

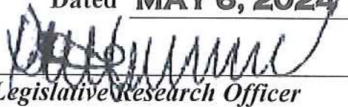
ORDINANCE OF THE TOWNSHIP OF IRVINGTON, NEW JERSEY

No. MC 3862

Effective Date MAY 27, 2024

Dated MAY 6, 2024

APPROVED AS TO FORM AND LEGALITY ON THE BASIS OF FACTS SET FORTH BY

  
Legislative Research Officer

COUNCIL MEMBER

**VICK**

*presents the following Ordinance*

SECONDED

**BROWN**

**AN ORDINANCE AMENDING MC 3832  
TO REGULATE CANNABIS IN THE TOWNSHIP OF IRVINGTON**

§ 650-47.1

**CANNABIS OPERATORS**

[Added 8-9-2021 by Ord. No. MC 3773; amended 9-27-2021 by Ord. No. MC 3779]

- A. Enabling authority. The requirements of this section are subject to the enabling authority of the State of New Jersey and are subject to compliance with all statutes and/or regulations adopted by the State of New Jersey or its instrumentalities. If any provision of this section is inconsistent with the statutes and/or regulations of the State of New Jersey, the state statutes and/or regulations shall govern.

**CANNABIS ESTABLISHMENTS PERMITTING; RULES AND REGULATIONS Purpose.**

- A. This chapter titled "Cannabis Establishments" is created and added to the general ordinances of the municipal code of Irvington for the purpose of establishing local permitting requirements and regulating the operations of cannabis establishments with respect to the cultivation, manufacturing, wholesale, distribution, retail, delivery, use and consumption of recreational cannabis and cannabis Items in the township in accordance with the provisions of the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (the "Act"), any supplements and amendments thereto, and in accordance with the rules and regulations promulgated or to be promulgated by the New Jersey Cannabis Regulatory Commission (the "CRC"), and in accordance with the rules and regulations of the township not inconsistent with the Act or the rules and regulations of the State of New Jersey. The regulations of this ordinance are subject to the enabling authority of the state pursuant to N.J.S.A., 24:6I-45 and are subject to compliance with all statutes and regulations adopted by the state or its instrumentalities, including the CRC. If any provision of this ordinance is inconsistent with state statutes or any regulations thereof, the state statutes and regulations shall prevail. General Provisions.
- B. Prior to the operation of any Cannabis Establishment in the Township, a conditional License must be obtained from the state pursuant to the Act and a permit must be obtained from the Township pursuant to this chapter for the particular class of operation being conducted.
  - a. The Township of Irvington shall have an application process for the Cannabis License approval from the Township and by completing and submitting said application for consideration each applicant is certifying that it has:
    - i. Applicant's name, principal address, telephone number, email address, contact name and title;
    - ii. Class of License sought; Proposed site location with evidence of site control or plans to obtain site control, floor plan(s), and a brief statement of suitability of the site for operation as a Cannabis Establishment;
    - iii. Certification that applicant has reviewed the city's zoning ordinances and that to the best of applicant's knowledge the proposed site location meets the requisite zoning applicable to the location for the class of License sought either on a permitted use or conditional use basis and, if permitted on a conditional use basis, the reasons why the city should grant the applicant a variance;
    - iv. Any prior experience owning, operating or working in cannabis establishments, or in other highly regulated industries such as pharmaceuticals, banking and insurance;
    - v. Brief description of security plan that specifically addresses proposed onsite security and surveillance, diversion prevention and emergency management;
    - vi. Brief description of nuisance mitigation plan that specifically addresses proposed plans to address noise, odor, waste disposal and vehicular congestion mitigation;



- vii. Brief description of community impact plan summarizing how the applicant intends to have a positive impact on the community in which the proposed cannabis establishment is to be located; applicant's ties to the proposed host community (including the percentage of owners, if any, that are residents of the city or a municipality bordering the city); and which shall include an economic impact plan and a description of community outreach activities;
  - viii. Brief description of workforce development and job creation plan ensuring that 35% or more of the applicant's workforce will come from city residents; and which may include information on the applicant's history of job creation or planned job creation at the proposed cannabis establishment; education, training and resources to be made available for employees; any relevant certifications, and an optional diversity plan;
  - ix. A written description of the applicant's record of social responsibility, philanthropy, and ties to the proposed host community;
  - x. Any other information, consistent with state licensing and city permitting requirements, which the Board requests; and
  - xi. Any other information, consistent with state licensing requirements, which the applicant wishes for the city to consider in reviewing its Proposal.
- C. Denials. Applicants who are denied local support will have thirty (30) days within which to correct any deficiency cited in the city's denial letter and to resubmit an amended Proposal. The Board will then have up to thirty (30) days from receipt of the amended Proposal within which to review the amended portions of applicant's Proposal. At the conclusion of this review period, the city will once again issue a written determination either approving or denying applicant's request in the form and manner prescribed in §265-5(C) above. There is no limitation on the number of times an applicant may resubmit amended Proposals for reconsideration by the Board. However, the times prescribed for resubmission and review herein shall remain in effect during each review period. G. Fees. A non-refundable, administrative fee of \$200 shall be submitted with each Proposal and amended Proposal submitted to the Board for review.
- D. Following receipt of a conditional approval from the state and approval of a Cannabis License from the Township of Irvington, the applicant must obtain a Zoning Determination from the Department of Housing and Building Construction and/or Community Development.
- a. Zoning Generally. Cannabis Establishments shall only be permitted to operate in zoning districts within the township that specifically allow for such class of operation as a permitted use or a conditional use. If a zoning district within the city allows for a particular class of operation on a conditional use basis, the Cannabis Establishment must apply for a variance in accordance with applicable provisions of Chapter --of the municipal code of Irvington.
- E. There shall be a minimum setback of two hundred (200) feet from any Cannabis Establishment to any public or private school, child daycare center, place of worship or residential building as measured from the main entrance of each establishment.
- F.
- B. Definitions. As used in this section, the following terms shall have the meanings indicated:

## CANNABIS

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. 2021, c. 16 (N.J.S.A. 24:6I-31 et seq.), 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 (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.); marijuana as defined in N.J.S.A. 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 (N.J.S.A. 2C:35B-1 et seq.), or marihuana as defined in Section 2 of P.L. 1970, c. 226 (N.J.S.A. 24:21-2), and applied to any offense set forth in the New Jersey Controlled Dangerous Substances Act, P.L. 1970, c. 226 (N.J.S.A. 24:21-1 et seq.); 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 (N.J.S.A. 4:28-6 et seq.).



### **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. This person or entity shall hold a Class 6 cannabis delivery license issued pursuant to CREAMMA.

### **CANNABIS EXTRACT**

A substance obtained by separating resins from cannabis by: 1) a chemical extraction process using a hydrocarbon-based solvent, such as butane, hexane, or propane; 2) a chemical extraction process using the hydrocarbon-based solvent carbon dioxide, if the process uses high heat or pressure; or 3) any other process identified by the Cannabis Regulatory Commission by rule or regulation.

### **CANNABIS FLOWER**

The flower of the plant *Cannabis sativa* L. within the plant family Cannabaceae.

### **CANNABIS ITEM**

Any usable cannabis, cannabis product, cannabis extract, and any other cannabis resin. "Cannabis item" does not include: any form of medical cannabis dispensed to registered qualifying patients pursuant to the Jake Honig 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.); 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 (N.J.S.A. 4:28-6 et seq.).

### **CANNABIS LEAF**

The leaf of the plant *Cannabis sativa* L. within the plant family Cannabaceae.

### **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. This person or entity shall hold a Class 2 cannabis manufacturer license issued pursuant to CREAMMA.

### **CANNABIS OPERATOR**

A person or entity that is authorized to conduct operations as a retailer or manufacturer in accordance with a cannabis permit issued by a cannabis permitting authority and pursuant to CREAMMA and its implementing regulations.

### **CANNABIS PERMIT OR LICENSE**

The document or documents, also referred to as a license, issued by the Division of Medicinal Marijuana within the New Jersey Department of Health, or the New Jersey Cannabis Regulatory Commission, or other state agency or entity or successor state agency or entity authorized to issue a medical cannabis dispensary permit/license or adult-use cannabis dispensary permit/license.

### **CANNABIS PERMITTING AUTHORITY**

The Division of Medicinal Marijuana within the New Jersey Department of Health and/or New Jersey Cannabis Regulatory Commission and/or any other state agency or entity or successor state agency or entity with the statutory and regulatory authority to issue medical cannabis dispensary permits or permit endorsements.

### **CANNABIS PRODUCT**

A product containing usable cannabis, cannabis extract, or any other cannabis resin and other ingredients intended for human consumption or use, including a product intended to be applied to the skin or hair, edible cannabis products, ointments, and

tinctures. "Cannabis product" does not include: 1) usable cannabis by itself; or 2) cannabis extract by itself; or 3) any other cannabis resin by itself.

### **CANNABIS RESIN**

The resin extracted from any part of the plant *Cannabis sativa* L., including cannabis extract and resin extracted using nonchemical processes, processed and used in accordance with P.L. 2021, c. 16 (N.J.S.A. 24:6I-31 et seq.). "Cannabis resin" does not include: any form of medical cannabis dispensed to registered qualifying patients pursuant to the Jake Honig 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.); hashish as defined in N.J.S.A. 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 (N.J.S.A. 2C:35B-1 et seq.), or as defined in Section 2 of P.L. 1970, c. 226 (N.J.S.A. 24:21-2), and applied to any offense of the New Jersey Controlled Dangerous Substances Act, P.L. 1970, c. 226 (N.J.S.A. 24:21-1 et seq.); 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 (N.J.S.A. 4:28-6 et seq.).

### **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 as set forth in N.J.S.A. 24:6I-44 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. This person or entity shall hold a Class 5 cannabis retailer license issued pursuant to CREAMMA.

### **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. This person or entity shall hold a Class 3 cannabis wholesaler license issued pursuant to CREAMMA.

### **CANNABIS CULTIVATOR (GROWER)**

Any licensed person or entity that grows, packages and/or sells cannabis.

### **CONSUMER**

A person 21 years of age or older who purchases, directly or through a cannabis delivery service, acquires, owns, holds, or uses cannabis items for personal use by a person 21 years of age or older, but not for resale to others.

### **CONSUMPTION**

The act of ingesting, inhaling, or otherwise introducing cannabis items into the human body.

### **CREAMMA**

The New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (Approved February 22, 2021).

### **DELIVERY**

The transportation of cannabis items and related supplies to a consumer. "Delivery" also includes the use by a licensed cannabis retailer of any third-party technology platform to receive, process, and fulfill orders by consumers, provided that any physical acts in connection with fulfilling the order and delivery shall be accomplished by a cannabis handler certified in accordance with N.J.S.A. 24:6I-44 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.



## HONIG ACT

The Jake Honig Compassionate Use Medical Cannabis Act (approved July 2, 2019), P.L. 2019, c. 153, revising and supplementing P.L. 2009, c. 307: N.J.S.A. 24:61-1 et seq.

## MICROBUSINESS

**The holder of a license with a smaller footprint than a standard license holder. It can be a distributor, delivery service and the Township sets the perimeters for same. Ex; employ no more than x-number of employees; establishment occupies an area of no more than x— square feet; possess no more than x- amount of cannabis plants each month; if a manufacturer no more than x amount of pounds of usable cannabis per month**

## PREMISES or LICENSED PREMISES

Includes the following areas of a location licensed under P.L. 2021, c. 16 (N.J.S.A. 24:6I-31 et seq.): 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

Any place to which the public has access that is not privately owned; 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.

## USABLE CANNABIS

The dried leaves and flowers of the female plant *Cannabis sativa* L., and does not include the seedlings, seeds, stems, stalks, or roots of the plant.

C. General. Standards and guidelines set forth in this section shall supersede other requirements of the zone district in which the dispensary is to be located to the extent they are inconsistent with the requirements for cannabis operators set forth herein. Where bulk regulations, parking requirements, or other provisions of the Zoning Code are not specifically stated, the underlying zoning standards and guidelines shall prevail.

D. Required approvals. Prior to the operation of any cannabis operator in the Township of Irvington the following shall be required:

(1) The applicant shall submit proof that the applicant has or will have lawful possession of the premises proposed for the cannabis retailer, which proof may consist of: a deed, a lease, a real estate contract contingent upon successful licensing, or a binding letter of intent by the owner of the premises indicating an intent to lease the premises to the entrant contingent upon successful licensing.

(2) The location proposed for licensing by the applicant shall comply with all applicable municipal zoning laws and the location restrictions set forth in this Code.

(3) The applicant shall submit all required fees for the application and conditional license in accordance with the fee schedule set forth below. All fees shall be nonrefundable except as expressly provided herein.



Type of License	Application Fee (Initial)	Application Fee (Renewal)	Annual Registration Fee
Retailer	\$10,000.00	\$10000.00	\$5000.00
Manufacturer	\$10,000.00	\$10000.00	\$7500.00
Grower	\$10,000.00	\$10000.00	\$7500.00
Distributor	\$10,000.00	\$10000.00	\$7500.00
Distributor	\$10,000.00	\$10000.00	\$7500.00
Delivery Service	\$10,000.00	\$10000.00	\$5000.00
Micro Retailer	\$5000.00	\$5000.00	\$2500.00

- (4) A cannabis operator must obtain a Class 1 (Cultivator), Class 2 (Manufacturer), Class 3 (Wholesaler), Class 4 (Distributor), Class 5 (Retailer) or Class 6 (Delivery) license issued by the state's Cannabis Regulatory Commission;
- (5) A state and local consumption endorsement must be obtained pursuant to CREAMMA;
- (6) Site plan approval shall be obtained from the Township of Irvington Planning Board or Board of Adjustment, as the case may be;
- (7) A first certificate of zoning compliance shall be obtained along with all necessary building permits for build-out of the cannabis operator in accordance with the approved site plan; and
- (8) A final certificate of zoning compliance and certificate of occupancy must be issued.
- (9) Any local license issued pursuant to this chapter shall be valid for a period of three years from the date of issuance, subject to payment of the annual registration fee, and shall be in accordance with the provisions of this chapter.

E. Compliance requirements. A cannabis operator established pursuant to this section shall, at all times, operate in complete compliance with the terms and conditions of its cannabis permit(s) and any conditions set forth in its site plan approval, and all applicable codes and standards set forth in state codes and the Municipal Code of the Township of Irvington.

F. Permitted zone districts. Cannabis operators shall be conditionally permitted, as a conditional use, only in the following districts:

- (1) Recreational cannabis retailer and dispensary shall be conditionally permitted in the following districts: B-3 Limited Business; B-4 General Business; and CBD Central Business District, Downtown Mixed-Use.
- (2) Medicinal cannabis retailer and dispensary shall be conditionally permitted in the following districts: B-1 Neighborhood Business District; B-2 Shopping Center; B-3 Limited Business; B-4 General Business; and CBD Central Business District, Downtown Mixed-Use.
- (3) Cultivating, manufacturing, wholesale, and distributing shall be conditionally permitted in the following districts: M-1 Special Industrial Manufacturing District; M-2 Light Industrial Manufacturing District; M-3 Heavy Industrial Manufacturing District.
- (4) In addition to the permitted zone districts, no cannabis operator shall operate within 200 feet of a school or place of worship.
- (5) B-5 Big Box Center shall be conditionally permitted for cannabis retailer and dispensary provided that the location is on the ground floor of the proposed site and has an entrance on the exterior of the location that serves as the primary point of ingress/egress for the business with secondary access into the main area of the Big Box Center that serves as an emergency exit only.

G. Hours of operation. It shall be unlawful for any person to sell (or dispense) cannabis or cannabis products at a cannabis operator within the Township of Irvington at any time other than between the hours of ~~8:00 a.m.~~ 9:00am and 8:00 p.m. daily. Monday through Saturday. On Sunday, hours of operation shall be permissible between 12:00pm and 6:00pm.



H. No cannabis operator shall be allowed as a home occupation as defined in §650-4.

I. No cannabis operator shall be housed in a vehicle or any movable or mobile structure.

J. Site plan approval; minimum requirements; performance standards.

(1) Minimum requirements. In addition to other requirements established by the Township of Irvington, the applicant shall include, at minimum, the following documents as evidence of compliance and good standing in the state and with the municipality.

(a) A letter from the Township of Irvington Director of Public Safety, or his or her designee, stating that the department has reviewed the applicant's safety and security protocols included in the pending application and has found them to be satisfactory.

(2) Performance standards.

(a) Building use. A cannabis operator shall only be located on the ground floor (i.e., street level) of any building in which it has been approved to be located unless the medical cannabis dispensary occupies the entire building on the property. Any such medical cannabis dispensary shall be accessible directly from the right-of-way through a separate entrance, independent from any other retail or residential ingress to the building. Only a secured, one-way emergency exit from the establishment may be integrated with common egress.

(b) Bulk and area requirements. Bulk and area requirements shall follow those of the underlying zoning district.

(c) Product display and storage. No cannabis products shall be visible from a public sidewalk, public street or right-of-way, or any other public place. All cannabis products shall be stored securely indoors and on site.

(d) Consumption. Consumption of cannabis products including smoking, ingestion of edibles or by any other means of consumption shall be not permitted on the premises or adjacent ground of a cannabis operator. Consumption shall not be permitted at any public place.

(e) Odor. A cannabis operator shall have equipment to mitigate cannabis-related odor. The building shall be equipped with a ventilation system with carbon filters or other filters sufficient in type and capacity to eliminate cannabis odors emanating from the interior of the premises. The filters are required to be replaced regularly for the best effectiveness to mitigate odor. The ventilation system must be approved by the Township of Irvington Health Department and Building Department or designated vendor and may be subject to periodic inspection.

(f) Noise. Outside generators and other mechanical equipment used for any kind of power supply, cooling or ventilation shall be enclosed and have appropriate baffles, mufflers, and/or other noise reduction systems to mitigate noise pollution.

(g) Security. All cannabis operators shall be secured and shall have full-time security protocols. Security protocols shall be submitted to the Township of Irvington Police Department for compliance review with all safety and security standards established by the State of New Jersey for cannabis operators. The Township of Irvington Police Department may, at its discretion and upon review of the proposed location, recommend or require additional safety and security measures. At minimum, the following shall apply:

[1] A video recording security system shall be employed covering all areas of the cannabis operator and the adjacent exterior of the building with a 24/7 recording system that records for a minimum thirty-day archive.

[2] The Township of Irvington Police Department and Zoning Officer shall be provided the name and twenty-four-hour phone number of the responsible staff person to notify during suspicious activity or emergency.



[3] Outside areas of the premises shall be well-illuminated for safety and security, but not in a way that is counter to Code requirements for outdoor lighting and screening or obtrusive to pedestrians, drivers or other users of the public right-of-way.

[4] The premises and right-of-way adjacent to the cannabis operator shall be monitored by staff of the medical cannabis dispensary and kept free of loitering, litter and other debris, and the sidewalks shall be swept and cleaned on a regular basis.

[5] Consumers shall be screened and demonstrate identification confirming they are ages 21 years old or older.

[6] Capacity. A cannabis retailer shall permit a maximum of 30 patrons per 1,500 square feet of gross floor area.

(h) Parking. Cannabis operators shall adhere to the following parking space requirements:

[1] Recreational retailer and dispensary: Any recreational retailer with a gross floor area of 1,500 square feet or less: none; any recreational retailer with a gross floor area exceeding 1,500 square feet: one space per 500 square feet of gross floor area.

[2] Medicinal dispensary: shall adhere to the parking requirements of banks, financial and business offices and professional and commercial offices (§ 650-33D).

[3] Cultivating, manufacturing wholesale or distributing: shall adhere to the parking requirements of industrial manufacturing establishments (§ 650-33N).

(i) Cannabis operator shall enter into a community benefit agreement.

**(j) Records: Records of all cannabis purchased and sold must be made available upon 14 days' advance notice when called for by the Township, or any other authorized person or entity.**

K. Penalty for violation. Any violation of the provisions of this subsection or the conditions of the zoning permit granted, inclusive of any agreements or conditions imposed by the Planning Board or Board of Adjustment, as the case may be, shall be punishable by a civil fine; minimum fine shall be \$2,500.00, maximum fine shall be \$5000.00. Each day that a violation is committed, exists or continues shall be deemed a separate and distinct offense. In addition, ongoing or repeat offenses may result in suspension of the certificate of occupancy for a period to be determined by the Zoning Officer. All violations will be reported to the appropriate cannabis permitting authority or designated state authority.

L. Suspension of use. The Municipal Council may suspend or revoke any license the corresponding state license or permit for the subject location is expired, surrendered, suspended, or revoked. Following the commencement of retail sales of cannabis or cannabis products, the Irvington Municipal Council may suspend or revoke any license if the licensed premises have been inactive or unoccupied by the licensee for at least six months Any subsequent application for use or occupancy of the premises as a cannabis operator, including reoccupation by the previous operator, shall be referred to the original land use board of jurisdiction as a new application.

M. Signage. The following signage regulations shall be enforced:

- (1) One sign shall be permitted per cannabis operator.
- (2) Signage shall not be illuminated at any time.
- (3) Signage shall comply with the requirements of § 650-31 of the Township's Zoning Ordinance.
- (4) The following words shall be prohibited: "cannabis," "marijuana," and "weed."

**N. No Transfer of License is Permitted:** It cannot be transferred in whole or in part, without the prior written approval of the Township of Irvington. No successor in interest of a licensee shall acquire any rights or powers without the prior written consent of the Township. For purposes of this chapter, any change in control of the



licensee resulting from a merger, consolidation, stock transfer, or asset sale shall be deemed an assignment or transfer that requires the prior written consent of the Township.

**RECORD OF COUNCIL VOTE**

X = Indicates Vote    N.V. = No Vote    A.B. = Absent    X.O.R. = Indicates Vote to Override Veto

COUNCIL MEMBER	YES	NO	N.V.	A.B.	COUNCIL MEMBER	YES	NO	N.V.	A.B.
BROWN	X				HUDLEY, 1 <sup>ST</sup> VICE PRESIDENT	X			
COX	X				VICK	X			
EVANS	X				BEASLEY, PRESIDENT	X			
FREDERIC, 2 <sup>ND</sup> VICE PRESIDENT	X								

Ordinance on First Reading Date MAR 25 2024 Council Adopted on Second Reading Date MAY 06 2024

MAYOR \_\_\_\_\_ Date 5/7/2024 Approved  Rejected \_\_\_\_\_

Reconsidered by Council - Override Yes \_\_\_\_\_ No \_\_\_\_\_ Date of Override \_\_\_\_\_

COUNCIL PRESIDENT Amellah J. Beasley

I hereby certify that the foregoing is a true copy of an Ordinance duly adopted by the Municipal Council. In witness whereof I have hereunto set my hand and the Corporate Seal of the Township of Irvington.

MUNICIPAL CLERK Shawna M. Lupel DATE 5/7/2024





**AN ORDINANCE AMENDING MC 3779  
TO REGULATE CANNABIS IN THE TOWNSHIP OF IRVINGTON**

§ 650-47.1

**CANNABIS OPERATORS**

[Added 8-9-2021 by Ord. No. MC 3773; amended 9-27-2021 by Ord. No. MC 3779]

A. Enabling authority. The requirements of this section are subject to the enabling authority of the State of New Jersey and are subject to compliance with all statutes and/or regulations adopted by the State of New Jersey or its instrumentalities. If any provision of this section is inconsistent with the statutes and/or regulations of the State of New Jersey, the state statutes and/or regulations shall govern.

CANNABIS ESTABLISHMENTS PERMITTING; RULES AND REGULATIONS Purpose.

A. This chapter titled "Cannabis Establishments" is created and added to the general ordinances of the municipal code of Irvington for the purpose of establishing local permitting requirements and regulating the operations of cannabis establishments with respect to the cultivation, manufacturing, wholesale, distribution, retail, delivery, use and consumption of recreational cannabis and cannabis items in the township in accordance with the provisions of the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (the "Act"), any supplements and amendments thereto, and in accordance with the rules and regulations promulgated or to be promulgated by the New Jersey Cannabis Regulatory Commission (the "CRC"), and in accordance with the rules and regulations of the township not inconsistent with the Act or the rules and regulations of the State of New Jersey. The regulations of this ordinance are subject to the enabling authority of the state pursuant to N.J.S.A., 24:6I-45 and are subject to compliance with all statutes and regulations adopted by the state or its instrumentalities, including the CRC. If any provision of this ordinance is inconsistent with state statutes or any regulations thereof, the state statutes and regulations shall prevail. General Provisions.

B. Prior to the operation of any Cannabis Establishment in the Township, a conditional License must be obtained from the state pursuant to the Act and a permit must be obtained from the Township pursuant to this chapter for the particular class of operation being conducted.

a. The Township of Irvington shall have an application process for the Cannabis License approval from the Township and by completing and submitting said application for consideration each applicant is certifying that it has:

- i. Applicant's name, principal address, telephone number, email address, contact name and title;
- ii. Class of License sought; Proposed site location with evidence of site control or plans to obtain site control, floor plan(s), and a brief statement of suitability of the site for operation as a Cannabis Establishment;

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- iii. Certification that applicant has reviewed the city's zoning ordinances and that to the best of applicant's knowledge the proposed site location meets the requisite zoning applicable to the location for the class of License sought either on a permitted use or conditional use basis and, if permitted on a conditional use basis, the reasons why the city should grant the applicant a variance;
- iv. Any prior experience owning, operating or working in cannabis establishments, or in other highly regulated industries such as pharmaceuticals, banking and insurance;
- v. Brief description of security plan that specifically addresses proposed onsite security and surveillance, diversion prevention and emergency management;
- vi. Brief description of nuisance mitigation plan that specifically addresses proposed plans to address noise, odor, waste disposal and vehicular congestion mitigation;
- vii. Brief description of community impact plan summarizing how the applicant intends to have a positive impact on the community in which the proposed cannabis establishment is to be located; applicant's ties to the proposed host community (including the percentage of owners, if any, that are residents of the city or a municipality bordering the city); and which shall include an economic impact plan and a description of community outreach activities;
- viii. Brief description of workforce development and job creation plan ensuring that 35% or more of the applicant's workforce will come from city residents; and which may include information on the applicant's history of job creation or planned job creation at the proposed cannabis establishment; education, training and resources to be made available for employees; any relevant certifications, and an optional diversity plan;
- ix. A written description of the applicant's record of social responsibility, philanthropy, and ties to the proposed host community;
- x. Any other information, consistent with state licensing and city permitting requirements, which the Board requests; and
- xi. Any other information, consistent with state licensing requirements, which the applicant wishes for the city to consider in reviewing its Proposal.

C. Denials. Applicants who are denied local support will have thirty (30) days within which to correct any deficiency cited in the city's denial letter and to resubmit an amended Proposal. The Board will then have up to thirty (30) days from receipt of the amended Proposal within which to review the amended portions of applicant's Proposal. At the conclusion of this review period, the city will once again issue a written determination either approving or denying applicant's request in the form and manner prescribed in §265-5(C) above. There is no limitation on the number of times an applicant may resubmit amended Proposals for reconsideration by the Board. However, the times prescribed for resubmission and review herein shall remain in effect during each review period. G. Fees. A non-refundable, administrative fee of \$200 shall be submitted with each Proposal and amended Proposal submitted to the Board for review.

D. Following receipt of a conditional approval from the state and approval of a Cannabis License from the Township of Irvington, the applicant must obtain a Zoning Determination from the Department of Housing and Building Construction and/or Community Development.

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a. Zoning Generally. Cannabis Establishments shall only be permitted to operate in zoning districts within the township that specifically allow for such class of operation as a permitted use or a conditional use. If a zoning district within the city allows for a particular class of operation on a conditional use basis, the Cannabis Establishment must apply for a variance in accordance with applicable provisions of Chapter --of the municipal code of Irvington.

E. There shall be a minimum setback of two hundred (200) feet from any Cannabis Establishment to any public or private school, child daycare center, place of worship or residential building as measured from the main entrance of each establishment.

A-F.

B. Definitions. As used in this section, the following terms shall have the meanings indicated:

#### **CANNABIS**

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. 2021, c. 16 (N.J.S.A. 24:6I-31 et seq.), 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 (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.); marijuana as defined in N.J.S.A. 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 (N.J.S.A. 2C:35B-1 et seq.), or marihuana as defined in Section 2 of P.L. 1970, c. 226 (N.J.S.A. 24:21-2), and applied to any offense set forth in the New Jersey Controlled Dangerous Substances Act, P.L. 1970, c. 226 (N.J.S.A. 24:21-1 et seq.); 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 (N.J.S.A. 4:28-6 et seq.).

#### **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. This person or entity shall hold a Class 6 cannabis delivery license issued pursuant to CREAMMA.

#### **CANNABIS EXTRACT**

A substance obtained by separating resins from cannabis by: 1) a chemical extraction process using a hydrocarbon-based solvent, such as butane, hexane, or propane; 2) a chemical extraction process using the hydrocarbon-based solvent carbon dioxide, if the process uses high heat or pressure; or 3) any other process identified by the Cannabis Regulatory Commission by rule or regulation.

#### **CANNABIS FLOWER**

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The flower of the plant *Cannabis sativa* L. within the plant family Cannabaceae.

**CANNABIS ITEM**

Any usable cannabis, cannabis product, cannabis extract, and any other cannabis resin. "Cannabis item" does not include: any form of medical cannabis dispensed to registered qualifying patients pursuant to the Jake Honig 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.); 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 (N.J.S.A. 4:28-6 et seq.).

**CANNABIS LEAF**

The leaf of the plant *Cannabis sativa* L. within the plant family Cannabaceae.

**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. This person or entity shall hold a Class 2 cannabis manufacturer license issued pursuant to CREAMMA.

**CANNABIS OPERATOR**

A person or entity that is authorized to conduct operations as a retailer or manufacturer in accordance with a cannabis permit issued by a cannabis permitting authority and pursuant to CREAMMA and its implementing regulations.

**CANNABIS PERMIT OR LICENSE**

The document or documents, also referred to as a license, issued by the Division of Medicinal Marijuana within the New Jersey Department of Health, or the New Jersey Cannabis Regulatory Commission, or other state agency or entity or successor state agency or entity authorized to issue a medical cannabis dispensary permit/license or adult-use cannabis dispensary permit/license.

**CANNABIS PERMITTING AUTHORITY**

The Division of Medicinal Marijuana within the New Jersey Department of Health and/or New Jersey Cannabis Regulatory Commission and/or any other state agency or entity or successor state agency or entity with the statutory and regulatory authority to issue medical cannabis dispensary permits or permit endorsements.

**CANNABIS PRODUCT**

A product containing usable cannabis, cannabis extract, or any other cannabis resin and other ingredients intended for human consumption or use, including a product intended to be applied to the skin or hair, edible cannabis products, ointments, and tinctures. "Cannabis product" does not include: 1) usable cannabis by itself; or 2) cannabis extract by itself; or 3) any other cannabis resin by itself.



#### **CANNABIS RESIN**

The resin extracted from any part of the plant *Cannabis sativa* L., including cannabis extract and resin extracted using nonchemical processes, processed and used in accordance with P.L. 2021, c. 16 (N.J.S.A. 24:6I-31 et seq.). "Cannabis resin" does not include: any form of medical cannabis dispensed to registered qualifying patients pursuant to the Jake Honig 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.); hashish as defined in N.J.S.A. 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 (N.J.S.A. 2C:35B-1 et seq.), or as defined in Section 2 of P.L. 1970, c. 226 (N.J.S.A. 24:21-2), and applied to any offense of the New Jersey Controlled Dangerous Substances Act, P.L. 1970, c. 226 (N.J.S.A. 24:21-1 et seq.); 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 (N.J.S.A. 4:28-6 et seq.).

#### **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 as set forth in N.J.S.A. 24:6I-44 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. This person or entity shall hold a Class 5 cannabis retailer license issued pursuant to CREAMMA.

#### **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. This person or entity shall hold a Class 3 cannabis wholesaler license issued pursuant to CREAMMA.

#### **CANNABIS CULTIVATOR (GROWER)**

Any licensed person or entity that grows, packages and/or sells cannabis.

#### **CONSUMER**

A person 21 years of age or older who purchases, directly or through a cannabis delivery service, acquires, owns, holds, or uses cannabis items for personal use by a person 21 years of age or older, but not for resale to others.

#### **CONSUMPTION**

The act of ingesting, inhaling, or otherwise introducing cannabis items into the human body.

#### **CREAMMA**

The New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (Approved February 22, 2021).

#### **DELIVERY**

The transportation of cannabis items and related supplies to a consumer. "Delivery" also includes the use by a licensed cannabis retailer of any third-party technology platform to receive, process, and fulfill orders by consumers, provided that any physical acts in connection with fulfilling the order and delivery shall be accomplished by a cannabis handler certified in accordance with N.J.S.A. 24:61-44 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.

#### **HONIG ACT**

The Jake Honig Compassionate Use Medical Cannabis Act (approved July 2, 2019), P.L. 2019, c. 153, revising and supplementing P.L. 2009, c. 307: N.J.S.A. 24:61-1 et seq.

#### **MICROBUSINESS**

**The holder of a license with a smaller footprint than a standard license holder. It can be a distributor, delivery service and the Township sets the perimeters for same. Ex; employ no more than x-number of employees; establishment occupies an area of no more than x— square feet; possess no more than x- amount of cannabis plants each month; if a manufacturer no more than x amount of pounds of usable cannabis per month**

#### **PREMISES or LICENSED PREMISES**

Includes the following areas of a location licensed under P.L. 2021, c. 16 (N.J.S.A. 24:61-31 et seq.): 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**

Any place to which the public has access that is not privately owned; 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.

**USABLE CANNABIS**

The dried leaves and flowers of the female plant Cannabis sativa L., and does not include the seedlings, seeds, stems, stalks, or roots of the plant.

C. General. Standards and guidelines set forth in this section shall supersede other requirements of the zone district in which the dispensary is to be located to the extent they are inconsistent with the requirements for cannabis operators set forth herein. Where bulk regulations, parking requirements, or other provisions of the Zoning Code are not specifically stated, the underlying zoning standards and guidelines shall prevail.

D. Required approvals. Prior to the operation of any cannabis operator in the Township of Irvington the following shall be required:

(1) The applicant shall submit proof that the applicant has or will have lawful possession of the premises proposed for the cannabis retailer, which proof may consist of: a deed, a lease, a real estate contract contingent upon successful licensing, or a binding letter of intent by the owner of the premises indicating an intent to lease the premises to the entrant contingent upon successful licensing.

(2) The location proposed for licensing by the applicant shall comply with all applicable municipal zoning laws and the location restrictions set forth in this Code.

(3) The applicant shall submit all required fees for the application and conditional license in accordance with the fee schedule set forth below. All fees shall be nonrefundable except as expressly provided herein.

Type of License	Application Fee (Initial)	Application Fee (Renewal)	Annual Registration Fee
Retailer	\$10,000.00	\$10000.00	\$5000.00
Manufacturer	\$10,000.00	\$10000.00	\$7500.00
Grower	\$10,000.00	\$10000.00	\$7500.00
Distributor	\$10,000.00	\$10000.00	\$7500.00
Distributor	\$10,000.00	\$10000.00	\$7500.00
Delivery Service	\$10,000.00	\$10000.00	\$5000.00
Micro Retailer	\$5000.00	\$5000.00	\$2500.00

(4) A cannabis operator must obtain a Class 1 (Cultivator), Class 2 (Manufacturer), Class 3 (Wholesaler), Class 4 (Distributor), ~~or~~ Class 5 (Retailer) or Class 6 (Delivery) license issued by the state's Cannabis Regulatory Commission;

(5) A state and local consumption endorsement must be obtained pursuant to CREAMMA;

(6) Site plan approval shall be obtained from the Township of Irvington Planning Board or Board of Adjustment, as the case may be;

(7) A first certificate of zoning compliance shall be obtained along with all necessary building permits for build-out of the cannabis operator in accordance with the approved site plan; and

(8) A final certificate of zoning compliance and certificate of occupancy must be issued.

(9) Any local license issued pursuant to this chapter shall be valid for a period of three years from the date of issuance, subject to payment of the annual registration fee, and shall be in accordance with the provisions of this chapter.

E. Compliance requirements. A cannabis operator established pursuant to this section shall, at all times, operate in complete compliance with the terms and conditions of its cannabis permit(s) and any conditions set forth in its site plan approval, and all applicable codes and standards set forth in state codes and the Municipal Code of the Township of Irvington.

F. Permitted zone districts. Cannabis operators shall be conditionally permitted, as a conditional use, only in the following districts:

(1) Recreational cannabis retailer and dispensary shall be conditionally permitted in the following districts: B-3 Limited Business; B-4 General Business; and CBD Central Business District, Downtown Mixed-Use.

(2) Medicinal cannabis retailer and dispensary shall be conditionally permitted in the following districts: B-1 Neighborhood Business District; B-2 Shopping Center; B-3 Limited Business; B-4 General Business; and CBD Central Business District, Downtown Mixed-Use.

(3) Cultivating, manufacturing, wholesale, and distributing shall be conditionally permitted in the following districts: M-1 Special Industrial Manufacturing District; M-2 Light Industrial Manufacturing District; M-3 Heavy Industrial Manufacturing District.

(4) In addition to the permitted zone districts, no cannabis operator shall operate within ~~200~~1000 feet of a school or place of worship.

(5) B-5 Big Box Center shall be conditionally permitted for cannabis retailer and dispensary provided that the location is on the ground floor of the proposed site and has an entrance on the exterior of the location that serves as the primary point of ingress/egress for the business with secondary access into the main area of the Big Box Center that serves as an emergency exit only.

G. Hours of operation. It shall be unlawful for any person to sell (or dispense) cannabis or cannabis products at a cannabis operator within the Township of Irvington at any time other than between the hours of ~~8:00 a.m.~~ 9:00am and 8:00 p.m. ~~daily.~~ Monday through Saturday. On Sunday, hours of operation shall be permissible between 12:00pm and 6:00pm.

H. No cannabis operator shall be allowed as a home occupation as defined in §650-4.

I. No cannabis operator shall be housed in a vehicle or any movable or mobile structure.

J. Site plan approval; minimum requirements; performance standards.



(1) Minimum requirements. In addition to other requirements established by the Township of Irvington, the applicant shall include, at minimum, the following documents as evidence of compliance and good standing in the state and with the municipality.

(a) A letter from the Township of Irvington Director of Public Safety, or his or her designee, stating that the department has reviewed the applicant's safety and security protocols included in the pending application and has found them to be satisfactory.

(2) Performance standards.

(a) Building use. A cannabis operator shall only be located on the ground floor (i.e., street level) of any building in which it has been approved to be located unless the medical cannabis dispensary occupies the entire building on the property. Any such medical cannabis dispensary shall be accessible directly from the right-of-way through a separate entrance, independent from any other retail or residential ingress to the building. Only a secured, one-way emergency exit from the establishment may be integrated with common egress.

(b) Bulk and area requirements. Bulk and area requirements shall follow those of the underlying zoning district.

(c) Product display and storage. No cannabis products shall be visible from a public sidewalk, public street or right-of-way, or any other public place. All cannabis products shall be stored securely indoors and on site.

(d) Consumption. Consumption of cannabis products including smoking, ingestion of edibles or by any other means of consumption shall be not permitted on the premises or adjacent ground of a cannabis operator. Consumption shall not be permitted at any public place.

(e) Odor. A cannabis operator shall have equipment to mitigate cannabis-related odor. The building shall be equipped with a ventilation system with carbon filters or other filters sufficient in type and capacity to eliminate cannabis odors emanating from the interior of the premises. The filters are required to be replaced regularly for the best effectiveness to mitigate odor. The ventilation system must be approved by the Township of Irvington Health Department and Building Department or designated vendor and may be subject to periodic inspection.

(f) Noise. Outside generators and other mechanical equipment used for any kind of power supply, cooling or ventilation shall be enclosed and have appropriate baffles, mufflers, and/or other noise reduction systems to mitigate noise pollution.

(g) Security. All cannabis operators shall be secured and shall have full-time security protocols. Security protocols shall be submitted to the Township of Irvington Police Department for compliance review with all safety and security standards established by the State of New Jersey for cannabis operators. The Township of Irvington Police Department may, at its discretion and upon review of the proposed location,

recommend or require additional safety and security measures. At minimum, the following shall apply:

[1] A video recording security system shall be employed covering all areas of the cannabis operator and the adjacent exterior of the building with a 24/7 recording system that records for a minimum thirty-day archive.

[2] The Township of Irvington Police Department and Zoning Officer shall be provided the name and twenty-four-hour phone number of the responsible staff person to notify during suspicious activity or emergency.

[3] Outside areas of the premises shall be well-illuminated for safety and security, but not in a way that is counter to Code requirements for outdoor lighting and screening or obtrusive to pedestrians, drivers or other users of the public right-of-way.

[4] The premises and right-of-way adjacent to the cannabis operator shall be monitored by staff of the medical cannabis dispensary and kept free of loitering, litter and other debris, and the sidewalks shall be swept and cleaned on a regular basis.

[5] Consumers shall be screened and demonstrate identification confirming they are ages 21 years old or older.

[6] Capacity. A cannabis retailer shall permit a maximum of 30 patrons per 1,500 square feet of gross floor area.

(h) Parking. Cannabis operators shall adhere to the following parking space requirements:

[1] Recreational retailer and dispensary: Any recreational retailer with a gross floor area of 1,500 square feet or less: none; any recreational retailer with a gross floor area exceeding 1,500 square feet: one space per 500 square feet of gross floor area.

[2] Medicinal dispensary: shall adhere to the parking requirements of banks, financial and business offices and professional and commercial offices (§ 650-33D).

[3] Cultivating, manufacturing wholesale or distributing: shall adhere to the parking requirements of industrial manufacturing establishments (§ 650-33N).

(i) Cannabis operator shall enter into a community benefit agreement.

**(j) Records: Records of all cannabis purchased and sold must be made available upon 14 days' advance notice when called for by the Township, or any other authorized person or entity.**

K. Penalty for violation. Any violation of the provisions of this subsection or the conditions of the zoning permit granted, inclusive of any agreements or conditions imposed by the Planning Board or Board of



Adjustment, as the case may be, shall be punishable by a civil fine; minimum fine shall be \$2,500.00, maximum fine shall be \$5000.00. Each day that a violation is committed, exists or continues shall be deemed a separate and distinct offense. In addition, ongoing or repeat offenses may result in suspension of the certificate of occupancy for a period to be determined by the Zoning Officer. All violations will be reported to the appropriate cannabis permitting authority or designated state authority.

L. Suspension of use. The Municipal Council may suspend or revoke any license the corresponding state license or permit for the subject location is expired, surrendered, suspended, or revoked. Following the commencement of retail sales of cannabis or cannabis products, the Irvington Municipal Council may suspend or revoke any license if the licensed premises have been inactive or unoccupied by the licensee for at least six months Any subsequent application for use or occupancy of the premises as a cannabis operator, including reoccupation by the previous operator, shall be referred to the original land use board of jurisdiction as a new application.

M. Signage. The following signage regulations shall be enforced:

- (1) One sign shall be permitted per cannabis operator.
- (2) Signage shall not be illuminated at any time.
- (3) Signage shall comply with the requirements of § 650-31 of the Township's Zoning Ordinance.
- (4) The following words shall be prohibited: "cannabis," "marijuana," and "weed."

**N. No Transfer of License is Permitted:** It cannot be transferred in whole or in part, without the prior written approval of the Township of Irvington. No successor in interest of a licensee shall acquire any rights or powers without the prior written consent of the Township. For purposes of this chapter, any change in control of the licensee resulting from a merger, consolidation, stock transfer, or asset sale shall be deemed an assignment or transfer that requires the prior written consent of the Township.




**TOWNSHIP OF IRVINGTON**  
**OFFICE OF THE TOWNSHIP CLERK**  
MUNICIPAL BUILDING  
CIVIC SQUARE  
IRVINGTON, NEW JERSEY 07111  
Tel: (973) 399-6664  
Fax: (973) 416-6417  
[www.irvington.net](http://www.irvington.net)

Shawna M. Supel, R.M.C.  
Municipal Clerk

Shonta' D. Watson, R.M.C.  
Assistant Municipal Clerk

DATE: March 26, 2024

TO: Kyana Woolridge, Esq., Community Development Director  
Dorinda Francis McKenzie, Planning Board Secretary

FROM: Shawna M. Supel, Municipal Clerk 

**SUBJECT: Amendment to Revised Zoning Ordinance – Cannabis Ordinance**

Pursuant to the requirements set forth in N.J.S.A. 40:55D-15, please be advised that an amendment to the Revised Zoning Ordinance of the Township of Irvington, which is enclosed herewith, was introduced at a regularly scheduled meeting of the Municipal Council on March 25, 2024.

By copy of this correspondence, kindly refer the attached ordinance to the Planning Board at their next scheduled meeting for review and recommendations.

Public hearing and second and final reading on said amendment is scheduled for the regularly scheduled meeting of the Municipal Council to be held on **Monday, May 6, 2024 at 7:30 P.M.** virtually through Zoom Webinar.

Enclosure (1)

cc: Musa Malik, Business Administrator



## Shawna Supel

---

**From:** Shawna Supel  
**Sent:** Thursday, March 28, 2024 11:00 AM  
**To:** Kyana Woolridge; Dorinda Francis  
**Cc:** Musa A. Malik; Shonta Watson  
**Subject:** LETTER - Intro Zoning Amendment Ord. Cannabis to Irvington Planning Board Secretary for Planning Board's Review  
**Attachments:** LETTER - Intro Zoning Amendment Ord. Cannabis to Irvington Planning Board Secretary for Planning Board's Review.pdf; 8-A-1 03\_22\_24 - Cannabis Ordinance Revised.docx

Good morning,

Please see attachments.

Regards,

*Shawna M. Supel*

Municipal Clerk  
Township of Irvington  
Office of the Municipal Clerk  
1 Civic Square, Room 104  
Irvington, NJ 07111  
Phone: 973-399-6664  
Fax: 973-416-6417  
[www.irvington.net](http://www.irvington.net)




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Shawna M. Supel, R.M.C.  
Municipal Clerk

Shonta' D. Watson, R.M.C.  
Assistant Municipal Clerk

DATE: March 26, 2024

TO: David Antonio, Planner, Essex County Planning Board (CMR No. 7017 2680 0000 0709 0281)  
Eileen Birch, Union Municipal Clerk (CMR No. 7017 2680 0000 0709 0298)  
Elizabeth J. Fritzen, Maplewood Municipal Clerk, (CMR No. 7017 2680 0000 0709 0311)  
Kecia Daniels, Newark Municipal Clerk, (CMR No. 7017 2680 0000 0709 0335)  
Sylvia Vason, Hillside Municipal Clerk (CMR No. 7017 2680 0000 0709 0342)  
Ojetti E. Davis, South Orange Municipal Clerk, (CMR No. 7017 2680 0000 0709 0359)

FROM: Shawna M. Supel, Municipal Clerk 

SUBJECT: Amendment to Revised Zoning Ordinance – Cannabis Ordinance

Pursuant to the requirements set forth in N.J.S.A. 40:55D-15, please be advised that an amendment to the Revised Zoning Ordinance of the Township of Irvington, which is enclosed herewith, was introduced at a regularly scheduled meeting of the Municipal Council on March 25, 2024.

Public hearing and second and final reading on said amendment is scheduled for the regularly scheduled meeting of the Municipal Council to be held on May 6, 2024 at 7:30 P.M. virtually through Zoom Webinar as outlined below.

Join Zoom Meeting: <https://us02web.zoom.us/j/88146888099>  
Webinar ID: 881 4688 8099

One tap mobile  
US: +13126266799,,88146888099#  
+16469313860,,88146888099#

Members of the public who would like to attend the meeting and offer public comment, you must sign up via the registration link:  
[https://us02web.zoom.us/webinar/register/WN\\_ACMvimQTRfSo\\_UeZWxKyIQ](https://us02web.zoom.us/webinar/register/WN_ACMvimQTRfSo_UeZWxKyIQ) or e-mail the Municipal Clerk's Office at [townclerk@irvingtonnj.org](mailto:townclerk@irvingtonnj.org).

Enclosure (1)

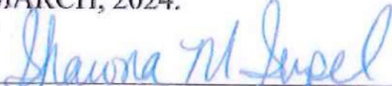
Certified Mail  
Return Receipt Requested



March 26, 2024

THIS IS TO CERTIFY that the following is a true and correct copy of an ordinance entitled: "AN ORDINANCE AMENDING MC 3832 TO REGULATE CANNABIS IN THE TOWNSHIP OF IRVINGTON" which was duly introduced and passed on first reading by the Municipal Council of the Township of Irvington on March 25, 2024.

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND AND THE CORPORATE SEAL OF THE TOWNSHIP OF IRVINGTON THIS 26TH DAY OF MARCH, 2024.

  
\_\_\_\_\_  
SHAWNA M. SUPEL, R.M.C. #C-1504  
MUNICIPAL CLERK

**AN ORDINANCE AMENDING MC 3832  
TO REGULATE CANNABIS IN THE TOWNSHIP OF IRVINGTON**

§ 650-47.1

**CANNABIS OPERATORS**

[Added 8-9-2021 by Ord. No. MC 3773; amended 9-27-2021 by Ord. No. MC 3779]

- A. Enabling authority. The requirements of this section are subject to the enabling authority of the State of New Jersey and are subject to compliance with all statutes and/or regulations adopted by the State of New Jersey or its instrumentalities. If any provision of this section is inconsistent with the statutes and/or regulations of the State of New Jersey, the state statutes and/or regulations shall govern.

**CANNABIS ESTABLISHMENTS PERMITTING; RULES AND REGULATIONS**  
Purpose.

- A. This chapter titled "Cannabis Establishments" is created and added to the general ordinances of the municipal code of Irvington for the purpose of establishing local permitting requirements and regulating the operations of cannabis establishments with respect to the cultivation, manufacturing, wholesale, distribution, retail, delivery, use and consumption of recreational cannabis and cannabis items in the township in accordance with the provisions of the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (the "Act"), any supplements and amendments thereto, and in accordance with the rules and regulations promulgated or to be promulgated by the New Jersey Cannabis Regulatory Commission (the "CRC"), and in accordance with the rules and regulations of the township not inconsistent with the Act or the rules and regulations of the State of New Jersey. The regulations of this ordinance are subject to the enabling authority of the state pursuant to N.J.S.A., 24:6I-45 and are subject to compliance with all statutes and regulations adopted by the state or its



instrumentalities, including the CRC. If any provision of this ordinance is inconsistent with state statutes or any regulations thereof, the state statutes and regulations shall prevail. General Provisions.

- B. Prior to the operation of any Cannabis Establishment in the Township, a conditional License must be obtained from the state pursuant to the Act and a permit must be obtained from the Township pursuant to this chapter for the particular class of operation being conducted.
- a. The Township of Irvington shall have an application process for the Cannabis License approval from the Township and by completing and submitting said application for consideration each applicant is certifying that it has:
    - i. Applicant's name, principal address, telephone number, email address, contact name and title;
    - ii. Class of License sought; Proposed site location with evidence of site control or plans to obtain site control, floor plan(s), and a brief statement of suitability of the site for operation as a Cannabis Establishment;
    - iii. Certification that applicant has reviewed the city's zoning ordinances and that to the best of applicant's knowledge the proposed site location meets the requisite zoning applicable to the location for the class of License sought either on a permitted use or conditional use basis and, if permitted on a conditional use basis, the reasons why the city should grant the applicant a variance;
    - iv. Any prior experience owning, operating or working in cannabis establishments, or in other highly regulated industries such as pharmaceuticals, banking and insurance;
    - v. Brief description of security plan that specifically addresses proposed onsite security and surveillance, diversion prevention and emergency management;
    - vi. Brief description of nuisance mitigation plan that specifically addresses proposed plans to address noise, odor, waste disposal and vehicular congestion mitigation;
    - vii. Brief description of community impact plan summarizing how the applicant intends to have a positive impact on the community in which the proposed cannabis establishment is to be located; applicant's ties to the proposed host community (including the percentage of owners, if any, that are residents of the city or a municipality bordering the city); and which shall include an economic impact plan and a description of community outreach activities;
    - viii. Brief description of workforce development and job creation plan ensuring that 35% or more of the applicant's workforce will come from city residents; and which may include information on the



applicant's history of job creation or planned job creation at the proposed cannabis establishment; education, training and resources to be made available for employees; any relevant certifications, and an optional diversity plan;

- ix. A written description of the applicant's record of social responsibility, philanthropy, and ties to the proposed host community;
  - x. Any other information, consistent with state licensing and city permitting requirements, which the Board requests; and
  - xi. Any other information, consistent with state licensing requirements, which the applicant wishes for the city to consider in reviewing its Proposal.
- C. Denials. Applicants who are denied local support will have thirty (30) days within which to correct any deficiency cited in the city's denial letter and to resubmit an amended Proposal. The Board will then have up to thirty (30) days from receipt of the amended Proposal within which to review the amended portions of applicant's Proposal. At the conclusion of this review period, the city will once again issue a written determination either approving or denying applicant's request in the form and manner prescribed in §265-5(C) above. There is no limitation on the number of times an applicant may resubmit amended Proposals for reconsideration by the Board. However, the times prescribed for resubmission and review herein shall remain in effect during each review period.
- G. Fees. A non-refundable, administrative fee of \$200 shall be submitted with each Proposal and amended Proposal submitted to the Board for review.
- D. Following receipt of a conditional approval from the state and approval of a Cannabis License from the Township of Irvington, the applicant must obtain a Zoning Determination from the Department of Housing and Building Construction and/or Community Development.
- a. Zoning Generally. Cannabis Establishments shall only be permitted to operate in zoning districts within the township that specifically allow for such class of operation as a permitted use or a conditional use. If a zoning district within the city allows for a particular class of operation on a conditional use basis, the Cannabis Establishment must apply for a variance in accordance with applicable provisions of Chapter --of the municipal code of Irvington.
- E. There shall be a minimum setback of two hundred (200) feet from any Cannabis Establishment to any public or private school, child daycare center, place of worship or residential building as measured from the main entrance of each establishment.
- F.

B. Definitions. As used in this section, the following terms shall have the meanings indicated:

**CANNABIS**



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. 2021, c. 16 (N.J.S.A. 24:6I-31 et seq.), 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 (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.); marijuana as defined in N.J.S.A. 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 (N.J.S.A. 2C:35B-1 et seq.), or marihuana as defined in Section 2 of P.L. 1970, c. 226 (N.J.S.A. 24:21-2), and applied to any offense set forth in the New Jersey Controlled Dangerous Substances Act, P.L. 1970, c. 226 (N.J.S.A. 24:21-1 et seq.); 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 (N.J.S.A. 4:28-6 et seq.).

#### **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. This person or entity shall hold a Class 6 cannabis delivery license issued pursuant to CREAMMA.

#### **CANNABIS EXTRACT**

A substance obtained by separating resins from cannabis by: 1) a chemical extraction process using a hydrocarbon-based solvent, such as butane, hexane, or propane; 2) a chemical extraction process using the hydrocarbon-based solvent carbon dioxide, if the process uses high heat or pressure; or 3) any other process identified by the Cannabis Regulatory Commission by rule or regulation.

#### **CANNABIS FLOWER**

The flower of the plant *Cannabis sativa* L. within the plant family Cannabaceae.

#### **CANNABIS ITEM**

Any usable cannabis, cannabis product, cannabis extract, and any other cannabis resin. "Cannabis item" does not include: any form of medical cannabis dispensed to registered qualifying patients pursuant to the Jake Honig 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.); 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 (N.J.S.A. 4:28-6 et seq.).

#### **CANNABIS LEAF**

The leaf of the plant *Cannabis sativa* L. within the plant family Cannabaceae.

#### **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. This person or entity shall hold a Class 2 cannabis manufacturer license issued pursuant to CREAMMA.

**CANNABIS OPERATOR**

A person or entity that is authorized to conduct operations as a retailer or manufacturer in accordance with a cannabis permit issued by a cannabis permitting authority and pursuant to CREAMMA and its implementing regulations.

**CANNABIS PERMIT OR LICENSE**

The document or documents, also referred to as a license, issued by the Division of Medicinal Marijuana within the New Jersey Department of Health, or the New Jersey Cannabis Regulatory Commission, or other state agency or entity or successor state agency or entity authorized to issue a medical cannabis dispensary permit/license or adult-use cannabis dispensary permit/license.

**CANNABIS PERMITTING AUTHORITY**

The Division of Medicinal Marijuana within the New Jersey Department of Health and/or New Jersey Cannabis Regulatory Commission and/or any other state agency or entity or successor state agency or entity with the statutory and regulatory authority to issue medical cannabis dispensary permits or permit endorsements.

**CANNABIS PRODUCT**

A product containing usable cannabis, cannabis extract, or any other cannabis resin and other ingredients intended for human consumption or use, including a product intended to be applied to the skin or hair, edible cannabis products, ointments, and tinctures. "Cannabis product" does not include: 1) usable cannabis by itself; or 2) cannabis extract by itself; or 3) any other cannabis resin by itself.

**CANNABIS RESIN**

The resin extracted from any part of the plant *Cannabis sativa* L., including cannabis extract and resin extracted using nonchemical processes, processed and used in accordance with P.L. 2021, c. 16 (N.J.S.A. 24:6I-31 et seq.). "Cannabis resin" does not include: any form of medical cannabis dispensed to registered qualifying patients pursuant to the Jake Honig 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.); hashish as defined in N.J.S.A. 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 (N.J.S.A. 2C:35B-1 et seq.), or as defined in Section 2 of P.L. 1970, c. 226 (N.J.S.A. 24:21-2), and applied to any offense of the New Jersey Controlled Dangerous Substances Act, P.L. 1970, c. 226 (N.J.S.A. 24:21-1 et seq.); 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 (N.J.S.A. 4:28-6 et seq.).

**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 as set forth in N.J.S.A. 24:6I-44 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. This person or entity shall hold a Class 5 cannabis retailer license issued pursuant to CREAMMA.

#### **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. This person or entity shall hold a Class 3 cannabis wholesaler license issued pursuant to CREAMMA.

#### **CANNABIS CULTIVATOR (GROWER)**

Any licensed person or entity that grows, packages and/or sells cannabis.

#### **CONSUMER**

A person 21 years of age or older who purchases, directly or through a cannabis delivery service, acquires, owns, holds, or uses cannabis items for personal use by a person 21 years of age or older, but not for resale to others.

#### **CONSUMPTION**

The act of ingesting, inhaling, or otherwise introducing cannabis items into the human body.

#### **CREAMMA**

The New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (Approved February 22, 2021).

#### **DELIVERY**

The transportation of cannabis items and related supplies to a consumer. "Delivery" also includes the use by a licensed cannabis retailer of any third-party technology platform to receive, process, and fulfill orders by consumers, provided that any physical acts in connection with fulfilling the order and delivery shall be accomplished by a cannabis handler certified in accordance with N.J.S.A. 24:61-44 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.

#### **HONIG ACT**

The Jake Honig Compassionate Use Medical Cannabis Act (approved July 2, 2019), P.L. 2019, c. 153, revising and supplementing P.L. 2009, c. 307: N.J.S.A. 24:61-1 et seq.

#### **MICROBUSINESS**

**The holder of a license with a smaller footprint than a standard license holder. It can be a distributor, delivery service and the Township sets the perimeters for same. Ex; employ no more than x-number of employees; establishment occupies an area of no more than x— square feet; possess no more than x- amount of cannabis plants each month; if a manufacturer no more than x amount of pounds of usable cannabis per month**

#### **PREMISES or LICENSED PREMISES**

Includes the following areas of a location licensed under P.L. 2021, c. 16 (N.J.S.A. 24:61-31 et seq.): 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**

Any place to which the public has access that is not privately owned; 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.

**USABLE CANNABIS**

The dried leaves and flowers of the female plant *Cannabis sativa L.*, and does not include the seedlings, seeds, stems, stalks, or roots of the plant.

C. General. Standards and guidelines set forth in this section shall supersede other requirements of the zone district in which the dispensary is to be located to the extent they are inconsistent with the requirements for cannabis operators set forth herein. Where bulk regulations, parking requirements, or other provisions of the Zoning Code are not specifically stated, the underlying zoning standards and guidelines shall prevail.

D. Required approvals. Prior to the operation of any cannabis operator in the Township of Irvington the following shall be required:

(1) The applicant shall submit proof that the applicant has or will have lawful possession of the premises proposed for the cannabis retailer, which proof may consist of: a deed, a lease, a real estate contract contingent upon successful licensing, or a binding letter of intent by the owner of the premises indicating an intent to lease the premises to the entrant contingent upon successful licensing.

(2) The location proposed for licensing by the applicant shall comply with all applicable municipal zoning laws and the location restrictions set forth in this Code.

(3) The applicant shall submit all required fees for the application and conditional license in accordance with the fee schedule set forth below. All fees shall be nonrefundable except as expressly provided herein.

Type of License	Application Fee (Initial)	Application Fee (Renewal)	Annual Registration Fee
Retailer	\$10,000.00	\$10000.00	\$5000.00
Manufacturer	\$10,000.00	\$10000.00	\$7500.00
Grower	\$10,000.00	\$10000.00	\$7500.00
Distributor	\$10,000.00	\$10000.00	\$7500.00



Distributor	\$10,000.00	\$10000.00	\$7500.00
Delivery Service	\$10,000.00	\$10000.00	\$5000.00
Micro Retailer	\$5000.00	\$5000.00	\$2500.00

- (4) A cannabis operator must obtain a Class 1 (Cultivator), Class 2 (Manufacturer), Class 3 (Wholesaler), Class 4 (Distributor), Class 5 (Retailer) or Class 6 (Delivery) license issued by the state's Cannabis Regulatory Commission;
- (5) A state and local consumption endorsement must be obtained pursuant to CREAMMA;
- (6) Site plan approval shall be obtained from the Township of Irvington Planning Board or Board of Adjustment, as the case may be;
- (7) A first certificate of zoning compliance shall be obtained along with all necessary building permits for build-out of the cannabis operator in accordance with the approved site plan; and
- (8) A final certificate of zoning compliance and certificate of occupancy must be issued.
- (9) Any local license issued pursuant to this chapter shall be valid for a period of three years from the date of issuance, subject to payment of the annual registration fee, and shall be in accordance with the provisions of this chapter.

E. Compliance requirements. A cannabis operator established pursuant to this section shall, at all times, operate in complete compliance with the terms and conditions of its cannabis permit(s) and any conditions set forth in its site plan approval, and all applicable codes and standards set forth in state codes and the Municipal Code of the Township of Irvington.

F. Permitted zone districts. Cannabis operators shall be conditionally permitted, as a conditional use, only in the following districts:

- (1) Recreational cannabis retailer and dispensary shall be conditionally permitted in the following districts: B-3 Limited Business; B-4 General Business; and CBD Central Business District, Downtown Mixed-Use.
- (2) Medicinal cannabis retailer and dispensary shall be conditionally permitted in the following districts: B-1 Neighborhood Business District; B-2 Shopping Center; B-3 Limited Business; B-4 General Business; and CBD Central Business District, Downtown Mixed-Use.
- (3) Cultivating, manufacturing, wholesale, and distributing shall be conditionally permitted in the following districts: M-1 Special Industrial Manufacturing District; M-2 Light Industrial Manufacturing District; M-3 Heavy Industrial Manufacturing District.
- (4) In addition to the permitted zone districts, no cannabis operator shall operate within 200 feet of a school or place of worship.
- (5) B-5 Big Box Center shall be conditionally permitted for cannabis retailer and dispensary provided that the location is on the ground floor of the proposed site and has an entrance on the exterior of the location that serves as the primary point of ingress/egress for the business with secondary access into the main area of the Big Box Center that serves as an emergency exit only.



G. Hours of operation. It shall be unlawful for any person to sell (or dispense) cannabis or cannabis products at a cannabis operator within the Township of Irvington at any time other than between the hours of ~~8:00 a.m.~~ 9:00am and 8:00 p.m. ~~daily.~~ Monday through Saturday. On Sunday, hours of operation shall be permissible between 12:00pm and 6:00pm.

H. No cannabis operator shall be allowed as a home occupation as defined in §650-4.

I. No cannabis operator shall be housed in a vehicle or any movable or mobile structure.

J. Site plan approval; minimum requirements; performance standards.

(1) Minimum requirements. In addition to other requirements established by the Township of Irvington, the applicant shall include, at minimum, the following documents as evidence of compliance and good standing in the state and with the municipality.

(a) A letter from the Township of Irvington Director of Public Safety, or his or her designee, stating that the department has reviewed the applicant's safety and security protocols included in the pending application and has found them to be satisfactory.

(2) Performance standards.

(a) Building use. A cannabis operator shall only be located on the ground floor (i.e., street level) of any building in which it has been approved to be located unless the medical cannabis dispensary occupies the entire building on the property. Any such medical cannabis dispensary shall be accessible directly from the right-of-way through a separate entrance, independent from any other retail or residential ingress to the building. Only a secured, one-way emergency exit from the establishment may be integrated with common egress.

(b) Bulk and area requirements. Bulk and area requirements shall follow those of the underlying zoning district.

(c) Product display and storage. No cannabis products shall be visible from a public sidewalk, public street or right-of-way, or any other public place. All cannabis products shall be stored securely indoors and on site.

(d) Consumption. Consumption of cannabis products including smoking, ingestion of edibles or by any other means of consumption shall be not permitted on the premises or adjacent ground of a cannabis operator. Consumption shall not be permitted at any public place.

(e) Odor. A cannabis operator shall have equipment to mitigate cannabis-related odor. The building shall be equipped with a ventilation system with carbon filters or other filters sufficient in type and capacity to eliminate cannabis odors emanating from the interior of the premises. The filters are required to be replaced regularly for the best effectiveness to mitigate odor. The ventilation system must be approved by the Township of Irvington Health Department and Building Department or designated vendor and may be subject to periodic inspection.

(f) Noise. Outside generators and other mechanical equipment used for any kind of power supply, cooling or ventilation shall be enclosed and have appropriate baffles, mufflers, and/or other noise reduction systems to mitigate noise pollution.



(g) Security. All cannabis operators shall be secured and shall have full-time security protocols. Security protocols shall be submitted to the Township of Irvington Police Department for compliance review with all safety and security standards established by the State of New Jersey for cannabis operators. The Township of Irvington Police Department may, at its discretion and upon review of the proposed location, recommend or require additional safety and security measures. At minimum, the following shall apply:

[1] A video recording security system shall be employed covering all areas of the cannabis operator and the adjacent exterior of the building with a 24/7 recording system that records for a minimum thirty-day archive.

[2] The Township of Irvington Police Department and Zoning Officer shall be provided the name and twenty-four-hour phone number of the responsible staff person to notify during suspicious activity or emergency.

[3] Outside areas of the premises shall be well-illuminated for safety and security, but not in a way that is counter to Code requirements for outdoor lighting and screening or obtrusive to pedestrians, drivers or other users of the public right-of-way.

[4] The premises and right-of-way adjacent to the cannabis operator shall be monitored by staff of the medical cannabis dispensary and kept free of loitering, litter and other debris, and the sidewalks shall be swept and cleaned on a regular basis.

[5] Consumers shall be screened and demonstrate identification confirming they are ages 21 years old or older.

[6] Capacity. A cannabis retailer shall permit a maximum of 30 patrons per 1,500 square feet of gross floor area.

(h) Parking. Cannabis operators shall adhere to the following parking space requirements:

[1] Recreational retailer and dispensary: Any recreational retailer with a gross floor area of 1,500 square feet or less: none; any recreational retailer with a gross floor area exceeding 1,500 square feet: one space per 500 square feet of gross floor area.

[2] Medicinal dispensary: shall adhere to the parking requirements of banks, financial and business offices and professional and commercial offices (§ 650-33D).

[3] Cultivating, manufacturing wholesale or distributing: shall adhere to the parking requirements of industrial manufacturing establishments (§ 650-33N).

(i) Cannabis operator shall enter into a community benefit agreement.

(j) Records: Records of all cannabis purchased and sold must be made available upon 14 days' advance notice when called for by the Township, or any other authorized person or entity.

K. Penalty for violation. Any violation of the provisions of this subsection or the conditions of the zoning permit granted, inclusive of any agreements or conditions



imposed by the Planning Board or Board of Adjustment, as the case may be, shall be punishable by a civil fine; minimum fine shall be \$2,500.00, maximum fine shall be \$5000.00. Each day that a violation is committed, exists or continues shall be deemed a separate and distinct offense. In addition, ongoing or repeat offenses may result in suspension of the certificate of occupancy for a period to be determined by the Zoning Officer. All violations will be reported to the appropriate cannabis permitting authority or designated state authority.

L. Suspension of use. The Municipal Council may suspend or revoke any license the corresponding state license or permit for the subject location is expired, surrendered, suspended, or revoked. Following the commencement of retail sales of cannabis or cannabis products, the Irvington Municipal Council may suspend or revoke any license if the licensed premises have been inactive or unoccupied by the licensee for at least six months Any subsequent application for use or occupancy of the premises as a cannabis operator, including reoccupation by the previous operator, shall be referred to the original land use board of jurisdiction as a new application.

M. Signage. The following signage regulations shall be enforced:

- (1) One sign shall be permitted per cannabis operator.
- (2) Signage shall not be illuminated at any time.
- (3) Signage shall comply with the requirements of § 650-31 of the Township's

Zoning Ordinance.

(4) The following words shall be prohibited: "cannabis," "marijuana," and "weed."

**N. No Transfer of License is Permitted:** It cannot be transferred in whole or in part, without the prior written approval of the Township of Irvington. No successor in interest of a licensee shall acquire any rights or powers without the prior written consent of the Township. For purposes of this chapter, any change in control of the licensee resulting from a merger, consolidation, stock transfer, or asset sale shall be deemed an assignment or transfer that requires the prior written consent of the Township.

David Antonio, Planner  
Essex County Planning Board  
Department of Public Works Building  
900 Bloomfield Avenue  
Verona, NJ 07044  
CMR No. (CMR No. 7017 2680 0000 0709 0281)

Eileen Birch  
Union Township Clerk  
Municipal Clerk's Office  
1976 Morris Avenue  
Union, NJ 07083  
CMR No. (CMR No. 7017 2860 0000 0709 0298)

Elizabeth J. Fritzen  
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Sylvia Vason  
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Municipal Clerk's Office  
1409 Liberty Avenue  
Hillside, NJ 07205  
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Municipal Clerk's Office  
76 South Orange Avenue, Suite 302  
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**TOWNSHIP OF IRVINGTON**  
**OFFICE OF THE TOWNSHIP CLERK**  
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Shawna M. Supel, R.M.C.  
Municipal Clerk

Shonta' D. Watson, R.M.C.  
Assistant Municipal Clerk

May 8, 2024

David Antonio, PP, AICP, Planner  
Essex County Planning Board  
900 Bloomfield Avenue  
Verona, NJ 07044  
CMR No. 7017 2680 0000 0709 0366

Dear Mr. Antonio:

Pursuant to the requirements set forth in the Municipal Land Use Law, enclosed herewith please find an ordinance amending the Revised Zoning Ordinance of the Township of Irvington, which was duly adopted by the Municipal Council at their regular meeting held on May 6, 2024.

Very truly yours,

Shawna M. Supel  
Municipal Clerk

Enclosure (1)

cc: Dorinda Francis-McKenzie, Planning Board Secretary  
Kyana Woolridge, Community Development Director



**TOWNSHIP OF IRVINGTON**  
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Shawna M. Supel, R.M.C.  
Municipal Clerk

Shonta' D. Watson, R.M.C.  
Assistant Municipal Clerk

DATE: May 8, 2024

TO: Municipal Tax Assessor Forbes  
Business Administrator Malik  
Township Attorney Rivera, Esq.  
Community Development Director Woolridge, Esq.  
Zoning Officer Sowell  
Planning Board Members c/o Planning Board Secretary Francis-McKenzie  
Board of Adjustment Members c/o Planning Board Secretary Francis-McKenzie

FROM: Shawna M. Supel, Municipal Clerk 

**SUBJECT: Amendment to Revised Zoning Ordinance – Cannabis Regulations**

Pursuant to the requirements set forth in the Municipal Land Use Law, enclosed herewith please find an ordinance amending the Revised Zoning Ordinance of the Township of Irvington, which was duly adopted by the Municipal Council at their regular meeting held on May 6, 2024.

Enclosure (1)