAL INCENTIVES.

A. License Holder

1. Any person issued a license to operate as 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.
2. The issuance of a license to operate as a Cannabis Establishment to a person that has been awarded a State or local economic incentive shall invalidate the right of the person to benefit from the economic incentive as of the date of issuance of the license or certification from the State and/or the City.

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.

14:6. GENERAL REGULATIONS.

14:6-1 LOCAL TAXES.

The Division of Taxes and Revenues shall be entitled to collect a cannabis Transfer Tax and User Tax

A. Transfer Tax is a percentage based on receipts of each sale from these cannabis establishments in the following amounts:

1. Cannabis Cultivator - 2% of taxes based on receipts of each sale
2. Cannabis Manufacturer - 2% of taxes based on receipts of each sale
3. Cannabis Wholesaler - 1% of taxes based on receipts of each sale
4. Cannabis Retailer - 2% of taxes based on receipts of each sale

B. User Tax shall be imposed on the value of each transfer or use of cannabis or cannabis items not otherwise subject to the transfer tax imposed in this Section in the following amounts:

1. Cannabis Cultivator - shall be taxed at 2%
2. Cannabis Manufacturer - shall be taxed at 2%
3. Cannabis Wholesaler - shall be taxed at 1%
4. Cannabis Retailer - shall be taxed at 2%

This revenue shall be remitted to the City on a monthly basis with proper documentation showing the total monthly sales, transfer amount, or use of cannabis or cannabis items on which the taxes are based on.

14:6-1.1 PENALTY.

Any delinquent taxes not paid to the City will be treated in the same manner provided by law as delinquent municipal real property taxes. The delinquent taxes shall be charged an interest at a rate of 8% for the first \$1,500 delinquent then at a rate of 18% for any remaining balance.

14:6-2. COMPLIANCE WITH APPLICABLE LAWS AND REGULATIONS.

Adult-Use Cannabis Establishments must operate in compliance with all State laws and regulations, all conditions of the establishment's State operating licenses, and all applicable City ordinances. Compliance with the foregoing does not create immunity from prosecution by federal authorities or other authorities of competent jurisdiction.

14:6-3 CONSUMPTION ON PREMISES.

Smoking, inhalation, or other consumption of cannabis may take place on or within the premises of an approved cannabis consumption establishment. If an establishment is not an approved cannabis consumption establishment it shall be a violation of this Chapter to engage in such behavior, or for a person to knowingly to allow such behavior to occur. A consumer shall only be allowed to consume cannabis that is purchased at the retailer that has the consumption license. Evidence of all of the

following gives rise to a rebuttable presumption that a person allowed the consumption of cannabis on or within a non-approved cannabis consumption establishment in violation of this Section:

- A. The person had control over the premises or the portion of the premises where the cannabis was consumed;
- B. The person knew or reasonably should have known that the cannabis was consumed; and
- C. The person failed to take corrective action.

14:6-3.1 INDOOR CONSUMPTION ESTABLISHMENT STRUCTURE.

The indoor cannabis consumption area shall be separated by solid walls or windows from the area in which retail sales of cannabis is dispensed, or in which retail sales of cannabis items occur. It shall only be accessible from an interior door after entering the retail cannabis door and all proper identification is verified.

A. Ventilation:

1. The indoor consumption area must comply with all ventilation requirements applicable to cigar lounges, in order to permit indoor smoking, vaping, or aerosolizing, pursuant to N.J.S.A. 26:3D-55 et seq.

14:6-3.2 ALLOWABLE AMOUNT TO CONSUME.

No person shall be allowed to consume more than an 8th of an ounce of cannabis which is equal to 3.5 grams of cannabis, per visit/per day.

14:6-3.3 EMERGENCY ACCESS.

If there is an emergency that requires law enforcement, firefighters, emergency medical service providers, or other public safety personnel to enter the cannabis consumption area; employees and/or owner of the retailer must cease all consumption of personal use cannabis on-site until such personnel have completed their investigation or services and have left the premises.

14:6-4 CONSUMPTION IN PUBLIC PLACES

No person of any age shall consume, smoke, vape, or aerosolize any cannabis item in a public place, public park, school premises, or City-owned property.

14:6-4.1 PENALTY

Any person who has been found to violate Section 14:6-4 of this Chapter shall be assessed a civil penalty up to \$200.

14:6-5 CONSUMPTION AND/OR POSSESSION OF AN ADULT UNDER THE LEGAL AGE OF 21 YEARS OLD.

14:6-5.1 PRIVATE PROPERTY

Any person under the age of 21 years old, without legal authority shall not knowingly possess or knowingly consume, smoke, vape, or aerosolize a cannabis item on private property.

14:6-5.1.1 PENALTY

Any person who has been found to violate Section 14:6-5.1 of this Chapter shall be punished by a fine of:

First Offense: \$250 and

Subsequent Offenses: \$350.

14:6-5.2 POSSESSION OF A LAWFUL AMOUNT

It is civil violation for a person under the age of 21 years old, to possess cannabis in an amount which may be lawfully possessed by a person of the legal age to purchase cannabis items.

14:6-5.2.1 PENALTY

Any person who has been found to violate Section 14:6-5.2 of this Chapter shall be punished by a civil penalty of:

First Offense: \$100;

Second Offense: \$200; and

Subsequent Offense: \$350.

14:6-5.3 POSSESSION OF AN UNLAWFUL AMOUNT

It is unlawful for a person under the age 21 years old, to possess cannabis in an amount that exceeds which may be lawfully possessed by a person of the legal age to purchase cannabis items.

14:6-5.3.1 PENALTY

Any person who has been found to violate section 14:6-5.3 of this Chapter shall be punished by a

fine of:

First Offense: \$250 and

Second and/or Subsequent Offense: \$350.

14:6-5.4 DRIVING PRIVILEGE

If a person is convicted of an offense under section 14:6-5 *et seq.* the municipal court may suspend or postpone for six months the driving privilege of the defendant, in accordance with N.J.S.A. 40:48-1.2b.

14:6-6 ELECTED OFFICIALS AND CANDIDATES FOR PUBLIC OFFICE.

All elected officials, and candidates for public office who subsequently become elected officials, in the City are prohibited from owning any interest in a Cannabis Establishment.

14:6-7 CONTRIBUTIONS.

Any Cannabis Establishment operating in the City shall contribute to a local drug treatment program and/or a prisoner re-entry program in which the re-entry participant has been involved in the Criminal Justice System due to illegal sales of Cannabis.

14:6-8. WATER AND SEWER INFRASTRUCTURE.

If a Cannabis Establishment requires any new or updated infrastructure for their water or sewer main, it shall be responsible for the cost for said infrastructure, pursuant to R.O. 32:7-1 *et seq.* and R.O. 33:1 *et seq.*

14:6-9. REFUSE AND RECYCLING.

A Cannabis Establishment is required to provide its own refuse and recycling removal from its facility. The City of Newark shall not be responsible for such carrying away without just compensation, pursuant to R.O. 15:4 *et seq.* The cannabis establishment must dispose of its refuse and recycling in a manner acceptable by industry standards.

14:6-10. ANNUAL POLICY REVIEW

On or before December 31 of each year, the Business Administrator shall submit a report to the Mayor regarding the administration of this ordinance and the provisions of the zoning ordinance pertaining to recreation cannabis, and regarding any other pertinent information relating to the operation of recreation cannabis establishments in the city. The report may include proposed ordinance amendments or other proposed policy changes.

Section 2. Severability.

If any provision of this ordinance or application thereof to any person(s) or circumstance is judged invalid by a court of competent jurisdiction, the invalidity shall not affect other provisions or application of the ordinance that that can be given effect without the invalidated provision or application, and to this end the provisions of this ordinance are declared severable.

Section 3. This Ordinance shall take effect upon passage and publication as provided by law.

This ordinance shall be effective upon final passage and publication, in accordance with laws of the State of New Jersey.

STATEMENT

Ordinance creating Title XIV, Cannabis to the revised general ordinances of the City of Newark, New Jersey, 2000, as amended and supplemented...