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BOROUGH OF MAYWOOD
15 Park Avenue, Maywood, NJ 07607

ORDINANCE #18-22

AN ORDINANCE TO AMEND CHAPTER 140A OF THE BOROUGH OF MAYWOOD CODE SO AS TO REGULATED PERMITTED CANNABIS INDUSTRIES AS DEFINED BY THE “NEW JERSEY CANNABIS REGULATORY, ENFORCEMENT ASSISTANCE, AND MARKETPLACE MODERNIZATION ACT” (THE “ACT”) WITHIN THE BOROUGH OF MAYWOOD, STATE OF NEW JERSEY

BE IT ORDAINED BY THE BOROUGH COUNCIL OF THE BOROUGH OF MAYWOOD, IN THE COUNTY OF BERGEN AND STATE OF NEW JERSEY, AS FOLLOWS:

WHEREAS, in 2020 New Jersey voters approved Public Question No. 1, which amended the New Jersey Constitution to allow for the legalization of a controlled form of marijuana called “cannabis” for adults at least 21 years of age; and

WHEREAS, Public Question No. 1 was approved by the voters of the Borough of Maywood; and
BOROUGH OF MAYWOOD
Bergen County, New Jersey

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 marijuana by adults 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 Act establishes six marketplace classes of licensed businesses, consisting of:

1. Class 1 Cannabis Cultivator license, for facilities involved in growing and cultivating cannabis;
2. Class 2 Cannabis Manufacturer license, for facilities involved in the manufacturing, preparation, and packaging of cannabis items;
3. Class 3 Cannabis Wholesaler license, for facilities involved in obtaining and selling cannabis items for later resale by other licensees;

4. Class 4 Cannabis Distributor 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;
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 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.

WHEREAS, the Borough of Maywood adopted Title 140A of the Borough Code to establish rules to govern the cannabis marketplace within the Borough of Maywood; and

WHEREAS, The Borough of Maywood wishes to establish the update and amend title 140A.

Section 1: Chapter 140A is stricken in its entirety and replaced with the following:

Title 140A Cannabis

Chapter 1. Smoking, vaporizing and consumption of Cannabis in public prohibited.

§ 140A-1 Smoking, vaporizing and consumption of Cannabis in public prohibited.

- A. No person shall consume any cannabis product on any of the public streets, sidewalks, parking lots, roadways, pathways, playgrounds, parks or quasi-public areas or any other public property whatsoever within the Borough at any hour of the day or night unless a special permit is issued therefor in accordance with applicable statutes.
 1. Unless another penalty is expressly provided by New Jersey statute, any person who violates any provision of this subsection shall, upon conviction thereof, be punished by a fine in the amount of not less than \$100 and shall not exceed \$1,000.
- B. The use of cannabis shall be in compliance with Chapter 234 of the Borough of Maywood Code which prohibits smoking/vaporizing on public property and in public vehicles.
 1. Unless another penalty is expressly provided by New Jersey statute, any person who violates any provision of this subsection shall, upon conviction thereof, be punished by a fine in the amount of not less than \$100 and shall not exceed \$1,000.
- C. All businesses within the Borough shall comply with the New Jersey's Smoke-Free Air Act of 2006.
 1. Unless another penalty is expressly provided by New Jersey statute, any person who violates any provision of this subsection shall, upon conviction thereof, be punished by a fine in the amount of not less than \$500 and shall not exceed \$2,000.

Chapter 2 Cannabis Facilities

§140A-2 Cannabis facilities prohibited except as provided herein

- A. Pursuant to Section 31b of the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (P.L. 2021, c. 16),^[1] all cannabis facilities are hereby prohibited from locating in Maywood except as provided herein and subject to the number, time, manner and land use restrictions set forth herein, as may be amended from time to time.
- B. If federal laws or state regulators change any current regulations, the Borough Mayor and Council reserves the right to amend this chapter as appropriate for reasons of public safety and to realize revenue, its intended purpose.
- C. Nothing in this Act proposes or intends to require any individual or entity to engage in any conduct that violates federal law, or exempts any individual or entity from any requirement of federal law, or poses any obstacle to federal enforcement of federal law.
- D. Operation of any prohibited or unpermitted cannabis facility within the municipality in violation of the provisions of this chapter is hereby declared a public nuisance and shall be abated pursuant to all available remedies.

§ 140A-3 Permitted cannabis businesses; locations.

- A. No class of cannabis industry is permitted to establish/operate within the areas designated by Chapter 201 of the Borough Code as the Special Improvement District, the A-1 Residential one-family district, the A-2 Residential two-family district, the GA Garden Apartment District, or the TH Townhouse Use District.
- B. The following cannabis industries are permitted to establish a business and operate within the Borough of Maywood in the designated area of zoning other than those provided in § 140A-2 A of this chapter.
 - 1. Class 1 cannabis cultivator license, for facilities involved in growing and cultivating cannabis in the LL, SOB, OR and HDO Districts;
 - 2. Class 2 cannabis manufacturer license, for facilities involved in the manufacturing, preparation, and packaging of cannabis items in the LL, SOB, OR and HDO Districts;
 - 3. Class 3 cannabis wholesaler license, for facilities involved in obtaining and selling cannabis items for later resale by other licensees in the LL, SOB, OR and HDO Districts;
 - 4. Class 4 cannabis distributor 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 in the LL, SOB, OR and HDO Districts;
 - 5. Class 5 cannabis retailer license for locations at which cannabis items and related supplies are sold to consumers in the SOB Zone, HDO Zone, the OR Zone on the northern side of Spring Valley Avenue, the P-C Zone on the northern side of Spring Valley Avenue ending at and not exceeding easterly beyond the access road of the Bergen Town Center, any commercial/retail properties existing as of January 1,

2021, located on Essex Street, the R-C Zone of Passaic Street-east of Maywood Avenue only; and

6. 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 in the LL, SOB, OR and HDO Districts.
- C. Unless part of an industrial process, the vaporizing, smoking and/or consumption of cannabis for personal use of any form is strictly prohibited from taking place on the premises of any business established pursuant to this chapter.
 - D. Licensees permitted per class:
 1. Only two (2) licenses for each of the six marketplace classes of licensed businesses within the Borough shall be permitted to exist at any time.
 2. Only one (1) license for each of the six marketplace classes of licensed businesses shall be issued to a bonafide micro-business
 - E. Upon expiration, attempted transfer, revocation or surrender of any issued license, the Borough is permitted to issue a new license so as long any new issuance does not exceed the permitted amount of licenses allotted within the class.

§ 140A-4 Licensing Required; Cannabis businesses standards

- A. It shall be unlawful for any person or any corporate entity to operate a cannabis business establishment as defined in and governed by Chapter 429.6 of the Borough Code and P.L. 2021, c. 16, known as the "New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act" (the "Act"), without first having procured an annual license from the Borough and without complying with any or all of the provisions concerning operation and maintenance of the same as contained in the aforementioned Chapter XII of the State Sanitary Code, the Code of the Borough of Maywood and compliance with any terms or provisions found in any decision of any Board of the Borough of Maywood and/or terms contained in host agreement negotiated with the Borough.
- B. All cannabis businesses must comply with the New Jersey's Smoke-Free Air Act of 2006.
- C. The location proposed for licensing by the applicant shall comply with all applicable municipal zoning laws and the location restrictions set forth in this chapter and the Code of the Borough of Maywood
- D. Any local license issued pursuant to this chapter shall be valid for a period of one year from the date of issuance and shall be renewed in accordance with the provisions of this chapter
- E. The Borough may, at its discretion, adjust the renewal date of the local license to correlate with an applicant's state licensing and renewal schedule. If such adjustment occurs, applicable fees shall be prorated

- F. Any local license issued pursuant to this chapter is nontransferable and shall automatically expire upon transfer.

§ 140A-5 Application for a Cannabis Business

- A. Whenever the Cannabis Regulatory Commission established by the Act (the "Commission") forwards to the municipality any application for initial licensing of any cannabis establishment, distributor, or delivery service pursuant to Section 19 of the Act¹¹ or for a cannabis consumption area pursuant to Section 28 of P.L. 2019, c. 153 (N.J.S.A. 24:6I-21), or otherwise solicits the position of the municipality on any matter related to cannabis-related activities within the municipality, or upon the request of an applicant for or holder of such license, the governing body shall determine whether the application complies with the municipality's restrictions on the number of cannabis establishments, distributors, or delivery services, and on their location, manner, or times of operation, and promptly inform the Commission, or the applicant for or holder of a license, whether the application complies with same and whether it either approves or denies each application or other request for municipal authorization forwarded to it.
- B. Each application for a local license to operate a cannabis facility shall be submitted to the Municipal Clerk and meet the following requirements:
1. Applicants shall submit five copies of an initial application
 2. Applicants must pay such fees as required by the Borough
 3. Applicants must post escrows necessary for review of the application by the various Borough Departments and professionals.
 4. If the applicant is a partnership, the full names, residence addresses and dates and places of birth of each partner.
 5. If the applicant is a corporation or other entity: in the case of a corporation, the full names, residence addresses and dates and places of birth of each major officer and each stockholder, the name and address of the registered agent and the address of the principal office upon whom and where service of process is authorized to be made (the term "stockholder" as used herein means and includes any person having an interest, either legal or equitable, in 10% or more of the stock issued and outstanding of the applicant corporation); in the case of another entity, the full names, residence addresses and dates and places of birth of each person owning or having any interest, legal or equitable, aggregating in value 10% or more the total capital of the said entity, the name and address of the registered agent, if any, and the address of the principal office, if any, upon whom and where service of process is authorized to be made.
 6. The applicant shall indicate whether the applicant or any partners, officers or stockholders thereof have ever been convicted of a crime and, if so, the name of the person convicted, the nature of the crime or charge involved and the

disposition thereof (the term "officers" as used herein means and includes the president, vice president, secretary and treasurer of a corporate applicant).

7. Every applicant shall specify the location where the cannabis facility will operate.
 8. The applicant shall submit proof that the applicant has or will have lawful possession of the premises proposed for the cannabis facility, 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 applicants. Applicants leasing a location must submit a certification from the property owner acknowledging the property owner's understanding that the property will be used for a cannabis business.
 9. The applicant shall submit a summary of the applicant's plans for storage of products and currency, physical security, video surveillance, security personnel, and visitor management.
 10. The applicant shall submit a summary of the applicant's ties to the host community.
 11. The applicant shall submit, to the satisfaction of the Borough and the Chief Financial Officer or his/her designee, proof of financial capability to open and operate the cannabis facility for which the applicant is seeking a license. Standards for proof of financial capability shall be determined by the Borough.
 12. The applicant shall indicate whether the applicant entity or its parent company holds any certifications as a New Jersey minority-owned, women-owned, or veteran-owned businesses.
 13. The applicant shall indicate whether the applicant entity is applying for state licensure with the Cannabis Regulatory Commission as a microbusiness applicant.
 14. The applicant shall provide a graphic rendering of its proposed signage.
 15. The applicant shall submit any other additional information requested by the Borough, its employees and professional in its evaluation of their application
- C. The various Borough Departments and professionals shall undertake a review of the application and provide to the Borough Mayor and Council their comments and recommendations. Such review may include, but is not limited to:
1. Security review which may include facility access controls, surveillance systems, and site lighting consistent with the requirements of state law;
 2. Zoning official review to assure compliance and location
 3. Fire official review to assure compliance and location
 4. Financial review of the applicant to assure the financial capability to open and operate the cannabis facility for which the applicant is seeking a license. Standards for proof of financial capability shall be determined by the Borough.

5. Community impact review to covers areas such as crowd control, parking/traffic concerns, air quality, lighting impact
- D. Upon completion of departmental/professional review, the Mayor and Council within 45 days, shall review the initial application as well as comments and recommendations by the various Borough Departments and professionals to determine if such application should continue the application process. Such determination shall not be deemed an approval of the application but be permission by the Mayor and Council for the application process to continue.
- E. The Mayor and Council may determine the need for a host community agreement and may require the applicant to negotiate/execute same prior to the continuation of the application process or at any time during the application process.
- F. Upon the Mayor and Council having given their permission for the application process to continue, the application may be submitted to the Land Use Board of the Borough of Maywood who shall review same pursuant to the rules of the Municipal Land Use Law. The Land Use Board of the Borough of Maywood shall review the application within 45 days of submission for review.
- G. The Mayor and Council shall review the application in full, including the findings of the Land Use Board if same is requested, and call for a vote for the approval to issue a Resolution of Support and to award a license pursuant to this chapter. A simple majority vote of the Mayor and Council will be necessary. The Mayor and Council may consider any and all of the following in its determination; the completed application, changes made to same, if any, comments of the Borough Professionals and departments, the approval of the Land Use Board and the terms of the host community agreement, if any.

§ 140 A-6 Application Fee

The applicant shall submit a \$1,000.00 nonrefundable fee with their application along with any escrows as deemed appropriate by the Borough, its officials, department heads and/or professionals.

§ 140 A-7 Initial Licensing Fees

The applicant shall submit all required nonrefundable fees upon the granting of approval in accordance with the following schedule:

- A. For any class of business utilizing up to 2500 square feet: \$10,000.00
- B. For any class of business utilizing 2501 square feet to 10,000 square feet: \$20,000.00
- C. For any class of business utilizing over 10,000 square feet: \$30,000.00
- D. Square footage shall be calculated by the square footage applied for/granted in the license application or square footage utilized, whichever is greater.

§ 140 A-8 Transfer

- A. Any local license issued pursuant to this chapter is nontransferable and shall automatically expire upon transfer.

§ 140 A-9 Renewal of License

- A. Any local license issued pursuant to this chapter shall be valid for a period of one year from the date of issuance and shall be renewed in accordance with the provisions of this chapter.
- B. The Borough may, at its discretion, adjust the renewal date of the local license to correlate with an applicant's state licensing and renewal schedule. If such adjustment occurs, applicable fees shall be prorated.
- C. Renewal of any license shall be governed by any code amendments, additional restrictions or changes in regulations adopted since the previous license was issued or renewed.
- E. Except where the Borough has received a complete renewal application along with the requisite fees and has issued a license renewal, it shall be unlawful for any person to manufacture, sell, distribute, transfer, or otherwise remove cannabis or cannabis products from the premises of any license after the expiration date recorded on the face of the license.

§ 140 A-10 Renewal of License fees

Renewal of license fees in accordance with the following schedule:

- A. For any class of business utilizing up to 2500 square feet: \$5,000.00
- B. For any class of business utilizing 2501 square feet to 10,000 square feet: \$10,000.00
- C. For any class of business utilizing over 10,000 square feet: \$20,000.00
- D. Square footage shall be calculated by the square footage applied for/granted in the license application or square footage utilized, whichever is greater.

§ 140 A-11 Change of Location of modification to expand

- A. Change of location of any license or modification to expand a licensed premises shall be subject to the Borough's review and approval. The Borough is entitled to have its Departments and Borough professional to review such request for a change of location of any license or modification to expand a licensed premises and require the posting of escrows from the license holder to cover the cost of same.
- B. Applications for expansion applications shall require the applicant to provide the difference in fees contained in § 140 A-6 based upon the preexisting square footage and the square footage sought.
- C. Any expansion granted will require payment of renewal of license fees contained in § 140 A-8 as based on square footage granted.

§ 140 A-12

Operational requirements.

A cannabis business lawfully operating in the Borough under this chapter shall at all times comply with the following operational requirements:

- A.** A cannabis facility shall comply with all regulatory rules promulgated by the Cannabis Regulatory Commission, laws of the State of New Jersey, laws of Bergen County, and laws or ordinances of the Borough of Maywood.
- B.** A cannabis facility shall comply with the Zoning Code, the Building Code, and the Property Maintenance Code at all times.
- C.** A cannabis facility shall not be located within 200 feet of a school, child-care center, or playground.
- D.** A cannabis retail facility shall not be located within 200 feet of another cannabis retail facility.
- E.** Prior to the operation of any cannabis facility, a permit or license must be obtained from the State of New Jersey and from the Borough of Maywood for the applicable type(s) of cannabis facility. No cannabis facility shall be permitted to operate without state and municipal permits or licenses.
- F.** The consumption of any cannabis items shall be prohibited on the cannabis facility's premises.
- G.** State and municipal permits or licenses shall be prominently displayed inside the permitted premises in a location where it can be easily viewed by law enforcement and administrative authorities.
- H.** No person under the age of 18 shall be permitted to enter into the premises.
- I.** Cannabis facilities 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.
- J.** 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.
- K.** No cannabis retailer may open to customers for business before 8:00 a.m. or remain open to customers for business after 9:00 p.m.
- L.** All cannabis facilities shall be secured in accordance with State of New Jersey statutes and regulations; shall have a round-the-clock video surveillance system, 365 days a year; shall have trained security personnel on site at all times during operating hours; and shall also include:
 - 1. Security surveillance cameras installed to monitor all entrances along with the interior and exterior of the permitted premises;
 - 2. Burglary alarm systems which are professionally monitored and operated 24 hours a day, seven days a week;
 - 3. All security recordings and documentation shall be preserved for at least 30 days and made available to law enforcement upon request for inspection.
- M.** All cannabis in whatever form stored at the permitted premises shall be kept in a secure manner and shall not be visible from outside the permitted premises.

- N. The amount of cannabis on the permitted property and under the control of the permit holder, owner or operator of the facility shall not exceed the amount permitted by the state license.
- O. Cannabis offered for sale and distribution must be packaged and labeled in accordance with state law.
- P. No pictures, photographs, or drawings of cannabis or cannabis paraphernalia shall appear on the outside of any licensed premises nor be visible outside of the licensed premises on the licensed property.
- Q. The word "marijuana," and any other words used or intended to convey the presence or availability of marijuana, shall not appear on the outside of the licensed premises nor be visible outside of the licensed premises on the licensed property.
- R. Any signage must first be approved by the Building Department.
- S. No person operating or employed by a cannabis facility shall provide or otherwise make available cannabis to any person who is not legally authorized to possess the same under state law.
- T. The owner and operator of a cannabis facility shall use lawful methods in controlling and disposing of waste or by-products from any activities allowed under the state license or permit.
- U. Cannabis may be transported within the Town under this chapter by a company licensed to do so by the state, and to effectuate its purpose, only:
 - 1. In a manner consistent with all applicable state laws and rules, as amended;
 - 2. In a secure manner designed to prevent the loss of the cannabis;
 - 3. Using vehicles that do not have exterior markings, including the words "marijuana," "cannabis," or any similar or slang words; pictures or other renderings of the cannabis plant; advertisements for cannabis or for its sale, transfer, cultivation, delivery, transportation or manufacture; or any other word, phrase or symbol indicating or tending to indicate that the vehicle is transporting cannabis.
- V. No vehicle, trailer, or otherwise moveable structures may be used for the ongoing or continuous storage of cannabis but may only be used incidental to, and in furtherance of, the transportation of cannabis and cannabis products.
- W. A cannabis facility shall enter into an indemnification agreement with the Borough of Maywood and agree to defend the Borough in any litigation related thereto.

§ 140A-13 Revocation, suspension or cancellation of cannabis business licenses; hearing.

- A. Any license issued under the terms and provisions of this chapter may be suspended or revoked for the violation by the licensee of any provision of this chapter or Chapter XII of the New Jersey State Sanitary Code or whenever it shall appear that the business, trade, calling, profession or occupation of the person, firm or corporation to whom such license was issued is conducted in a disorderly or improper manner or in violation of any law of the United States, the State of New Jersey or any ordinance of this municipality or that the purpose for which the license has been issued is being abused to the detriment of the public or is being used for a purpose foreign to that for which the license was issued.

- B. Any license issued under the terms and provisions of this chapter may be suspended or revoked if the personal use of cannabis is permitted on the business premises.
- C. A license issued under the terms and provisions of this chapter shall not be revoked, canceled or suspended until a hearing thereon shall have been had by the Board of Health if a violation of the health code or by the Borough Mayor and Council for all other violations. Written notice of the time and place of such hearing shall be served upon the licensees at least three days prior to the date set for such hearing. Such notice shall also contain a brief statement of the grounds to be relied upon for revoking, canceling or suspending such license. Notice may be given either by personal delivery thereof to the person to be notified or be deposited in the United States Post Office in a sealed envelope, postage prepaid, addressed to such person to be notified at the business address appearing upon said license. At the hearing the person aggrieved shall have an opportunity to answer and may thereafter be heard, and upon due consideration and deliberation by the Board of Health or by the Mayor and Council, the complaint may be dismissed, or if the governing body concludes that the charges have been sustained and substantiated, it may revoke, cancel or suspend the license held by the licensee.
- D. If any such license shall have been revoked, neither the holder thereof nor any person acting for him, directly or indirectly, shall be entitled to another license to carry on the same business within the Borough, unless the application for such license shall be approved by the governing body.

§ 140 A-14 Cannabis businesses transfer tax.

- A. Transfer tax imposed. There is hereby imposed a transfer tax of 2% on receipts from the sale of cannabis by a cannabis cultivator to another cannabis cultivator; receipts from the sale of cannabis items from one cannabis manufacturer to another cannabis establishment; and receipts from the retail sales of cannabis items by a cannabis retailer to retail consumers who are 21 years of age or older; and a tax of 1% of the receipts from each sale by a cannabis wholesaler. Such tax shall be collected or paid and remitted to the municipality by the cannabis establishment from the cannabis establishment purchasing or receiving the cannabis or cannabis item, or from the consumer at the point of sale, on behalf of the municipality by the cannabis retailer selling the cannabis item to that consumer. The transfer 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. No cannabis establishment required to collect a transfer tax imposed hereunder 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 will be refunded to the cannabis establishment or the consumer.
- B. Tax liability. Every cannabis establishment required to collect a transfer 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. Any cannabis

establishment shall have the same right with respect to collecting the transfer tax from another cannabis establishment or the consumer as if the transfer tax was a part of the sale and payable at the same time, or with respect to nonpayment of the transfer tax or user tax by the cannabis establishment or consumer, as if the transfer 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 chief fiscal officer of the municipality shall be joined as a party in any action or proceeding brought to collect the transfer tax or user tax.

- C. Collection of taxes and lien. All revenues collected from a transfer tax imposed by ordinance pursuant to this section shall be remitted to the Chief Financial Officer in the manner prescribed herein. The Chief Financial Officer shall collect and administer any transfer tax imposed by ordinance pursuant to this chapter. The municipality may enforce the payment of delinquent taxes or transfer fees imposed by ordinance pursuant to this section in the same manner as provided for municipal real property taxes. In the event that the transfer tax imposed by ordinance pursuant to this section is not paid as and when due by a cannabis establishment, the unpaid balance, and any interest accruing thereon, shall be a lien on the parcel of real property comprising the cannabis establishment's premises in the same manner as all other unpaid municipal taxes, fees, or other charges. The lien shall be superior and paramount to the interest in the parcel of any owner, lessee, tenant, mortgagee, or other person, except the lien of municipal taxes, and shall be on a parity with and deemed equal to the municipal lien on the parcel for unpaid property taxes due and owing in the same year. The municipality shall file in the office of its tax collector 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. The lien shall be enforced as a municipal lien in the same manner as all other municipal liens are enforced.
- D. Administration of transfer tax. The Borough Chief Financial Officer is charged with the administration and enforcement of the provisions of this chapter, and is empowered to prescribe, adopt, promulgate and enforce rules and regulations relating to any matter pertaining to the administration and enforcement of this chapter, including provisions for the reexamination and corrections of declarations and returns, and of payments alleged or found to be incorrect, or as to which an overpayment is claimed or found to have occurred, and to prescribe forms necessary for the administration of this chapter. Should a cannabis establishment fail or refuse to provide adequate information to the Chief Financial Officer to determine the amount of tax due, the Chief Financial Officer may use information provided to the Chief Financial Officer from other sources (i.e., the Commission or Department of Treasury) to determine the amount of tax liability.
1. It shall be the duty of the Chief Financial Officer to collect and receive the taxes, fines, and penalties imposed by this chapter. It shall also be the duty of the Chief Financial Officer to keep a record showing the date of such receipt. The Chief

Financial Officer is authorized to enter into agreements with the State of New Jersey to obtain information to facilitate administration of the tax. The Chief Financial Officer is authorized to issue a ruling upon written request of a taxpayer or upon its own volition.

2. The Chief Financial Officer is hereby authorized to examine the books, papers and records of any taxpayer to verify the accuracy of any declaration or return, or if no declaration or return was filed, to ascertain the tax due. Every taxpayer is hereby directed and required to give to the Chief Financial Officer, or to any agent designated by him/her, the means, facilities and opportunity for such examinations and investigations, as are hereby authorized.
 3. The Chief Financial Officer may designate an agent to undertake any or all responsibilities as required in Chapter 140A of this code.
- E. Recordkeeping. Taxpayers liable for the transfer tax are required to keep such records as will enable the filing of true and accurate returns or the tax and such records shall be preserved for a period of not less than three years from the filing date or due date, whichever is later, in order to enable the Chief Financial Officer or any agent designated by him to verify the correctness of the declarations or returns filed. If records are not available in the municipality to support the returns which were filed or which should have been filed, the taxpayer will be required to make them available to the Chief Financial Officer either by producing them at a location in the municipality or by paying for the expenses incurred by the Chief Financial Officer or his agent in traveling to the place where the records are regularly kept.
- F. Returns. All cannabis establishments operating in the municipality are required to file a transfer tax return with the Chief Financial Officer to report their sales during each calendar quarter and the amount of tax in accordance with the provisions of this chapter. Returns shall be filed and payments of tax imposed for the preceding calendar quarter shall be made on or before the last day of April, July, October, and January, respectively. A taxpayer who has overpaid the transfer tax, or who believes it is not liable for the tax, may file a written request on an amended tax return with the Chief Financial Officer for a refund or a credit of the tax. For amounts paid as a result of a notice asserting or informing a taxpayer of an underpayment, a written request for a refund shall be filed with the Chief Financial Officer within two years of the date of the payment.
- G. Quarterly statement and payments. As provided in subsection 140A-11 F each cannabis retail facility shall send a statement by mail or electronically to the Borough on or before the last day of each annual quarter or such other term as required by the state. The statement must contain an account of the amount of cannabis or cannabis products sold or transferred to consumers and/or cannabis delivery facilities during the preceding quarter, setting out:
1. The total number of ounces, including fractional ounces, sold or transferred;
 2. The quantity of cannabis products sold or transferred;

3. If to a cannabis delivery service, the cannabis delivery facility's licensing information;
 4. Such other information as may be necessary for the Borough to determine and verify the tax or fee due to the Borough.
- H. Confidentiality. The returns filed by taxpayers, and the records and files of the Chief Financial Officer respecting the administration of the transfer tax, shall be considered confidential and privileged and neither the municipality nor any employee or agent engaged in the administration thereof or charged with the custody of any such records or files, nor any former officer or employee, nor any person who may have secured information therefrom, shall divulge, disclose, use for their own personal advantage, or examine for any reason other than a reason necessitated by the performance of official duties any information obtained from the said records or files or from any examination or inspection of the premises or property of any person. Neither the Chief Financial Officer nor any employee engaged in such administration or charged with the custody of any such records or files shall be required to produce any of them for the inspection of any person or for use in any action or proceeding except when the records or files or the facts shown thereby are directly involved in an action or proceeding under the provisions of the State Uniform Tax Procedure Law or of the tax law affected, or where the determination of the action or proceeding will affect the validity or amount of the claim of the municipality under the tax provisions of this chapter.
- I. Audit and assessment. The Chief Financial Officer may initiate an audit by means of an audit notice. If, as a result of an examination conducted by the Chief Financial Officer, a return has not been filed by a taxpayer or a return is found to be incorrect and transfer taxes are owed, the Chief Financial Officer is authorized to assess and collect any tax due. If no return has been filed and tax is found to be due, the tax actually due may be assessed and collected with or without the formality of obtaining a return from the taxpayer. Deficiency assessments (i.e., where a taxpayer has filed a return but is found to owe additional tax) shall include taxes for up to three years to the date when the deficiency is assessed. Where no return was filed, there shall be no limit to the period of assessment. Upon proposing an assessment, the Chief Financial Officer shall send the taxpayer an interim notice by certified mail, return receipt requested, which advises the taxpayer of additional taxes that are due. Should the taxpayer wish to dispute the assessment administratively by requesting a hearing with the Chief Financial Officer, it must do so within 30 days of the date of such interim notice. If, after the Chief Financial Officer sends an interim notice, a taxpayer fails to timely request a hearing with the Chief Financial Officer or requests a hearing and after conducting a hearing, the Chief Financial Officer determines that the taxes are due, the Chief Financial Officer shall send the taxpayer by certified mail, return receipt requested, a final notice. Should the taxpayer wish to dispute the assessment set forth in the final notice, he or she must initiate an appeal in the New Jersey Tax Court within 90 days after

the mailing of any final notice regarding a decision, order, finding, assessment, or action hereunder.

- J. Time limitations. The following periods of limitations shall apply to suits for collection of taxes:
1. When a return has been filed but no tax paid, any suit brought to recover the tax due and unpaid shall be filed within two years after the return was due or filed, whichever is later.
 2. Where no return was filed or a fraudulent return was filed, there shall be no limits to file suit for the collection of taxes.
 3. Where, before the expiration of the time prescribed in this section for the filing a lawsuit against the taxpayer, both the Chief Financial Officer and the taxpayer have consented in writing to its extension after such time, the suit may be filed at any time prior to the expiration of the period agreed upon.
 4. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.
- K. Hearings. Any person who receives an interim notice from the Chief Financial Officer may, within 30 days after the date of an interim notice, request a hearing with the Chief Financial Officer. Any person who fails to request a Chief Financial Officer's hearing in a timely manner waives the right to administratively contest any element of the assessment. The Chief Financial Officer shall accept payments of disputed tax amounts under protest pending appeals; however, any request for refund of such monies must be filed in accordance with this section.
- L. Appeals. Any aggrieved taxpayer may, within 90 days after the mailing of any final notice regarding a decision, order, finding, assessment, or action hereunder, or publication of any rule, regulation or policy of the Chief Financial Officer, appeal to the Tax Court pursuant to the jurisdiction granted by N.J.S.A. 2B:13-2a(3) to review actions or regulations of municipal officials by filing a complaint in accordance with the New Jersey Court Rule 8:3-1. The appeal provided by this section shall be the exclusive remedy available to any taxpayer for review of a final decision of the Chief Financial Officer in respect to a determination of liability for the tax imposed by this chapter.
- M. Definitions and repealer. Unless specifically defined otherwise herein, any term used herein shall incorporate the definition of that term in the Act. Any article, section, paragraph, subsection, clause, or other provision of the Borough of Maywood inconsistent with the provisions of this section is hereby repealed to the extent of such inconsistency.
- N. Interpretation and savings provision. No ordinance, regulation or interpretation thereof shall conflict with the Act. If any section, paragraph, subsection, clause, or provision of this section shall be adjudged by a court of competent jurisdiction to conflict with the Act or otherwise be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause, or provision so adjudged, and the remainder of this section shall be deemed valid and effective.

O. Violations and penalties. Any person or business who violates any provision of this section shall, upon conviction, be subject to the penalties provided by § 1-15 of this Code.

§ 140A-15 Non-applicability.

No provision of this chapter shall be applied so as to impose any unlawful burden on either interstate commerce or any activity of the state or federal government.

§ 140A-16 Violations and penalties.

Any person, firm or corporation who shall violate any of the provisions of this chapter shall, upon conviction, be subject to the penalties provided by § 1-15 of this Code, and each violation of any of the provisions of this chapter and each day the same is violated shall be deemed and taken to be a separate and distinct offense

§ 140A-17 Limitations on Borough's Liability.

To the fullest extent permitted by law, the Borough of shall not assume any liability whatsoever with respect to having issued a cannabis business permit pursuant to this Chapter or otherwise approving the operation of any cannabis business.

Notwithstanding the forgoing, nothing herein shall prohibit any elected or appointed official or employee from expressing their opinions or views on cannabis-related matters in their personal or individual official capacity, or endorsing an applicant for or holder of a license issued by the Commission, provided that such official shall not represent that their opinions or views are those of the municipality unless based on a duly adopted ordinance or resolution of the municipality or other action of a majority of the governing

Section 2: All ordinances of the Borough of Maywood which are inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

Section 3: If any section, subsection, sentence, clause or phrase of this ordinance if, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this ordinance.

Section 4: This ordinance shall take effect upon passage and publication according to law.

Date: November 10, 2022

APPROVED: Richard Bolan
Richard Bolan, Mayor

ATTEST: Barbara Dispoto
Barbara L. Dispoto, RMC/CMC
Borough Clerk

Introduction-1st Reading**Date: October 11, 2022**

	Moved	Seconded	Ayes	Nays	Abstain	Absent	Recuse
Mayor Bolan							
Councilwoman Cicarelli			X				
Councilman Conoscenti			X				
Councilwoman Flynn			X				
Councilman Roer			X				
Councilman Ullman		X	X				
Council President DeMuro	X		X				

Adoption-2nd/Final Reading**Date: November 10, 2022**

	Moved	Seconded	Ayes	Nays	Abstain	Absent	Recuse
Mayor Bolan							
Councilwoman Cicarelli			X				
Councilman Conoscenti			X				
Councilwoman Flynn		X	X				
Councilman Roer			X				
Councilman Ullman			X				
Council President DeMuro	X		X				

CERTIFICATION

I, Barbara L. Dispoto, Municipal Clerk of the Borough of Maywood in the County of Bergen and the State of New Jersey do hereby certify that the foregoing ordinance is a true copy of the original ordinance duly passed and adopted on second reading by the Governing Body at the meeting of November 10, 2022.

Date: _____

Barbara L. Dispoto, RMC/CMC
Borough Clerk