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Barbara L. Dispoto, RMC/CMC

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BOROUGH OF MAYWOOD
15 Park Avenue, Maywood, NJ 07607

ORDINANCE #6-22

**AN ORDINANCE TO AMEND CHAPTER 140A OF THE BOROUGH OF MAYWOOD
CODE SO AS TO REGULATE 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

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 amount of licenses available in all six categories of permitted uses within the Borough of Maywood, and.

WHEREAS, The Borough of Maywood wishes to establish rules to govern the licensing process for those individuals and or businesses entities that wish to take part in the market place within the Borough of Maywood.

Section 2: Chapter 140A-2 is amended to add subsection D which and shall read as:

D. 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. Upon expiration, 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.

Section 3: Chapter 140A-9 is created to establish a licensing process pursuant to this and shall read as:

§ 140A-9 Resolution of Support

A. Initial Application Procedure for Resolution of Support

- 1) Any person desiring a license under this chapter shall file with the Borough Clerk an original and five copies of an application under oath, in writing, on a form furnished by the Borough Clerk.
- 2) The application shall set forth the following information:
 - a. The applicant's name, business name and business address.
 - b. Whether the applicant is an individual, partnership, corporation or another entity and, if another entity, a full explanation and description thereof.
 - c. If the applicant is an individual, the applicant's residence address and date and place of birth.

- d. If the applicant is a partnership, the full names, residence addresses and dates and places of birth of each partner.
 - e. 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.
 - f. 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).
 - g. The name and business address of the manager or the person in charge of the proposed cannabis business.
 - h. A business plan, compliance plan (if a State Conditional License applicant) or Standard Operating Procedures (if a State Annual License applicant).
- 3) The Borough's Reservation of Rights: The Borough reserves the right to reject any or all applications. The Borough may also modify, postpone or cancel any request for applications or the entire licensing program under this Chapter, at any time without liability, obligation or commitment to any party, firm, or organization. Persons submitting applications assume the risk that all or any part of the program, or any particular category of permit potentially authorized under this Chapter, may be cancelled at any time prior to permit issuance. The Borough further reserves the right to request and obtain additional information from any candidate submitting an application. In addition to any other appropriate reasons for rejection, including but not limited to a failure to comply with any requirement of any State or local law, rule or

regulation, an application RISKS BEING REJECTED for any of the following reasons:

- a. Proposal not containing the required elements or exhibits.
- b. Proposal considered not fully responsive to this request for permit application.

B. Processing of application for Resolution of Support

- 1) Submission of application by Clerk to the Borough Council for adoption of a Resolution in Support of the proposed cannabis business.
 - a. Applicants with State Conditional Approval shall be afforded an expedited Resolution process. Upon submission by the Applicant that the State has approved a Conditional License, the Clerk shall schedule a hearing within 30-60 days of receipt of the application. The Applicant shall present the proposed cannabis business to the Borough Council at the scheduled hearing. Upon the consent and approval of the Borough Council, a Resolution of Support shall be adopted.
- 2) Submission by Clerk to departments.
 - a. Upon receipt of such application, the Borough Clerk shall submit same to the Police Department, Fire Department, Department of Code Enforcement, zoning offices and Local Board of Health for reports with references to the compliance or noncompliance of the proposed establishment with municipal and state rules, regulations, statutes and ordinances and the truth of the matter contained in the application.
 - b. The Clerk shall submit each completed application for a Resolution of Support to the various departments within 10 days of receipt of the completed application, and the department shall have 30 days from their receipt to investigate and prepare the reports concerning the license application or renewal, except in the event the Department of Code Enforcement identifies a violation of the premises sought to be used by the license applicant. Notice of the violation shall immediately be given to the applicant who shall have the time afforded by the appropriate municipal ordinance or regulation to correct the violation. The Department of Code Enforcement shall not issue its report to the Borough Clerk until such time as the period to correct has expired.

- 3) Upon return of said application and reports, the Borough Clerk shall submit same to the Borough Council for adoption of the Resolution of Support at its next scheduled Borough Council meeting.
- 4) Upon the consent and approval of the Borough Council, a Resolution of Support shall be adopted.

C. Limitations on Borough's Liability.

- 1) 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. As a condition to the approval of any cannabis business permit, the applicant shall be required to meet all of the following conditions before they can receive the cannabis business permit:
 - a. Execute an agreement, in a form approved by the Borough Attorney, agreeing to indemnify, defend (at applicant's sole cost and expense) and hold the Borough of, and its officers, officials, employees, representatives and agents, harmless from any and all claims, losses, damages, injuries, liabilities or losses which arise out of, or which are in any way related to, the Borough's issuance of the cannabis business permit, the Borough's decision to approve the operation of the cannabis business or activity, the process used by the Borough in making its decision, the alleged violation of any federal, state or local laws by the cannabis business or any of its officers, employees or agents.
 - b. Maintain insurance at coverage limits and with conditions thereon determined necessary and appropriate from time to time by the Borough Attorney.
 - c. Reimburse the Borough of for all costs and expenses, including but not limited to attorney fees and costs and court costs, which the Borough of may be required to pay as a result of any legal challenge related to the Borough's approval of the applicant's cannabis business permit, or related to the Borough's approval of a cannabis activity. The Borough of may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve any of the obligations imposed hereunder.

Section 4: 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 5: 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 6: This ordinance shall take effect upon passage and publication according to law.

Date: _____

APPROVED: _____
Richard Bolan, Mayor

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

Introduction-1st Reading

Date: June 14, 2022

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

Adoption-2nd/Final Reading

Date:

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

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 first reading by the Governing Body at the meeting of June 14, 2022.

Date: _____

Barbara L. Dispoto, RMC/CMC
Borough Clerk