

TOWN OF BOONTON
ORDINANCE NO. 25-21

AN ORDINANCE OF THE TOWN OF BOONTON, COUNTY OF MORRIS, STATE OF NEW JERSEY TO CREATE A NEW SECTION WITHIN PART 5, ARTICLE XXVI, ENTITLED “MEDICAL AND RECREATIONAL CANNABIS ACTIVITY”

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, 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,” N.J.S.A. 24:6I-31 et seq. (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 the following six marketplace classes of business licenses to be issued by the State of New Jersey Cannabis Regulatory Commission for the legal operation of cannabis establishments and other types of cannabis marketplace activity in the State, 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 licensed cannabis delivery service which would be presented by the delivery service for fulfillment by a retailer and then delivered to a consumer.

WHEREAS, section 31a of the Act, N.J.S.A. 24:6I-45a, authorizes municipalities to adopt ordinances and regulations prohibiting outright and/or limiting the number of any class of license “cannabis establishments” (defined in section 33 of the Act, N.J.S.A. 24:6I-33, as “a cannabis cultivator, a cannabis manufacturer, a cannabis wholesaler, or a cannabis retailer”), cannabis distributors and cannabis delivery services allowed to operate within its municipal boundaries; and the location, manner and times of operation of such cannabis establishments, cannabis distributors and cannabis delivery services, except that the time of operations for cannabis delivery services, shall only be subject to the regulation by the Cannabis Regulatory Commission (the “Commission”); and

WHEREAS, section 31a of the Act, N.J.S.A. 24:6I-45a, also authorizes municipalities to establish certain civil penalties for violations of any ordinance or regulations governing cannabis establishments, distributors or delivery services that may operate in a municipality, as well as to their location, manner and times of operation; and

WHEREAS, section 31b of the Act, N.J.S.A. 24:6I-45b, authorizes municipalities to prohibit, by ordinance, the operation of any one or more classes of cannabis establishments, cannabis distributors, and the principal premises of a cannabis delivery service from anywhere in the municipality, but not the actual delivery of cannabis items and related supplies by a licensed cannabis delivery service operating outside the boundaries of the municipality; and

WHEREAS, section 31b of the Act, N.J.S.A. 24:6I-45b, also stipulates that any municipal ordinance, regulation or prohibition must be adopted within 180 days of the effective date of the Act (i.e., by August 22, 2021); and

WHEREAS, section 31b of the Act, N.J.S.A. 24:6I-45b, provides that a municipality's failure to adopt such ordinances within 180 days, shall result in any cannabis cultivator, manufacturer, wholesaler, distributor or delivery service to be deemed a permitted use in all industrial zones of the municipality for an initial period of five years, first beginning on August 22, 2021; and

WHEREAS, section 31b of the Act, N.J.S.A. 24:6I-45b, also provides that a municipality's failure to adopt such ordinances within 180 days shall result in a cannabis retailer being authorized to operate in all commercial/retail zones in a municipality as a conditional use, subject to meeting certain conditions of the Town, or receiving a variance from one or more of those conditions in accordance with the "Municipal Land Use Law," P.L. 1975, c. 291 (N.J.S.A. 40:55D-1 et seq.) for a period of five years, five years, first beginning on August 22, 2021; and

WHEREAS, at the conclusion of the initial and any subsequent five-year period following a municipality's failure to enact local ordinances, regulations or prohibitions, the municipality shall again have 180 days to adopt an ordinance regulating or prohibiting cannabis businesses, but such ordinances would be prospective only and would be inapplicable to any cannabis establishments, cannabis distributors and cannabis delivery services already operating within the municipality; and

WHEREAS, section 33 of the Act, (P.L. 2021, c. 16 §33, N.J.S.A. 24:6I-46) and section 34 of the Act, (P.L. 2021, c.16 §34, amending N.J.S.A. 24:6I-7) deems certain pre-existing State licensed alternative treatment centers to concurrently hold certain class(es) of the above-referenced cannabis establishment license(s), which enables such pre-existing alternative treatment centers to simultaneously operate a licensed cannabis establishment so long as a municipality first approves same by municipal endorsement or through a local licensing procedure; and

WHEREAS, section 31c of the Act, N.J.S.A. 24:6I-45c, authorizes municipalities to impose a separate local licensing or endorsement requirement as part of its restrictions on the number of cannabis establishments, distributors or delivery services; and

WHEREAS, section 40 of the Act, N.J.S.A. 40:48I-1, authorizes municipalities to adopt ordinances imposing a transfer tax on the sale of cannabis or cannabis items by a cannabis establishment located in the municipality on receipts from the sale of cannabis to other cultivators, sales between cannabis establishments, and any combination thereof, and sets forth the limits for same; and

WHEREAS, the Town of Boonton has specifically disallowed cultivation (Cannabis Cultivator License Class 1), manufacturing (Cannabis Manufacturer License Class 2), distribution (Cannabis Cultivator License Class 4) and delivery (Cannabis Deliver License Class 6) under the Act as presenting special local concerns, but to permit Class 3 Cannabis Wholesaler licenses and Class 5 Cannabis Retailer licenses, subject to municipal regulation where appropriate in the Town; and

NOW THEREFORE BE IT ORDAINED, by the Mayor and Town Council of the Town of Boonton, County of Morris, and the State of New Jersey that the Code shall be Created as follows:

SECTION 1.

Part 5, ARTICLE XXVI, MEDICAL AND RECREATIONAL CANNABIS ACTIVITY

Title: "MEDICAL AND RECREATIONAL CANNABIS ACTIVITY"

§ 300-126 Definitions.

"Alternative treatment center" and "Pre-existing Alternative treatment center" Shall mean an organization issued a permit, conditional permit, and/or a vertically integrated permit pursuant to the "Jake Honing Compassionate Use Medical Cannabis Act," P.L. 2009, C. 307 (C. 24:6I-1 et al.) to operate as a medical cannabis cultivator, medical cannabis manufacturer, medical cannabis dispensary or clinical registrant prior to February 22, 2021; and includes any alternative treatment center deemed pursuant to section 7 of the "Jake Honing Compassionate Use Medical Cannabis Act" (C. 24:26I-7) to concurrently hold a medical cannabis cultivator permit, a medical cannabis manufacturer permit, and a medical cannabis dispensary permit and/or any alternative treatment center deemed to concurrently hold any one or more class(es) of Cannabis Licensed Marketplace license(s) pursuant to PL. 2021, c. 16 §33, N.J.S.A. 24:6I-46, and P.L. 2021, c.16 §34, amending N.J.S.A. 24:6I-7.

"Designated Caregiver" Shall mean and refer to a "Designated Caregiver" as defined under the "Jake Honing Compassionate Use Medical Cannabis Act," P.L. 2009, C. 307 (C. 24:6I-1 et al.). Cannabis Shall mean all parts of the plant *Cannabis sativa* L., whether growing or not, the seeds thereof, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds, except those containing resin extracted from the plant, which are cultivated and, when applicable, manufactured in accordance with P.L. 2016, c. 16 for use in cannabis products as set forth in this act, but shall not include the weight of any other ingredient combined with cannabis to prepare topical or oral administrations, food, drink, or other product. "Cannabis" does not include: medical cannabis dispensed to registered qualifying patients pursuant to the "Jake Honig Compassionate Use Medical Cannabis Act," P.L.2009, c.307 (C.24:6I-1 et al.) and P.L.2015, c.158 (C.18A:40-12.22 et al.); marijuana as defined in N.J.S.2C:35-2 and applied to any offense set forth in chapters 35, 35A, and 36 of Title 2C of the New Jersey Statutes, or P.L.2001, c.114 (C.2C:35B-1 et seq.), or marihuana as defined in section 2 of P.L.1970, c.226 (C.24:21-2) and applied to any offense set forth in the "New Jersey Controlled Dangerous Substances Act," P.L.1970, c.226 (C.24:21-1 et al.); or hemp or a hemp product cultivated, handled, processed, transported, or sold pursuant to the "New Jersey Hemp Farming Act," P.L.2019, c.238 (C.4:28-6 et al.).

"Cannabis Consumption Area" Shall mean and refer to a "Cannabis Consumption Area" as defined under P.L. 2021, c. 16 §3, N.J.S.A. 24:6I-33, of the "New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act".

"Cannabis Cultivator" Any licensed person or entity that grows, cultivates, or produces cannabis in this State, and sells, and may transport, this cannabis to other cannabis cultivators, or usable cannabis to cannabis manufacturers, cannabis wholesalers, or cannabis retailers, but not to consumers.

"Cannabis Delivery Service" Any licensed person or entity that provides courier services for consumer purchases of cannabis items and related supplies fulfilled by a cannabis retailer in order to make deliveries of the cannabis items and related supplies to that consumer, and which services include the ability of a consumer to purchase the cannabis items directly through the cannabis delivery service, which after presenting the purchase order to the cannabis retailer for fulfillment, is delivered to that consumer.

"Cannabis Distributor" Shall mean any licensed person or entity that transports cannabis in bulk intrastate from one licensed cannabis cultivator to another licensed cannabis cultivator, or transports cannabis items in bulk intrastate from any one class of licensed cannabis establishment to another class of licensed cannabis establishment, and may engage in the temporary storage of cannabis or cannabis items as necessary to carry out transportation activities.

“Cannabis Establishment” A cannabis cultivator, a cannabis manufacturer, a cannabis wholesaler, a cannabis retailer or a cannabis distributor.

“Cannabis Item” Any item available for lawful consumption pursuant to the “New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act,” P.L.2021, c.16 (C.24:6I-31 et al.).

“Cannabis Manufacturer” Any licensed person or entity that processes cannabis items in this State by purchasing or otherwise obtaining usable cannabis, manufacturing, preparing, and packaging cannabis items, and selling, and optionally transporting, these items to other cannabis manufacturers, cannabis wholesalers, or cannabis retailers, but not to consumers.

“Cannabis Retailer” Any licensed person or entity that purchases or otherwise obtains usable cannabis from cannabis cultivators and cannabis items from cannabis manufacturers or cannabis wholesalers, and sells these to consumers from a retail store, and may use a cannabis delivery service or a certified cannabis handler for the off-premises delivery of cannabis items and related supplies to consumers. A cannabis retailer shall also accept consumer purchases to be fulfilled from its retail store that are presented by a cannabis delivery service which will be delivered by the cannabis delivery service to that consumer.

“Cannabis Wholesaler” Any licensed person or entity that purchases or otherwise obtains, stores, sells or otherwise transfers, and may transport, cannabis items for the purpose of resale or other transfer to either another cannabis wholesaler or to a cannabis retailer, but not to consumers.

“Cannabis Licensed Marketplace” A license issued under relevant State law including a license that is designated as either a:

- A. Class 1 Cannabis Cultivator license
- B. Class 2 Cannabis Manufacturer license
- C. Class 3 Cannabis Wholesaler license
- D. Class 4 Cannabis Distributor license
- E. Class 5 Cannabis Retailer license
- F. Class 6 Cannabis Delivery license

The term shall also include a conditional license for a designated class, except when the context of the provisions of relevant State law otherwise intend to only apply for a license and not a conditional license.

The term shall also include any activity related to cannabis cultivation, cannabis manufacturing, cannabis wholesale, cannabis distribution cannabis retail and/or cannabis delivery service by a pre-existing alternative treatment center deemed to concurrently hold any one or more class(es) of the above-listed cannabis license(s) pursuant to PL. 2021, c. 16 §33, N.J.S.A. 24:6I-46, and P.L. 2021, c.16 §34 of the Act, amending N.J.S.A. 24:6I-7; but shall not include the pre-existing alternative treatment’s activities related to medical cannabis cultivation, medical cannabis manufacturing, medical cannabis processing and/or medical cannabis dispensing by a pre-existing medical cannabis alternative treatment center pursuant to a license or conditional licensed issued by the State of New Jersey pursuant to the “Jake Honing Compassionate Use Medical Cannabis Act,” P.L. 2009, c. 307 (N.J.S.A.24:6I-1 et seq.) and P.L. 2015, c. 158 (N.J.S.A. 18A:40-12.22 et seq.).

“Consumption” Shall mean the act of ingesting, inhaling, or otherwise introducing medical cannabis items and/or cannabis items into the human body.

“Delivery” Shall mean the transportation of cannabis items and related supplies to a consumer. “Delivery” shall also mean the use by a licensed cannabis retailer of any third party technology platform to receive, process, and fulfill orders by consumers, which third party shall not be required to be a licensed cannabis establishment, distributor, or delivery service, provided that any physical acts in connection with fulfilling the order and delivery

shall be accomplished by a certified cannabis handler performing work for or on behalf of the licensed cannabis retailer, which includes a certified cannabis handler employed or otherwise working on behalf of a cannabis delivery service making off-premises deliveries of consumer purchases fulfilled by that cannabis retailer.

“Indoor Public Place” Shall mean 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 P.L.1971, c. 136 (C.26:2H-1 et seq.); patient waiting room of the office of a health care provider licensed pursuant to Title 45 of the Revised Statutes; child care center licensed pursuant to P.L.1983, c. 492 (C.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.

“Institutional Caregiver” Shall mean and refer to an “Institutional Caregiver” as defined under the “Jake Honing Compassionate Use Medical Cannabis Act,” P.L. 2009, c. 307 (N.J.S.A.24:6I-1 et seq., and P.L. 2015, c. 158, N.J.S.A. 18A:40-12.22 et seq.).

“Licensee” Shall mean a person or entity that holds a license issued under P.L. 2021, c. 16 (C.24:6I-31 et al.) including a license that is designated as either a Class 1 Cannabis Cultivator license, a Class 2 Cannabis Manufacturer license, a Class 3 Cannabis Wholesaler license, a Class 4 Cannabis Distributor License, a Class 5 Cannabis Retailer License, a Class 6 Cannabis Delivery license, and also includes: a person or entity that holds a conditional license for a designated class; a person or entity holding a pre-existing Medical Cannabis Cultivator License, pre-existing alternative treatment center permit first issued by the State of New Jersey, Department of Health, Division of Medicinal Marijuana in accordance with the provisions of the “Jake Honing Compassionate Use Medical Cannabis Act” (P.L. 2009, c. 307, N.J.S.A.24:6I-1 et seq., and P.L. 2015, c. 158, N.J.S.A. 18A:40-12.22 et seq.) prior to February 22, 2021, and approved by the Town to hold a concurrent municipal license to operate as a Class 1 Cannabis Cultivator, Class 2 Cannabis Manufacturer, Class 3 Cannabis Wholesaler and/or Class 4 Cannabis Distributor in accordance with the provisions hereinafter and P.L. 2021, c. 16 §33, N.J.S.A. 24:6I-46, and P.L. 2021, c.16 §34, (Amending N.J.S.A. 24:6I-7) of the Act; and/or any other person or entity holding a local annual cannabis license issued by the Town pursuant to this Code.

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

“Medical Cannabis” Means cannabis dispensed to registered qualifying patients or their designated or institutional care giver(s) pursuant to the “Jake Honing Compassionate Use Medical Cannabis Act,” P.L. 2009, c. 307 (N.J.S.A.24:6I-1 et seq.) and P.L. 2015, c. 158 (N.J.S.A. 18A:40-12.22 et seq.). “Medical cannabis” does not include any cannabis or cannabis item that is cultivated, manufactured, produced, processed, distributed, delivered, sold and/or resold for the ultimate purpose of recreational consumption by persons that not registered qualifying patients.

“Personal Use” and/or “Recreational Use” Means the purchase, sale, possession, and/or consumption of cannabis items by person(s) who are not a Registered Qualifying Patient under the “Jake Honing Compassionate Use Medical Cannabis Act” P.L. 2009, c. 307 (N.J.S.A.24:6I-1 et seq.) and P.L. 2015, c. 158(N.J.S.A. 18A:40-12.22 et seq.).

“Premises” or “licensed premises” Means the following areas of a location licensed under P.L.2021, c.16 (C.24:6I-31 et al.):

all public and private enclosed areas at the location that are used in the business operated at the location, including offices, kitchens, rest rooms, and storerooms; all areas outside a building that the Cannabis Regulatory Commission has specifically licensed for the production, manufacturing, wholesaling, distributing, retail sale, or delivery of cannabis items; and, for a location that the commission has specifically licensed for the production of cannabis outside a building, the entire lot or parcel that the licensee owns, leases, or has a right to occupy.

“Public Place” Shall mean any place to which the public has access that is not privately owned, including but not limited to any property owned by the Town of Boonton, the County of Morris, and or any other government subdivision of the State of New Jersey situated within the geographic boundaries of the Town; or any place to which the public has access where alcohol consumption is not allowed, including, but not limited to, a public street, road, thoroughfare, sidewalk, bridge, alley, plaza, park, playground, swimming pool, shopping area, public transportation facility, vehicle used for public transportation, parking lot, public library, or any other public building, structure, or area.

“Registered Qualifying Patient” or “Qualifying Patient” or “Patient” Shall mean and refer to a Qualifying Patient or Patient registered under the “Jake Honing Compassionate Use Medical Cannabis Act.” P.L. 2009, c. 307 (N.J.S.A.24:6I-1 et seq.) and P.L. 2015, c. 158 (N.J.S.A. 18A:40-12.22 et seq.).

“Wholesale Trade” Shall mean establishments or places of business primarily engaged in selling merchandise to other businesses, including retailers, industrial, commercial, institutional, or professional business users, other wholesalers, or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

§ 300-127 Purposes and Application. A. This Chapter has been adopted by the Mayor and Town Council of the Town of Boonton for the following purposes:

- (1) To protect the public health, safety, and general welfare of the residents of the Town of Boonton by establishing strict limits and regulations on the lawful sale and use of legal cannabis.
- (2) To regulate the operation of licensed cannabis establishments to protect against the unlawful operation and use of cannabis and marijuana.
- (3) To establish certain conditions and limitations on the number of cannabis licenses authorized to be issued within the Town of Boonton.
- (4) To establish regulations on the time, location and manner of licensed cannabis establishments and activities.
- (5) To prohibit the operation of any cannabis establishments and other cannabis marketplace activities within the Town unless strictly in conformance with State and local laws.
- (6) To establish limitations on the number and types of cannabis establishment licenses and cannabis marketplace activities.
- (7) To establish local regulations as to the time, location, and manner of cannabis establishments and cannabis marketplace operations and activities in accordance with State law.

B. Applicability. The provisions herein shall apply to all licensees, persons, organizations and businesses operating and/or seeking to operate as any class of licensed cannabis establishment pursuant to the “New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act,” P.L. 2021, c. 16, N.J.S.A. 24:6I-31, et seq., including any pre-existing alternative treatment center deemed to concurrently hold any class(es) of cannabis marketplace license(s) pursuant to P.L. 2021, c. 16 §33, N.J.S.A. 24:6I-46 and P.L. 2021, c.16 §34 (amending N.J.S.A. 24:6I-7) of the Act.

§ 300-128 Prohibitions on Cannabis Establishments, Retail, Consumption Areas, and Cannabis Delivery Service Premises.

A. Pursuant to section 31 of the Act (N.J.S.A. 24:6I-45b), Licenses for Class 1 Cannabis Cultivation, Class 2 Cannabis Manufacturing, Class 4 Cannabis Distribution and Class 6 Cannabis Delivery shall be prohibited within the geographic boundaries of the Town of Boonton

B. Nothing herein shall be construed to prohibit the delivery of cannabis items and related supplies within the Town of Boonton by a New Jersey licensed Class 6 Cannabis Delivery Service to a consumer of 21 years of age or older for personal use from the licensed premises of a Class 6 Cannabis Delivery Service, located outside the geographic boundaries of the Town.

C. Pursuant to section 32 of the Act, N.J.S.A. 24:6I-21, Cannabis Consumption Areas are hereby prohibited from being located or otherwise operated within the geographic boundaries of the Town of Boonton.

D. Nothing herein shall authorize a pre-existing alternative treatment center to operate at a location separate from a pre-existing licensed location, and in no instance shall a preexisting alternative treatment center be permitted to concurrently operate as a Cannabis Cultivator (Class 1), Cannabis Manufacturer (Class 2), Cannabis Distributor (Class 4) and/or a Cannabis Distributor (Class 6) within the Town.

§ 300-129 Numerical Limit on Local Cannabis Licenses and Class Types of Cannabis Establishment Permitted.

A. The following number and type of municipal cannabis establishment licenses, otherwise known as a “local annual cannabis license” are hereby authorized to be available for issuance by the Town of Boonton on an annual basis pursuant to the “New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act,” P.L. 2021, c. 16, (N.J.S.A. 24:6I-31, et seq.,) first commencing August 22, 2021:

(1) Five (5) Class 3 Cannabis Wholesaler licenses, to include no more than two (2) Cannabis Wholesaler licenses to be issued as an annual concurrent license to a qualified pre-existing alternative treatment center holding a current valid permit to purchase, store, sell or otherwise transfer and/or transport medical cannabis items for the purpose of resale to other medical cannabis wholesalers or dispensaries, but not directly to consumers, from a location previously approved by the Town and actively licensed by the State of New Jersey, Department of Health, Division of Medicinal Marijuana pursuant the “Jake Honing Compassionate Use Medical Cannabis Act,” P.L. 2009, c. 307 (N.J.S.A.24:6I-1 et seq.) and P.L. 2015, c. 158 (N.J.S.A. 18A:40-12.22 et seq.), and P.L. 2021, c. 16 §33, N.J.S.A. 24:6I-46, and P.L. 2021, c.16 §34 of the Act (amending N.J.S.A. 24:6I-7) before February 22, 2021;

(2) Five (5) Class 5 Cannabis Retailer licenses, to include no more than two (2) Cannabis Retailer licenses to be issued as an annual concurrent license to a qualified pre-existing alternative treatment center as to satellite retail operations, holding a current valid permit to purchase, store, sell or otherwise transfer and/or transport medical cannabis items.

B. Except for the number and classification types of the municipal licenses listed hereinabove, no additional licenses or license types shall be issued or otherwise made available by the Town except by formal adoption of an ordinance.

C. Any person, organization and/or business, including a licensed cannabis establishment of limited class type operating outside the scope of a license, found to engage in the cultivation, manufacturing, wholesale, bulk transport and/or retail sale of cannabis items without first having a valid license issued by the Town shall be subject to a civil fine and penalty as set forth herein below.

D. Any person, organization and/or business found to operate a delivery service from any premises within the geographic boundaries of the Town shall be subject to a civil fine and penalty as set forth herein below.

§ 300-130 Municipal Licensure Requirements.

A. Prior to commencing the cultivation of cannabis and/or engaging in cannabis manufacturing activities, cannabis wholesale activities and/or cannabis distribution and/or retail activities, any person, business, organization, including a pre-existing alternative treatment seeking to concurrently operate, shall first apply for and secure from the Town of Boonton an annual local Class 3 Cannabis Wholesaler license or annual local Class 5 Cannabis Retailer license.

B. The Town of Boonton, through its Administration and Municipal Clerk, shall begin accepting applications for any class of annual local cannabis license 15 days following final passage of this ordinance. The initial local annual license shall be valid until December 31, 2022. Thereafter, the period of each annual local cannabis establishment license shall commence January 1, and expire on December 31 of the calendar year.

C. Where applicable, the licensee of an authorized cannabis establishment shall be required to maintain a valid alternative treatment center permit from the State of New Jersey, Cannabis Regulatory Commission for each applicable class of concurrently held local annual cannabis license as a condition of holding a local annual cannabis license.

D. By no later than December 1 of the license year, all licensees shall be required to file an application for the renewal of a local annual cannabis license to be authorized to continue operation as a cannabis establishment within the Town of Boonton.

E. All local cannabis establishments licenses shall be conditional, and shall remain subject to all laws and regulations of the Town of Boonton and the State of New Jersey. Failure of any licensee to comply with such applicable laws shall be grounds for revocation and/or nonrenewal by the Town of Boonton.

F. The initial application fee for each local cannabis establishment license shall be \$2,500 and the renewal application fee shall be \$2,500. An escrow shall be established for administrative and professional fees and costs relating to the application and oversight during the term.

G. All local cannabis establishment licenses shall be non-transferrable. All local cannabis establishment licenses shall be specific to the property location authorized and approved by the Town and shall not otherwise be considered a "pocket license."

H. All local cannabis establishments shall be subject to unannounced inspections by a designated representative of the Town. Access shall be permitted by the designated representative.

§ 300-131 Local Cannabis Transfer and User Taxes.

A. Pursuant to section 40 of the Act, N.J.S.A. 40:48I-1a(1), the following transfer taxes are hereby established on all cannabis establishments operating within the Town of Boonton as the maximum amount as permitted by the laws of the State of New Jersey or the amounts set forth below, whichever is greater:

- (1) 1 % on the gross receipts from each sale by a cannabis wholesaler; and
- (2) 2% on the gross receipts from each sale of cannabis and/or cannabis items from any cannabis establishment to another cannabis establishment.

B. Pursuant to section 40 of the Act, N.J.S.A. 40:48I-1a(2), the following user taxes are hereby established on all concurrent license holders operating within the Town of Boonton, which shall be in addition to any other tax imposed by law as the maximum amount as permitted by the laws of the State of New Jersey or the amounts set forth below, whichever is greater:

- (1) 1% of the receipts from each sale by a cannabis wholesaler; and
- (2) 2% of the receipts from each sale by a cannabis retailer.

C. The above provisions as to the user and transfer taxation of any cannabis marketplace activities shall not apply to that portion of any business activities conducted by a concurrent licensee with respect to medical cannabis cultivation, medical cannabis manufacturing, medical cannabis processing, medical cannabis distribution and/or the dispensing of medical cannabis items. Such user and transfer taxation amounts shall be governed by a contractual agreement with the licensed medical cannabis facility.

§ 300-132 Odor Mitigation and Control.

A. All cannabis establishments, including licensed pre-existing alternative treatment centers, shall provide fully integrated air treatment systems, with sufficient odor absorbing ventilation and exhaust systems such that any odor generated within the confines of the premises shall not unreasonably interfere with the enjoyment of life or property outside the boundaries of the establishment's property, in accordance with NJDEP regulations and guidance.

B. All medical cannabis establishments and cannabis establishments shall be required to retain a qualified environmental consultant approved by the Town, who shall be available to promptly respond to the site in the event of an incident or adverse event within a reasonable period of time not to exceed 12 hours.

C. All medical cannabis establishments and cannabis establishments shall be required to monitor all activities for odors on a daily basis; shall maintain and produce written records of all odor monitoring, investigations, air quality studies and adverse events.

D. All records as to odor monitoring, investigations, air quality studies and adverse events shall be produced to the Town upon request.

§ 300-133 Corporate Designee Contact.

All medical cannabis establishments and cannabis establishments operating within the Town of Boonton shall be required to designate a corporate representative of the business who shall be available 24 hours daily to serve as the primary person of contact for the establishment, and shall have full authority to make decisions on behalf of

the establishment in the event of an emergency. The establishment shall provide the up-to-date direct telephone and email contact information for the corporate designee to the Town Police Department and the Town Administrator and shall assure that such contact information remains current at all times. At a minimum, the corporate designee shall be responsible to respond to the Town in the event of a report of criminal activity, adverse odor event, or any suspected violation of applicable State and/or local laws.

§ 300-134 Manner of Delivery of Cannabis and Cannabis Items.

The actual delivery of cannabis and cannabis items by any Class 6 Cannabis Delivery services to a consumer occurring within the Town shall be prohibited from taking place in any public place and shall only be permitted to take place within the confines of private property or indoor public places with the express permission and authorization of the owner of the property.

§ 300-135 Civil Fines and Penalties.

A. Any person(s), firm(s), business(es), corporation(s) and/or other organizations, including any licensed medical and/or cannabis establishment, found in violation of any provision(s) of this Code shall be subject to a civil fine and penalty not exceeding \$2,000.

B. Any licensed medical and/or cannabis establishment found in violation of any provision(s) of this Code may be grounds for revocation and/or nonrenewal of any issued local cannabis establishment license. Upon reasonable notice to the licensee by the Administration of the Town of Boonton, a hearing shall be conducted before the Town Council of the Town of Boonton to decide whether sufficient grounds exist to revoke any and all classes of local cannabis establishment licenses issued to the licensee. The licensee may be permitted to be represented by legal counsel during the hearing, present evidence, testimony and witnesses.

C. Each and every day any person(s), firm(s), business(es), corporation(s) and/or other organizations, including any licensed medical and/or cannabis establishment remains in violation of the provisions of this Code, after the deadline for compliance set forth in any notice of violation issued by the enforcing officer(s) of the Town, shall be considered a continuing violation punishable as a separate and distinct offense and subject to a separate civil fine and penalty for each and every day the violation continues.

D. The Municipal Court or Superior Court shall have jurisdiction to hear and decide any action(s) brought to enforce the provisions of this code, the hearing for which shall be conducted in a summary manner pursuant to N.J.S.A. 2B12-16a, and any final order imposing fines and penalties for a violation of this code shall be enforceable in the Municipal Court or Superior Court and collectible as a lien against the property of the violator in accordance with the Penalty Enforcement Law of 1999, N.J.S.A. 2A:58-10 to -12.

§ 300-136 Hours of Operation.

A. No Class 3 Cannabis Wholesaler licensee shall operate prior to 8:00 a.m., nor after 6 p.m. No Class 5 Retailer licensee shall operate prior to 9:00 a.m., nor after 10:00 p.m.

SECTION 2. All ordinances or parts of ordinances of the Town of Boonton inconsistent with the provisions of this Ordinance, are hereby repealed to the extent of such inconsistency.

SECTION 3. If any section, subsection, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid by any court or competent jurisdiction, such decision shall not affect the remaining portion of this Ordinance.

SECTION 4. This Ordinance may be renumbered for purposes of codification

SECTION 5. This Ordinance shall take effect upon final passage, approval, and publication as required by law.

The foregoing ordinance having been introduced and passed on first reading by the Mayor and Town Council of the Town of Boonton, County of Morris, State of New Jersey, on August 16, 2021 and then ordered to be published according to the law, will be further considered for final passage and adoption at a public hearing to be held at a meeting beginning at 7:30 p.m. on September 7, 2021 at the Town hall, 100 Washington Street, Boonton, NJ 07005, when and where, or at such time and place to which said meeting may be adjourned. All persons interested will be given an opportunity to be heard concerning said ordinance.

Cynthia A. Oravits,
Town Clerk