



Legend	
Permitted Businesses	Zones
	I-1, I-2, and I-4 (CO&IP)
	IP and I-3

Cannabis Zoning Map Draft Ordinance Borough of Oakland



Civil Solutions
a division of arh

NJDEP



Borough of Oakland, New Jersey

Linda H. Schwager
Mayor

Phone: (201) 337-8111

June 18, 2021

Ms. Lisa Duncan, Municipal Borough Clerk
Borough of Oakland Municipal Building
Oakland, New Jersey 07436

RE: Oakland Borough Ordinance #21-CODE-828—Mayor's Objection

Dear Ms. Duncan:

At the June 9, 2021 Oakland Borough Council Meeting, the Borough Council members (hereinafter "Council") voted to pass the above referenced Ordinance by a vote of 4 to approve and 2 to oppose. Said Ordinance amends and supplements the Code of the Borough of Oakland with a new chapter entitled,

"CHAPTER 8, CANNIBIS, PROHIBITION OF ALL CLASSES OF BUSINESS SO AS TO PROHIBIT THE OPERATION OF ANY CLASS OF CANNIBIS BUSINESS WITHIN THE GEOGRAPHICAL BOUNDARIES OF THE BOROUGH OF OAKLAND...." (hereinafter "Ordinance").

The Borough of Oakland operates as a Borough form of government (hereinafter "Borough"). The powers of the Mayor under this form of Government in the State of New Jersey are set forth in N.J.S.A. 40A:60-5. The Mayor's powers relating to ordinances are specific. "The Mayor shall, within ten days after receiving [an] ordinance, Sundays excepted, either approve the ordinance by affixing his signature thereto or return it to the council by delivering it to the clerk together with a statement setting forth his objections thereto or any item or part thereof."

I hereby object to Oakland Ordinance 21-CODE-828, within the time prescribed by the Statute and provide this notice as my VETO.



Borough of Oakland, New Jersey

Linda H. Schwager
Mayor

Phone: (201) 337-8111

As prescribed by the Statute, I set forth my objections as follows:

Sixty-seven percent (67%) of Oakland voters voted for the legalization of marijuana in the State of New Jersey. Legalization of marijuana permits the use of cannabis products. Individuals can legally purchase the products, and businesses can legally manufacture, cultivate, distribute, dispense, deliver and sell the products.

As Mayor, I established an *Ad Hoc Committee* (hereinafter "Committee") made up of residents who are on both sides of the issue, together with our Borough Planner, Borough Administrator, two councilmen and me, to research, discuss and forward their findings to the Council. The *Committee* met June 9, 2021 and June 16, 2021. I had requested the Council to refrain from passing the Ordinance on June 9, 2021, until the *Committee* forwarded their findings. Said request was ignored. At the June 9, 2021 *Committee* meeting both councilmen who sit on the *Committee* agreed to keep the Ordinance on the table. Then two (2) hours later, on same day, during the Council meeting, one of the councilmen who previously agreed (at the *committee* meeting) that the Ordinance should remain on the table, made the motion to pass the Ordinance, denying what happened at the *Committee* meeting. The next meeting of the *Committee* is scheduled for July 7, 2021. The *Committee* has received copies of sample Ordinances. The *Committee* has received financial information. The *Committee* has received our town's zoning maps. The *Committee* has received lists of vacancies in our commercial zones. There is still time to present the *Committee's* findings to the Council.

With unanimous approval, the Oakland Planning Board sent two letters to the Council opposing the Ordinance. The latest vote included a councilman who abstained at the Planning Board Meeting, then seconded the motion to approve the Ordinance at the Council meeting. The appointed Oakland Planning Board members are educated, professional business people with financial experience and long time residents of our Borough of Oakland. Both recommendations from the Planning Board were ignored.



Borough of Oakland, New Jersey

Linda H. Schwager
Mayor

Phone: (908) 827-8111

The Borough of Oakland has geographical zoning areas of our town that are not within residential areas. There are vacancies in the industrial and commercial areas of town.

State law permits delivery of cannabis throughout Oakland. The Borough cannot prohibit same. The Borough cannot stop people buying cannabis. The Borough cannot stop people using cannabis. The Ordinance only precludes receiving economic benefit. If we do not move forward and move to the forefront, businesses will go elsewhere. This is simply Marketing 101.

The Borough needs financial assistance to help stabilize taxes in Oakland.

Important financial considerations for the residents of Oakland ignored by the Oakland Borough Council—In addition to collecting taxes from occupied buildings, (1) The Borough may assess a 2% transfer tax of gross receipts from each sale by a cannabis cultivator and a cannabis manufacturer; and (2) the Borough may assess a 1% tax of gross receipts for each sale by a cannabis wholesaler.

The Borough shall be able designate how the money received will be used. For example, the *Committee* members suggested possible designated accounts for receivables to be used to pay down our debt service or to be used for the many infrastructure projects the Borough needs.

For the foregoing reasons, I ask the members of the Oakland Borough Council not to override my veto, but to work with the *Ad Hoc Committee* to create a viable Ordinance which will financially benefit the residents of Oakland.


Mayor Linda H. Schwager,
Borough of Oakland

cc: Oakland Borough Administrator, Richard Kunze
Oakland Borough Attorney, Brian Chewcaskie, Esq.
Oakland Borough Council

ORDINANCE No.21-Code-863
BOROUGH OF OAKLAND
COUNTY OF BERGEN
STATE OF NEW JERSEY

AN ORDINANCE TO AMEND, SUPPLEMENT AND REVISE THE CODE OF THE BOROUGH OF OAKLAND, LAND USE, CHAPTER 59 ENTITLED "LAND USE AND ZONING"

BE IT ORDAINED by the Borough Council of the Borough of Oakland, County of Bergen, State of New Jersey, that the following amendments and revisions are made to the Revised General Ordinances of the Borough Oakland, Chapter 59 entitled "Land Use and Zoning".

Section 1 Article VII, §59-44 is hereby amended to add the following term in proper alphabetic order:

CANNABIS—Term includes 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. The term "Cannabis" does not include medical cannabis dispensed to registered qualifying patients pursuant to the "Jake Honing Compassionate Use Medical Cannabis Act.

CANNABIS CULTIVATOR—Any licensed person or entity holding a valid Class 1 Cannabis Cultivator license that grows, cultivates or produces cannabis and sells and possibly transport cannabis to other licensed cannabis cultivators or usable cannabis to licensed cannabis manufacturers, licensed cannabis wholesalers, or licensed cannabis retailers.

CANNABIS DELIVERY SERVICE—Any licensed person or entity holding a Class 6 cannabis delivery license that provides courier services for consumer purchases of cannabis items and related supplies fulfilled by a licensed 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 a licensed cannabis retailer for fulfillment, is delivered to that consumer.

CANNABIS DISTRIBUTOR—Any licensed person or entity holding a Class 4 Cannabis distributor license that transports cannabis in bulk from one licensed cannabis cultivator to another licensed cannabis cultivator, or transports cannabis items in bulk 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 MANUFACTURER-- Any licensed person or entity holding a Class 2 cannabis manufacturer license that process cannabis items by purchasing or otherwise obtaining

usable cannabis, manufacturing, preparing and packaging cannabis items, and selling, and optional transporting, these items to other licensed cannabis manufacturers, licensed cannabis wholesalers, or licensed cannabis retailers, but not directly to consumers.

CANNABIS RETAILER—Any licensed person or entity holding a Class 5 cannabis retail license that purchases or otherwise obtains usable cannabis from licensed cannabis cultivators and cannabis items from licensed cannabis manufacturers or licensed cannabis wholesalers, and sells these items 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 the ultimate 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 purchase of resale or other transfer to either another licensed cannabis wholesaler or to a licensed cannabis retailer, but not consumers.

Section 2 Article VII Zoning is hereby amended in the following particulars only

A. §59-54. I-1 and I-2 Industrial zones are hereby amended in the following particulars only:

B. Subject to the requirements contained herein, only the following uses shall be permitted on any lot of required size within the I-1 and I-2 Industrial Zones:

(6) The following are permitted uses in the I-1 zone only. Furthermore, to protect the public health, safety and welfare the uses a through e listed below are subject to the standards enumerated herein:

- a. Cannabis Cultivating
- b. Cannabis Manufacturing
- c. Cannabis Wholesaling
- d. Cannabis Distributing
- e. Cannabis Delivery Service

i. As authorized by the enabling legislation, Oakland is permitted and has chosen to place an upper limit the number of cannabis licenses and thus cannabis operations that may locate in Oakland. No more than ten (10) cannabis enterprises of any type shall be authorized in the Borough. An applicant seeking site plan approval shall provide as an item of completeness a signed Affidavit attesting to and indicating the owner, type of license held and location of every cannabis operation in the Borough.

ii. Every cannabis operator/owner/applicant must possess a valid State of New Jersey

license for the particular cannabis use being applied for. All conditions associated with the required New Jersey issued cannabis license are also requirements of any local approval that may issue.

- iii. Each and every cannabis operator must in addition to securing a license from the State of New Jersey must also secure a cannabis license from the Borough of Oakland. The fee for such license shall be established by separate ordinance. The Oakland Site Plan Checklist is herein revised and amended to include as a checklist item proof of possession of both a valid State of New Jersey and a Borough of Oakland license for all cannabis applications and the aforementioned listing of all cannabis operations within the Borough.
- iv. All proposed cannabis operations must secure site plan approval as a prior approval before seeking a construction permit.
- v. All cannabis applicants must produce a public safety and security plan and secure approval from the Oakland Police Department or an approved outside agency approved by the Oakland Police Department. Certification of all employees shall comprise one aspect of the public safety and security plan. Strict implementation of the public safety and security plan is a continuing obligation of every cannabis operator. All cannabis operations shall deposit in its escrow account an additional \$3,500 to fund all reviews by or required by the Police Department or Health Department. All outside reviews shall be paid for by the applicant through the use of the previously posted escrow funds. These escrow fund shall be replenished as needed upon the request of the Borough.
- vi. All cannabis applicants must produce an odor control plan. Approval of this odor control plan prior to the issuance of a construction permit will be a requirement of all cannabis operators. Strict implementation of the odor control plan is a continuing obligation of every cannabis operator. The Health Department, or an outside agency as designated by the Health Department, shall be the designated reviewing agency. All outside reviews shall be paid for by the applicant through the use of the previously posted escrow funds. These escrow fund shall be replenished as needed upon the request of the Borough.
- vii. Off street parking requirements for each listed cannabis operation shall be based on §59-61G(2), except that parking requirements for all office space in said cannabis operations shall conform to §59-61G(3).
- viii. Off street loading requirements for all cannabis operations shall be the same as adopted for industrial uses.

- ix. All trucks owned by the cannabis operator and used in the distribution and wholesaling of cannabis or related products shall be stored or parked in a lot that is enclosed by fencing with a gate that shall at all times be locked, except for when trucks are entering or leaving the enclosed truck storage area. Employee parking shall be located in a separate area of the site.

Section 3. Article VII Zoning is hereby amended in the following particulars only:

- A. §59-55. I-P Industrial Park Zone is hereby amended in the following particulars only:
- B. Paragraph §59-55E. Is hereby supplemented in the following particulars only:

Subject to the requirements contained herein, only the following uses shall be permitted on any lot of required size within the I-P Industrial Zone.

- (7)
 - a. Cannabis Wholesaling
 - b. Cannabis Distributing

Furthermore, to protect the public health, safety and welfare the uses a and b listed are are subject to the standards enumerated herein:

- i. As authorized by the enabling legislation, Oakland is permitted and has chosen to place an upper limit the number of cannabis licenses and thus cannabis operations that may locate in Oakland. No more than ten (10) cannabis enterprises of any type shall be authorized in the Borough. An applicant seeking site plan approval shall provide as an item of completeness a signed Affidavit attesting to and indicating the owner, type of license held and location of every cannabis operation in the Borough.
- ii. Every cannabis operator/owner/applicant must possess a valid State of New Jersey license for the particular cannabis use being applied for. All conditions associated with the required New Jersey issued cannabis license are also requirements of any local approval that may issue.
- x. Each and every cannabis operator must in addition to securing a license from the State of New Jersey must also secure a cannabis license from the Borough of Oakland. The fee for such license shall be established by separate ordinance. The Oakland Site Plan Checklist is herein revised and amended to include as a checklist item proof of possession of both a valid State of New Jersey and a Borough of Oakland license for all cannabis applications and the aforementioned listing of all cannabis operations within the Borough.
- iii. All proposed cannabis operations must secure site plan approval as a prior approval

before seeking a construction permit.

- iv. All cannabis applicants must produce a public safety and security plan and secure approval from the Oakland Police Department or an approved outside agency approved by the Oakland Police Department. Certification of all employees shall comprise one aspect of the public safety and security plan. Strict implementation of the public safety and security plan is a continuing obligation of every cannabis operator. All cannabis operations shall deposit in its escrow account an additional \$3,500 to fund all reviews by or required by the Police Department or Health Department. All outside reviews shall be paid for by the applicant through the use of the previously posted escrow funds. These escrow fund shall be replenished as needed upon the request of the Borough.
- v. All cannabis applicants must produce an odor control plan. Approval of this odor control plan prior to the issuance of a construction permit will be a requirement of all cannabis operators. Strict implementation of the odor control plan is a continuing obligation of every cannabis operator. The Health Department, or an outside agency as designated by the Health Department, shall be the designated reviewing agency. All outside reviews shall be paid for by the applicant through the use of the previously posted escrow funds. These escrow fund shall be replenished as needed upon the request of the Borough.
- vi. Off street parking requirements for each listed cannabis operation shall be based on §59-61G(2), except that parking requirements for all office space in said cannabis operations shall conform to §59-61G(3).
- vii. Off street loading requirements for all cannabis operations shall be the same as adopted for industrial uses.
- viii. All trucks owned by the cannabis operator and used in the distribution and wholesaling of cannabis or related products shall be stored or parked in a lot that is enclosed by fencing with a gate that shall at all times be locked, except for when trucks are entering or leaving the enclosed truck storage area. Employee parking shall be located in a separate area of the site.

Section 4. Article VII Zoning is hereby amended in the following particulars only

- A. §59-45 J is hereby repealed and deleted from the Oakland Zoning Ordinance.
- B. §59-46. Zoning district established; Zoning Map; interpretation of boundaries is and shall

be amended in the following particulars only. I-4 Industrial Zone is hereby created with the following requirements and standards:

CO-IP Corporate Office, Industrial Park is hereby deleted and replaced by:
I-4 Industrial Zone

- C. Oakland Borough Zoning Map is hereby amended and revised to delete the CO & IP zone, both on the Zoning Map itself and in the Legend of Oakland Borough Zoning and to replace said CO & IP Zone with the newly established I-4 Industrial Zone.
- D. §59-55.1. I-4 Industrial Zone. Within the I-4 Industrial Zone, only the following uses shall be permitted on any single lot of required size:
 - (1) A professional or business office or studio.
 - (2) Executive, professional and administrative offices.
 - (3) Research, experimental or testing in scientific laboratories.
 - (4) Solar energy systems as either a principal use or structure, or as an accessory structure or use. Such systems may be installed either on the roof of permitted principal or accessory structures or as freestanding structures including above a parking area.
 - (5) Craft and Plenary distilleries, but only in strict conformance with N.J.S.A. 33:1-10.
 - (6) Wineries but only if holding the requisite New Jersey license and on land parcels of three (3) acres or more.
 - (7) Cannabis Cultivating
 - (8) Cannabis Manufacturing
 - (9) Cannabis Wholesaling
 - (10) Cannabis Distributing
 - (11) Cannabis Delivery Service
- i. As authorized by the enabling legislation, Oakland is permitted and has chosen to place an upper limit the number of cannabis licenses and thus cannabis operations that may locate in Oakland. No more than ten (10) cannabis enterprises of any type shall be authorized in the Borough. An applicant seeking site plan approval shall provide as an item of completeness a signed Affidavit attesting to and indicating the owner, type of license held and location of every cannabis operation in the Borough.
- ii. Every cannabis operator/owner/applicant must possess a valid State of New Jersey license for the particular cannabis use being applied for. All conditions associated with the required New Jersey issued cannabis license are also requirements of any local approval that may issue.

- iii. Each and every cannabis operator must in addition to securing a license from the State of New Jersey must also secure a cannabis license from the Borough of Oakland. The fee for such license shall be established by separate ordinance. The Oakland Site Plan Checklist is herein revised and amended to include as a checklist item proof of possession of both a valid State of New Jersey and a Borough of Oakland license for all cannabis applications and the aforementioned listing of all cannabis operations within the Borough.
- iv. All proposed cannabis operations must secure site plan approval as a prior approval before seeking a construction permit.
- v. All cannabis applicants must produce a public safety and security plan and secure approval from the Oakland Police Department or an approved outside agency approved by the Oakland Police Department. Certification of all employees shall comprise one aspect of the public safety and security plan. Strict implementation of the public safety and security plan is a continuing obligation of every cannabis operator. All cannabis operations shall deposit in its escrow account an additional \$3,500 to fund all reviews by or required by the Police Department or Health Department. All outside reviews shall be paid for by the applicant through the use of the previously posted escrow funds. These escrow fund shall be replenished as needed upon the request of the Borough.
- vi. All cannabis applicants must produce an odor control plan. Approval of this odor control plan prior to the issuance of a construction permit will be a requirement of all cannabis operators. Strict implementation of the odor control plan is a continuing obligation of every cannabis operator. The Health Department, or an outside agency as designated by the Health Department, shall be the designated reviewing agency. All outside reviews shall be paid for by the applicant through the use of the previously posted escrow funds. These escrow fund shall be replenished as needed upon the request of the Borough.
- vii. Off street parking requirements for each listed cannabis operation shall be based on §59-61G(2), except that parking requirements for all office space in said cannabis operations shall conform to §59-61G(3).
- viii. Off street loading requirements for all cannabis operations shall be the same as adopted for industrial uses.
- ix. All trucks owned by the cannabis operator and used in the distribution and wholesaling of cannabis or related products shall be stored or parked in a lot that is enclosed by fencing with a gate that shall at all times be locked, except for when

trucks are entering or leaving the enclosed truck storage area. Employee parking shall be located in a separate area of the site.

- E. Yards; Area; Height.
 - (a) Minimum lot area: 10 acres.
 - (b) Minimum lot frontage: 200 feet.
 - (c) Maximum lot coverage: 25%.
 - (d) Maximum impervious coverage: 50%.
 - (e) Yards:
 - [1] Front Yard: 100 feet.
 - [2] Rear Yard: 50 feet.
 - [3] Side Yard: 50 feet.
 - (f) Building height: 40 feet and three stories.
 - (e) Signs, as established in §59-63l.

- F. Borough of Oakland, Schedule "A" is hereby amended and revised to remove the IP-CO Industrial Park/Corporate Office zone and replace same with the I-4 Industrial Zone. The area requirements, dimensional requirements and coverages for the I-4 Zone shall be as indicated above by inserting same in the appropriate locations on Schedule "A".

Section 5. Article VII Zoning is hereby amended and revised in the following particulars only:

- A. §59-56. I-3 Industrial/Office Zone. Within the Industrial/Office Zone, only the following uses shall be permitted on any single lot of required size:

(7) The following are permitted uses in the I-3 zone only. Furthermore, to protect the public health, safety and welfare the uses a and b listed below are subject to the standards enumerated herein:

- a. Cannabis Wholesaling
- b. Cannabis Distributing

- i. As authorized by the enabling legislation, Oakland is permitted and has chosen to place an upper limit the number of cannabis licenses and thus cannabis operations that may locate in Oakland. No more than ten (10) cannabis enterprises of any type shall be authorized in the Borough. An applicant seeking site plan approval shall provide as an item of completeness a signed Affidavit attesting to and indicating the owner, type of license held and location of every cannabis operation in the Borough.
- ii. Every cannabis operator/owner/applicant must possess a valid State of New Jersey

license for the particular cannabis use being applied for. All conditions associated with the required New Jersey issued cannabis license are also requirements of any local approval that may issue.

- xi. Each and every cannabis operator must in addition to securing a license from the State of New Jersey must also secure a cannabis license from the Borough of Oakland. The fee for such license shall be established by separate ordinance. The Oakland Site Plan Checklist is herein revised and amended to include as a checklist item proof of possession of both a valid State of New Jersey and a Borough of Oakland license for all cannabis applications and the aforementioned listing of all cannabis operations within the Borough.
- iii. All proposed cannabis operations must secure site plan approval as a prior approval before seeking a construction permit.
- iv. All cannabis applicants must produce a public safety and security plan and secure approval from the Oakland Police Department or an approved outside agency approved by the Oakland Police Department. Certification of all employees shall comprise one aspect of the public safety and security plan. Strict implementation of the public safety and security plan is a continuing obligation of every cannabis operator. All cannabis operations shall deposit in its escrow account an additional \$3,500 to fund all reviews by or required by the Police Department or Health Department. All outside reviews shall be paid for by the applicant through the use of the previously posted escrow funds. These escrow fund shall be replenished as needed upon the request of the Borough.
- v. All cannabis applicants must produce an odor control plan. Approval of this odor control plan prior to the issuance of a construction permit will be a requirement of all cannabis operators. Strict implementation of the odor control plan is a continuing obligation of every cannabis operator. The Health Department, or an outside agency as designated by the Health Department, shall be the designated reviewing agency. All outside reviews shall be paid for by the applicant through the use of the previously posted escrow funds. These escrow fund shall be replenished as needed upon the request of the Borough.
- vi. Off street parking requirements for each listed cannabis operation shall be based on §59-61G(2), except that parking requirements for all office space in said cannabis operations shall conform to §59-61G(3).
- vii. Off street loading requirements for all cannabis operations shall be the same as adopted for industrial uses.

- viii. All trucks owned by the cannabis operator and used in the distribution and wholesaling of cannabis or related products shall be stored or parked in a lot that is enclosed by fencing with a gate that shall at all times be locked, except for when trucks are entering or leaving the enclosed truck storage area. Employee parking shall be located in a separate area of the site.

Section 6.

All Ordinances of the Borough of Oakland which are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

Section 7

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance.

Section 8

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

ATTEST:

BOROUGH OF OAKLAND
COUNTY OF BERGEN
STATE OF NEW JERSEY

Lisa M. Duncan, Borough Clerk

By: _____
Linda H. Schwager, Mayor

**BOROUGH OF OAKLAND
BERGEN COUNTY, NEW JERSEY
ORDINANCE 21-CODE-872**

**AN ORDINANCE TO AMEND CHAPTER 8, CANNABIS, OF THE REVISED
GENERAL ORDINANCES OF THE BOROUGH OF OAKLAND PERTAINING TO
CANNABIS ESTABLISHMENTS AUTHORIZED UNDER THE “NEW JERSEY
CANNABIS REGULATORY, ENFORCEMENT ASSISTANCE AND MARKETPLACE
MODERNIZATION ACT**

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, Section 31a of the Act also authorizes municipalities to adopt by ordinance regulations governing the local licensing endorsement, location, manner, and times of operation of Cannabis Establishments and Cannabis Distributors, and the location and manner of cannabis delivery services, and establishing civil penalties for the violation of any such regulations; and

NOW THEREFORE, BE IT ORDAINED, by the Governing Body of the Borough of Oakland, in the County of Bergen, State of New Jersey, that Chapter 8, Cannabis, is hereby amended as follows:

Section 1. The current text of Borough Ordinance, Chapter 8, Cannabis, shall hereby be amended to include the following:

§8-3 License required

No Cannabis Establishment or Cannabis Distributor shall sell, grow, manufacture, or distribute any Cannabis Items within the Borough without first obtaining a license in accordance with this Chapter.

§8-3.1 Issuing Authority.

All licenses required by this Chapter shall be issued by the Borough Clerk upon approval by the Mayor and Borough Council.

§8-3.2 Application for license.

- A. Any person or persons, corporation or corporations desiring to conduct, maintain or operate any Cannabis Establishments and Cannabis Distributor within the Borough of Oakland shall first make an application in writing to the Borough for a license to conduct and operate such business, giving the exact location where the business shall be conducted and the description of the business.

B. Cannabis Establishments and Cannabis Distributors - A request for a license to operate a Cannabis Establishment and Cannabis Distributor, including but not limited to occupancy and building permits, shall first be submitted for the approval of the Borough.

1. Applications shall be submitted to the Borough Clerk and will be deemed complete upon submittal of all documentation and information described in herein to the satisfaction of the Borough Clerk;
2. Subject to the provisions set forth below, licensing for a Cannabis Establishment and Cannabis Distributor will be on a reserve basis based on the order a fully completed Cannabis Establishment Application is received. A licensee's failure to submit a fully completed Cannabis Establishment Application after a period of ninety (90) days from the original date of submittal shall constitute a basis to deem the application expired and subject the licensee to a loss of the reserve space; and
3. No Applications will be reserved when occupancy permits have reached the maximum permitted by Ordinance.
4. The following documentation and information shall be provided in conjunction with the Application:
 - a. The contact information of the licensee, including but not limited to, the licensee's name, the principal place of business, a mailing address, e-mail address, fax number, and the primary point of contact for the application. The information shall be promptly updated as necessary;
 - b. A copy of the current State-approved license. If State license is pending, a signed affidavit giving a general description of the State license status with supporting documentation;
 - c. An affidavit or certification affirming compliance with all requirements of State and local law.
 - d. A general description of the proposed structure in which the facility will be located, including co-tenancy (if in a multi-tenant building), total square footage, description of ingress and egress, proposed exterior lighting plan, and building code compliance;
 - e. A depiction of the site design, including identifying any matters requiring variance or waiver relief;
 - f. The proposed days and hours of operation, the anticipated building occupancy capacity, and the average number of customers and employees anticipated to frequent the facility on a daily basis;

- g. The anticipated parking demand and parking plan per the applicable Schedule of Off-Street Parking Requirements and available private parking supply.
- h. A depiction of the on-site traffic circulation, stacking, and queuing, and demonstrating the manner in which the facility's traffic will be managed so as to minimize the impact on adjacent roadways and neighborhoods;
- i. A proposed signage plan;
- j. A plan for disposal of refuse including disposal of any cannabis or cannabis byproducts which disposal method protects any portion thereof from being possessed or ingested by any person or animal, and which complies with applicable federal, state, and local regulations;
- k. A plan describing the mitigation measures and ventilation system that will be used to prevent any odor of cannabis off the premises;
- l. Applicants for a Cannabis Establishment shall coordinate with the Borough Chief of Police, or his or her designee, regarding the measures to be taken to ensure the security of the facility and the safety of the public and facility employees. Such measures may include, but are not limited to, facility access controls, access to surveillance systems, improved site lighting, and on-site law enforcement or security personnel. Said coordination shall occur in conjunction with any application for site plan, zoning permit or variance relief for a Cannabis Establishment and shall be ongoing, as needed, to address any security or safety issues.
- m. Cultivators and manufacturers must purchase their own water and recycle and purify any water that would be discharged into our aquifer.
- n. 10% of the cannabis business's workforce must be comprised of Oakland residents. Relief from this requirement may be provided by the Governing Body upon showing that this requirement cannot be met after sufficient recruitment efforts have been undertaken.
- o. The name(s) and location(s) of the offsite cultivation facilities associated with a dispensary, if any;
- p. Such other information or documentation as determined to be necessary to assess compliance with the requirements set forth or referenced herein;

§ 8-3.3 License Fees.

All licensed Cannabis Establishments and Cannabis Distributors shall pay the annual license fee of \$ 5,000 for each Class of License possessed.

§ 8-3.4 Inspection, of Premises.

All Cannabis Establishments and Cannabis Distributors shall be subject at all times to proper and reasonable inspection, during reasonable hours of the day and night, by the Borough or any of the officers or agents thereof. Failure or refusal on the part of the holder of such license or his agents or servants to permit such inspection, and/or the neglect or refusal on the part of any such persons to immediately correct and remedy any offensive or objectionable feature in connection therewith upon demand, such license may be forthwith revoked and canceled, and in addition thereto such person may be proceeded against for a violation hereof as hereinafter specified.

§ 8-3.5 Revocation of Licenses.

- A. 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 Borough. Written notice of the time and place of such hearing shall be served upon the holder of such license at least ten (10) days prior to the date set for such hearing. Such notice shall 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 licensee or their representatives shall have an opportunity to be heard. Upon due consideration and deliberation, the complaint may be dismissed, or if the Borough concludes that the charges have been sustained and substantiated, it may revoke, cancel or suspend the license held;
- B. 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 and until a new application for such license be submitted in accordance with this Chapter and shall be approved by the Borough Committee.

Section 2. Any article, chapter, section, paragraph, subsection, clause, or other provision of the Code inconsistent with the provisions of this ordinance is hereby repealed to the extent of such inconsistency.

Section 3. In case, for any reason, any portion or provision of this Ordinance shall be held to be unconstitutional or invalid, the same shall not affect any other portion or provision of this Ordinance, except so far as the portion or provision so declared unconstitutional or invalid shall be severed from the remainder or any portion thereof.

Section 4. This Ordinance shall be part of the Code of the Borough of Oakland as though codified and fully set forth therein. The Borough Clerk shall have this Ordinance codified and incorporated in the official copies of the Code.

Section 5. This Ordinance shall take effect immediately upon publication and final passage according to law.

ATTEST:

BOROUGH OF OAKLAND

Lisa M. Duncan, Borough Clerk

Linda H. Schwager, Mayor

**BOROUGH OF OAKLAND
BERGEN COUNTY, NEW JERSEY
ORDINANCE 21-CODE-873**

**AN ORDINANCE TO AMEND CHAPTER 8, CANNABIS, OF THE REVISED
GENERAL ORDINANCES OF THE BOROUGH OF OAKLAND PERTAINING TO
CANNABIS ESTABLISHMENTS AUTHORIZED UNDER THE “NEW JERSEY
CANNABIS REGULATORY, ENFORCEMENT ASSISTANCE AND MARKETPLACE
MODERNIZATION ACT,**

WHEREAS, Section 40 of the New Jersey Cannabis Regulatory Enforcement Assistance and Marketplace Modernization Act, hereinafter the “Act”, permits a municipality to adopt an ordinance imposing a transfer tax on the sale of cannabis or cannabis items by a cannabis establishment that is located in the municipality 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 establishment to another cannabis establishment; receipts from the retail sales of cannabis items by a cannabis retailer to retail consumers who are 21 years of age or older; or any combination thereof and to set its own rate or rates, but in no case exceeding: two percent of the receipts from each sale by a cannabis cultivator; two percent of the receipts from each sale by a cannabis manufacturer; one percent of the receipts from each sale by a cannabis wholesaler; and two percent of the receipts from each sale by a cannabis retailer; and

WHEREAS, *N.J.S.A. 24:6I-10(i)* permits a municipality to adopt an ordinance imposing a transfer tax on the sale of Adult-Use Cannabis that is located in the Borough and to set its own tax rate, but in no case, exceed two-percent (2%) for cannabis cultivator, manufacturer and retailer and one-percent (1%) for wholesalers. The tax percentage is based on the receipts for each sale and is paid directly to the municipality in the manner prescribed by the municipality. Any delinquencies are treated the same as delinquent property taxes. The tax cannot apply to delivery services to consumers or transfers for the purpose of bulk transportation.

NOW THEREFORE, BE IT ORDAINED, by the Governing Body of the Borough of Oakland (hereinafter the “Borough”), County of Bergen, State of New Jersey, that Chapter 8, Cannabis, is hereby amended to include the following:

Section 1. The current text of Borough Ordinance, Chapter 8, Cannabis, is hereby amended to include the following:

§8-2 Transfer Tax Imposed:

- A. There is hereby imposed a transfer tax of two-percent (2%) on receipts from the sale of Adult-Use Cannabis and cannabis items by those Cannabis Establishments located within the Borough possessing a Class 1 Cannabis Cultivator license, a Class 2 Cannabis Manufacturer license, a Class 4 Cannabis Distributer license, and a Class 5 Cannabis Retailer license.

- B. There is hereby imposed a transfer tax of one-percent (1%) on receipts from the sale of Adult-Use Cannabis and cannabis items by those Cannabis Establishments located within the Borough possessing a Class 3 Cannabis Wholesaler license.
- C. Such tax shall be collected or paid and remitted to the Borough by the Cannabis Establishment purchasing or receiving the cannabis or cannabis item, or from the consumer at the point of sale, on behalf of the Borough by the cannabis retailer selling the cannabis item to that consumer.
- D. 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 Establishments 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 Establishments or the consumer, or that the transfer tax will be refunded to the Cannabis Establishments or the consumer.

§8-2.1 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 non-payment 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.

§8-2.2 Collection of Taxes and Lien.

- A. All revenues collected from a transfer tax imposed by ordinance pursuant to this section shall be remitted to the Borough's 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.
- B. The Borough 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 Borough 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.

- C. The collection of taxes pursuant to the section shall be used towards the payment of debt service.

§8-2.3 Administration of Transfer Tax.

- A. The Borough's 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.
- B. 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.
- C. The Chief Financial Officer is hereby authorized to examine the books, papers and records of the Cannabis Establishment to verify the accuracy of any declaration or return, or if no declaration or return was filed, to ascertain the tax due. Every Cannabis Establishment 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.

§8-2.4 Recordkeeping.

A Cannabis Establishment liable for the transfer tax is 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 (3) years from the filing date or due date, whichever is later, in order to enable the Chief Financial Officer or any agent designated to verify the correctness of the declarations or returns filed. If records are not available in the Borough to support the returns which were filed or which should have been filed, the Cannabis

Establishment will be required to make them available to the Chief Financial Officer either by producing them at a location in the Borough 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.

§8-2.5 Returns.

All Cannabis Establishments and Cannabis Delivery operating in the Borough 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 Cannabis Establishment 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 (2) years of the date of the payment.

§8-2.6 Confidentiality.

The returns filed by the Cannabis Establishments 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 Borough 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 when there has been a request under the Open Public Records Act and no exemption is applicable, or where the determination of the action or proceeding will affect the validity or amount of the claim of the Borough under the tax provisions of this chapter.

§8-2.7 Audit and Assessment.

A. The Borough's Chief Financial Officer may initiate an audit by means of an audit notice to be served on any agent at the Cannabis Establishment's principal place of business. If, as a result of an examination conducted by the Chief Financial Officer, a return has not been filed by a Cannabis Establishment 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 Cannabis Establishment has filed a return but is found to owe additional tax) shall include taxes for up to three (3) years to the date when the deficiency is assessed. Where no return was filed, there shall be no limit to the period of assessment. All expenses incurred by the Borough associated with the audit and the collection of the outstanding taxes shall be paid by the delinquent Cannabis Establishment.

- B. Upon proposing an assessment, the Chief Financial Officer shall send the Cannabis Establishment 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 thirty (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 Cannabis Establishment by certified mail, return receipt requested, a final notice. Should the Cannabis Establishment wish to dispute the assessment set forth in the final notice, the Cannabis Establishment must initiate an appeal in the New Jersey Tax Court within ninety (90) days after the mailing of any final notice regarding a decision, order, finding, assessment, or action hereunder.

§8-2.8 Time Limitations.

The following periods of limitations shall apply to suits for collection of taxes: 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 (2) years after the return was due or filed, whichever is later; Where no return was filed or a fraudulent return was filed, there shall be no limits to file suit for the collection of taxes; 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; The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

§8-2.9 Hearings.

Any person who receives an interim notice from the Chief Financial Officer may within thirty (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.

§8-2.10 Appeals.

Any aggrieved Cannabis Establishment may, within ninety (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.

§8-2.11 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 Oakland Code inconsistent with the provisions of this ordinance is hereby repealed to the extent of such inconsistency.

§8-2.12 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 ordinance 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 ordinance shall be deemed valid and effective.

§8-2.13 Violations and penalties.

Any person or business who violates any provision of this chapter shall, upon conviction, be subject to the penalties provided by §3-1.1 of this Code.

§8-2.14 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.

§8-2.15 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 § 1.5 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.

Section 2. Any article, chapter, section, paragraph, subsection, clause, or other provision of the Code inconsistent with the provisions of this ordinance is hereby repealed to the extent of such inconsistency.

Section 3. In case, for any reason, any portion or provision of this Ordinance shall be held to be unconstitutional or invalid, the same shall not affect any other portion or provision of this Ordinance, except so far as the portion or provision so declared unconstitutional or invalid shall be severed from the remainder or any portion thereof.

Section 4. The Borough Clerk is hereby directed to give notice at least ten (10) days prior to the hearing on the adoption of this Ordinance to the Borough of Oakland Planning Board and to all other entities entitled thereto pursuant to the provisions of N.J.S.A. 40:55D-15. Upon adoption of this ordinance, after public hearing thereon, the Borough Clerk is further directed to publish notice of the passage thereof and to file a copy of this ordinance as finally adopted.

Section 5. This Ordinance shall be part of the Code of the Borough of Oakland as though codified and fully set forth therein. The Borough Clerk shall have this Ordinance codified and incorporated in the official copies of the Code.

Section 6. This Ordinance shall take effect immediately upon publication and final passage according to law.

ATTEST:

BOROUGH OF OAKLAND

Lisa M. Duncan, Borough Clerk

Linda H. Schwager, Mayor