

**ADOPTED ORDINANCE O-24-32
TOWNSHIP OF MONTCLAIR**

**ORDINANCE TO SUPERSEDE, REPEAL AND REPLACE CHAPTER 110 CANNABIS
OF THE TOWNSHIP CODE OF MONTCLAIR**

Date of Introduction: September 24, 2024

Date of Adoption: October 8, 2024

BE IT ORDAINED BY the Township Council of the Township of Montclair that the following supersede, repeal and replace Chapter 110 Cannabis of the Township Code of Montclair in its entirety.

BE IT FURTHER ORDAINED that if any provision or portion of this Ordinance is held to be unconstitutional, preempted by Federal or State law, or otherwise invalid by any court of competent jurisdiction, the remaining provisions or portions of this Ordinance shall not be invalidated and shall remain in full force and effect.

BE IT FURTHER ORDAINED that all ordinances and all parts of ordinances that are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

**Chapter 110
CANNABIS**

§ 110-1. Statutory authority.

This Chapter is authorized pursuant to the Jake Honig Compassionate Use Medical Cannabis Act, P.L. 2009, c. 307 (N.J.S.A. 24:6I-1 to -30) and its implementing regulations (collectively, “CUMMA”) as applicable to medical cannabis, and the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act, P.L. 2021, c. 016, and its implementing regulations (collectively, the “Act”), which are hereby incorporated herein by reference, and shall be controlling unless more restrictive standards are prescribed herein. If any provision of this Chapter is inconsistent with the statutes and/or regulations of the State of New Jersey, the Act shall govern.

§ 110-2. Definitions.

For the purposes of this Chapter, all terms shall be defined consistent with the Act. The following words and phrases, when used in this Chapter, shall have the following meanings:

ADULT-USE CANNABIS or CANNABIS: “Cannabis” as defined by N.J.S.A. 24:6I-33.

ALTERNATIVE TREATMENT CENTER or ATC: An organization issued a permit pursuant to CUMMA to operate as a medical cannabis cultivator, medical cannabis manufacturer, medical cannabis dispensary, or clinical registrant, as well as any alternative treatment center deemed

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pursuant to Section 7 of that Act (N.J.S.A. 24:6I-7) to concurrently hold a medical cannabis cultivator permit, a medical cannabis manufacturer permit, and a medical cannabis dispensary permit. An Alternative Treatment Center shall not sell, directly or indirectly, Adult-Use Cannabis to any consumer, person, or entity, unless and until it holds an appropriate State and Municipal License.

CANNABIS CONSUMPTION AREA: A designated location operated by a Cannabis Retailer or permit holder for dispensing or selling Cannabis, for which both a State and local endorsement has been obtained, that is either: 1) an indoor, structurally enclosed area of the Cannabis Retailer or permit holder that is separate from the area in which retail sales of Cannabis items or the dispensing of medical cannabis occurs; or 2) an exterior structure on the same premises as the Cannabis Retailer or permit holder, either separate from or connected to the premises, at which Cannabis items or medical cannabis either obtained from the Cannabis Retailer or permit holder, or brought by a person to the consumption area, may be consumed. A Cannabis Consumption Area shall be designated by conspicuous signage indicating whether the Cannabis Consumption Area may be used for the on-premises consumption of medical cannabis, Adult-Use Cannabis, or both.

CANNABIS CULTIVATOR: Any licensed person or entity that grows, cultivates, or produces Adult-Use Cannabis in this State, and sells, and may transport, this Cannabis to other Cannabis Cultivators, or usable Cannabis to Cannabis Manufacturers, Cannabis Wholesalers, or Cannabis Retailers, but not to consumers. This person or entity shall hold a Class 1 Cannabis Cultivator License. A Cannabis Cultivator shall not operate in the Township unless and until it receives a Category F Municipal License.

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 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. A Cannabis Delivery Service shall not operate in the Township unless and until it receives a Category B Municipal License.

CANNABIS DISPENSARY or MEDICAL CANNABIS DISPENSARY: An organization issued a permit by the Commission that authorizes the organization to: purchase or obtain medical cannabis and related supplies from medical cannabis cultivators; purchase or obtain medical cannabis products and related supplies from medical cannabis manufacturers; purchase or obtain medical cannabis, medical cannabis products, and related supplies and paraphernalia from other medical cannabis dispensaries and from clinical registrants; deliver, transfer, transport, distribute, supply, and sell medical cannabis and medical cannabis products to other medical cannabis dispensaries; furnish medical cannabis, including medical cannabis products, to a medical cannabis handler for delivery to a registered qualifying patient, designated caregiver, or institutional caregiver consistent with the requirements of Subsection i of Section 27 of P.L. 2019, c. 153 (N.J.S.A. 24:6I-20i); and possess, display, deliver, transfer, transport, distribute, supply, sell, and dispense medical cannabis, medical cannabis products, paraphernalia, and related supplies to qualifying patients, designated caregivers, and institutional caregivers. A medical cannabis dispensary permit shall not authorize the permit holder to cultivate medical cannabis, or to

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produce, manufacture, or otherwise create medical cannabis products. A Cannabis Dispensary or Medical Cannabis Dispensary shall not operate in the Township unless and until it receives written approval from the Township.

CANNABIS DISTRIBUTOR: Any licensed person or entity that transports Cannabis in bulk intrastate from one licensed Cannabis Cultivator to another licensed Cannabis Cultivator, or transports Cannabis items in bulk intrastate from any one class of licensed Cannabis Establishment to another class of licensed Cannabis Establishment and may engage in the temporary storage of Cannabis or Cannabis items as necessary to carry out transportation activities. This person or entity shall hold a Class 4 Cannabis Distributor License. A Cannabis Distributor shall not operate in the Township unless and until it receives a Category D Municipal License.

CANNABIS ESTABLISHMENT: A Cannabis Cultivator, Cannabis Manufacturer, Cannabis Wholesaler, or Cannabis Retailer.

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. A Cannabis Manufacturer shall not operate in the Township unless and until it receives a Category E Municipal License.

CANNABIS RETAILER: Any licensed person or entity that purchases or otherwise obtains usable Cannabis from Cannabis Cultivators and Cannabis items from Cannabis Manufacturers or Cannabis Wholesalers, and sells these to consumers from a retail store, and may use a Cannabis Delivery Service or a certified Cannabis handler for the off-premises delivery of Cannabis items and related supplies to consumers. A Cannabis Retailer shall also accept consumer purchases to be fulfilled from its retail store that are presented by a Cannabis Delivery Service which will be delivered by the Cannabis Retailer or a licensed Cannabis Delivery Service to that consumer. This person or entity shall hold a Class 5 Cannabis Retailer License. A Cannabis Retailer shall not operate in the Township unless and until it receives a Category A Municipal License

COMMISSION: The New Jersey Cannabis Regulatory Commission as established by N.J.S.A. 24:6I-24.

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. A Cannabis Wholesaler shall not operate in the Township unless and until it receives a Category C Municipal License.

ENFORCEMENT OFFICER: The Police Department, Health Officer, Zoning Officer, Code Enforcement Officer, Tax Collector, and Municipal Clerk, or their respective designees, are hereby designated and appointed to enforce the provisions of this Chapter.

LICENSE: A license issued under P.L.2021, c.16, including a license that is designated as either a Class 1 Cannabis Cultivator License, a Class 2 Cannabis Manufacturer License, a Class 3

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Cannabis Wholesaler License, a Class 4 Cannabis Distributor License, a Class 5 Cannabis Retailer License, or a Class 6 Cannabis Delivery License.

LICENSEE: A person or entity that holds a License issued under P.L.2021, c.16., including a License that is designated as either a Class 1 Cannabis Cultivator License, a Class 2 Cannabis Manufacturer License, a Class 3 Cannabis Wholesaler License, a Class 4 Cannabis Distributor License, a Class 5 Cannabis Retailer License, or a Class 6 Cannabis Delivery License.

MICROBUSINESS: The holder of a license to operate a cannabis business with a smaller footprint than a standard cannabis business and which, with respect to its operations, capacity and quantity of product, may only:

- (1) Employ no more than 10 employees;
- (2) Operate a cannabis establishment occupying an area of no more than 2,500 square feet, and in the case of a cannabis cultivator grow cannabis on an area no more than 2,500 square feet measured on a horizontal plane and grow above that plane not higher than 24 feet;
- (3) Possess no more than 1,000 cannabis plants each month, except that a cannabis distributor's possession of cannabis plants for transportation shall not be subject to this limit;
- (4) Acquire each month, in the case of a cannabis manufacturer, no more than 1,000 pounds of usable cannabis;
- (5) Acquire for resale each month, in the case of a cannabis wholesaler, no more than 1,000 pounds of usable cannabis or the equivalent amount in any form of manufactured cannabis product or cannabis extract, or any combination thereof; and
- (6) Acquire for retail sale each month, in the case of a cannabis retailer, no more than 1,000 pounds of usable cannabis or the equivalent amount in any form of manufactured cannabis product or cannabis extract, or any combination thereof.

MUNICIPAL LICENSE: A local license issued pursuant to this Chapter by the Township of Montclair in accordance with Section 110-5. An entity that holds a Municipal License is a "Municipal Licensee."

§ 110-3. Conformity with state law.

Nothing in this Chapter shall be construed to supersede federal or State laws governing the sale and distribution of Cannabis.

All applications for Municipal Licenses, all Municipal Licenses issued, and all proceedings under this Chapter shall be in accordance with the Act, and all rules, regulations, and all other applicable laws of the State of New Jersey.

§ 110-4. License required.

- A. No person or entity shall operate as a Cannabis Establishment, Cannabis Distributor, or Cannabis Delivery Service in the Township unless and until the person or entity has first

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obtained and received all required License(s) or permit(s) issued by the State of New Jersey in accordance with the Act and all required Municipal License(s) issued by the Township pursuant to this Chapter.

- B. No person or entity shall operate as an Alternative Treatment Center unless and until the person or entity has first obtained and received a permit issued by the State of New Jersey pursuant to CUMMA and written approval to operate from the Township.
- C. Properly Licensed Cannabis Retailer or Cannabis Delivery Services may deliver in the Township as authorized by State law subject to this Chapter.

§ 110-5. Municipal Licensing.

Local licensing authority. The Township Council is hereby designated to act as the local licensing authority of the Township for all Cannabis Establishments, Cannabis Distributors and Cannabis Delivery Services. Under all circumstances in which State law requires communication to the Township by the Commission or any other State agency with regard to the licensing or operation of Cannabis Establishments, Cannabis Distributors, or Cannabis Delivery Services by the State, or in which State law requires any review or approval by the Township of any action taken by the State licensing authority, the exclusive authority for receiving such communications and granting such approvals shall be exercised by the Township Council.

§ 110-6. Classification of licenses.

The Township, subject to the provisions of this Chapter, may issue the following types of Municipal License:

- A. Category A: Cannabis Retailer;
- B. Category B: Cannabis Delivery Service;
- C. Category C: Cannabis Wholesaler;
- D. Category D: Cannabis Distributor;
- E. Category E: Cannabis Manufacturer; and
- F. Category F: Cannabis Cultivator.

§ 110-7. Maximum number of licenses.

The Township may issue a maximum of:

- A. Three Category A Municipal Licenses.
- B. Three Category B Municipal Licenses.
- C. Two Category C Municipal Licenses.

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- D. Two Category D Municipal Licenses.
- E. Two Category E Municipal Licenses.
- F. Two Category F Municipal Licenses.

§ 110-8. Application for Resolution of Municipal Support

Persons or entities wishing to obtain a Resolution of Municipal Support from the Township as required by N.J.A.C. 17:30-7.1, N.J.A.C. 17:30-7.8, and N.J.A.C. 17:30-7.10 shall, within the time period set forth by the State, file an application with the Township Council, on a standardized form established by the Township Council and available in the office of the Township Clerk, and submit the appropriate fee therewith.

The Township Council shall review all applications to ensure compliance with local rules and regulations governing the operation of Cannabis Establishments, Cannabis Distributors, and Cannabis Delivery Services, and, when the Council deems appropriate, to provide local support of the application in the form of a Council Resolution.

The initial and annual fee for this review shall be as provided in Section 110-16.

An application for a Resolution of Municipal Support shall be deemed incomplete and shall not be reviewed or processed unless accompanied by the appropriate fee and, at a minimum, contains the following:

- A. The names and residences of all persons financially interested in the business, and the nature and extent of this interest; and, if a corporation or limited liability company, the names, residences, and citizenships of the officers, directors, managers, and stockholders or members, and whether the applicant (or any of its officers, directors, managers, and stockholders or members) has been convicted of any criminal or quasi-criminal offense, and if so, the date and place of such conviction and the nature of the offense;
- B. An attestation that the Cannabis Establishment, Cannabis Distributor, or Cannabis Delivery Service will be operated pursuant to all State and local laws, regulations, requirements, rules, ordinances, and codes;
- C. A description of the proposed location, including the surrounding area and the suitability or advantages of the proposed location, along with a floor plan and optional renderings or architectural or engineering plans; and
- D. Any other documents or information the Township Council deems necessary.
- E. A determination letter from the zoning officer.
- F. Proof that the applicant has or will have lawful possession of the premises proposed for the Cannabis Establishment (and if the principal place of business is to be located in the Township), Cannabis Distributor, or Cannabis Delivery Service, which proof may consist of: a deed, a lease, a real estate contract contingent upon successful licensing, or a binding

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letter of intent by the owner of the premises indicating an intent to lease the premises to the applicant contingent upon successful licensing.

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§ 110-9. Municipal License Applications.

A. **Prerequisite:** As a prerequisite to the Township receiving, acting upon, or considering any application for a Municipal License, the applicant shall first obtain: ~~(1) the required License(s) or permit(s) issued by the State of New Jersey in accordance with the Act or CUMMA, as appropriate;~~ (12) appropriate zoning approval from the Township land use board with jurisdiction over the land use application; and (23) a certificate of zoning compliance issued by the Township Zoning Officer.

B. **Initial Application:** Persons wishing to obtain a Municipal License shall file a Municipal License application with the Township Council, on a standardized form established by the Township Council and available in the office of the Township Clerk. The Township Clerk shall establish a reasonable application period and deadline for all applications. A Municipal License application shall be deemed incomplete, and shall not be processed, until all documents and application fees are submitted. To be deemed complete, all Municipal License applications must be accompanied by the appropriate fees and shall, at a minimum, contain the following:

- (1) A fully completed and signed application form.
- (2) Proof that the applicant has or will have lawful possession of the premises proposed for the Cannabis Establishment (and if the principal place of business is to be located in the Township) Cannabis Distributor, or Cannabis Delivery Service, 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 applicant contingent upon successful licensing.
- (3) An affidavit and documentary proof of compliance with all State and local laws regarding affirmative action, antidiscrimination, and fair employment practices, and a certification under oath that the applicant will not and shall not discriminate based on race, color, religion (creed), gender, gender expression, gender identity, age, national origin (ancestry), disability, marital status, sexual orientation, or military status, in any of its activities or operations.
- (4) Proof of compliance with all applicable Township zoning laws and the location restrictions set forth in the State and Township laws, regulations, requirements, rules, ordinances, or codes.
- (5) Proof of financial capability to open and operate the Cannabis Establishment, Cannabis Distributor, or Cannabis Delivery Service for which the applicant is seeking a Municipal License. Applicant shall provide a copy of financial documents and a financial institution letter certifying funds as proof of financial capability to open and

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operate the cannabis establishment for which the applicant is seeking a license. Proofs of financial capability shall be reviewed and assessed by the Township Council.

- (6) All required fees in accordance with the fee schedule set forth in this Chapter. All fees shall be nonrefundable except as expressly provided herein.
- (7) An attestation that no person proposed to have an ownership interest in the Municipal Licensee has had any Cannabis license or medical cannabis permit suspended or revoked in the State of New Jersey or a subdivision thereof within the preceding five years.
- (8) The applicant and the contents of the application shall also comply with any and all standards or requirements set forth in the State and Township laws, regulations, requirements, rules, ordinances, or codes.

C. **Renewal Applications:** Municipal Licensees wishing to renew their Municipal License in accordance with this Chapter shall file a Municipal License Renewal application with the Township Council, on a standardized form established by the Township Council and available in the office of the Township Clerk. A Municipal License renewal application shall be deemed incomplete, and shall not be processed, until all documents and application fees are submitted. To be deemed complete, all Municipal License renewal applications must be accompanied by the appropriate fees and shall, at a minimum, contain the following:

- (1) A fully completed and signed renewal application form.
- (2) Proof of continued lawful possession of the premises utilized for the regulated activity that shall continue throughout the duration of the Municipal License renewal period.
- (3) A copy of the renewed License issued by the Commission.
- (4) All required fees in accordance with this Chapter.
- (5) An attestation identifying the community benefits provided by the Municipal Licensee in the preceding Municipal License period, and whether the Municipal Licensee met or exceeded the community benefits committed to in the initial Municipal License application, and if not, the reasons therefor.
- (6) An attestation that all information provided on the Municipal Licensee's preceding Municipal License application for the Municipal License sought to be renewed remains materially correct and complete, or if there is a material change or inaccuracy from the information supplied in the preceding Municipal License application, an attestation describing the change or inaccuracy, along with the corrected, accurate, and complete information.
- (7) An attestation that the Municipal Licensee has not violated any applicable State or local law, regulation, requirement, rule, ordinance, or code in the preceding Municipal License period, or, if such attestation cannot be made, an attestation describing the

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violation(s), along with any mitigating circumstances to be considered by the Township Council, and an attestation that the Municipal License holder shall comply with all applicable State and local laws, regulations, requirements, rules, ordinances, and codes.

- (8) An attestation that no person having an ownership interest in the Municipal Licensee has had any Cannabis license or medical cannabis permit suspended or revoked in the State of New Jersey or a subdivision thereof within the preceding Municipal License period, or, if such attestation cannot be made, an attestation describing the circumstances of such suspension(s) and/or revocation(s), along with any mitigating circumstances to be considered by the Township Council.
- (9) An attestation that the ownership of the Municipal Licensee has not changed, been transferred, or otherwise modified within the preceding Municipal License period, or, if such attestation cannot be made, an attestation describing the changes in ownership of the Municipal Licensee, along with the dates of such changes.

- D. **Continuing Obligation:** All applicants and Municipal Licensees shall promptly advise the Township of any material changes or omissions to the information contained in any Municipal License application, and of any violation of any applicable State and local law, regulation, requirement, rule, ordinance, or code, or the suspension, expiration, surrender, or revocation of any State or local license, permit, or approval to operate.

§ 110-10. Class 1/Category F Cannabis Cultivators; and Class 2/Category E Cannabis Manufacturers.

Class 1/Category F Cannabis Cultivators and Class 2/Category E Cannabis Manufacturers shall be permitted as provided in Montclair Code Chapter 347—Zoning, subject to the following:

- A. **Buildings:** All facilities shall be enclosed in heated/air-conditioned buildings. Notwithstanding the foregoing, Class 1 Cannabis Cultivator licensees may be enclosed in a secure greenhouse.
- B. **No public access:** In no event shall a Cannabis Cultivator or a Cannabis Manufacturer be open to the public.
- C. **Odor control:** The facility shall provide an air treatment system with sufficient odor-absorbing ventilation and exhaust systems such that any odor generated inside the facility is not detectable by a person of reasonable sensitivity at the property line of the subject property. Odor from the facility shall be monitored on an annual basis at the discretion of the Township by a licensed, qualified contractor chosen by the Township at a cost that shall be paid for by the cannabis business.
- D. **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. These records include but are not limited to, METRIC transmittals, receipts, invoices, quarterly Sales Tax Returns (ST-50), monthly Sales Tax return (Form ST-51) and all other records relating to sale and purchase of cannabis products.

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- E. Security plan: Class 1 Cannabis Cultivators and Class 2 Cannabis Manufacturers shall submit a security plan for review to the Township detailing all security measures taken to ensure community safety and to eliminate unauthorized access to the premises.
- F. Signage: Signs shall be limited to the address, legal name and emergency contact information. All signs shall comply with Montclair Code Chapter 347, Article XVIII, Signs, § 347-105 et seq., and State law.

§ 110-11. Class 3/Category C Cannabis Wholesalers; Class 4/Category D Cannabis Distributors; and Class 6/Category B Cannabis Delivery Services.

Class 3/Category C Cannabis Wholesalers, Class 4/Category D Cannabis Distributors, and Class 6/Category B Cannabis Delivery Services shall be permitted as provided in Montclair Code Chapter 347—Zoning, subject to the following:

- A. Buildings: All facilities shall be enclosed in heated/air-conditioned buildings, not in greenhouses, hoop houses or outdoors.
- B. Hours: Deliveries of retail cannabis to the public by a Class 6 Cannabis Delivery Service is permitted between the hours of 12:00 a.m. and 11:59 p.m., Sunday through Saturday.
- C. Identification plan: A Class 6 Cannabis Delivery Service shall submit an identification plan for review to the Township detailing all measures taken to ensure compliance that patrons are at least 21 years of age.
- D. No public access: In no event shall a Class 3 Cannabis Wholesaler, Class 4 Cannabis Distributor, or Class 6 Cannabis Delivery Service be open to the public.
- E. Odor control: The facility shall provide an air treatment system with sufficient odor-absorbing ventilation and exhaust systems such that any odor generated inside the facility is not detectable by a person of reasonable sensitivity at the property line of the subject property. Odor from the facility shall be monitored on an annual basis at the discretion of the Township by a licensed, qualified contractor chosen by the Township at a cost that should be paid for by the property owner.
- F. 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.
- G. Security plan: Class 3 Cannabis Wholesalers, Class 4 Cannabis Distributors, and Class 6 Cannabis Delivery Services shall submit a security plan for review to the Township detailing all security measures taken to ensure community safety and to eliminate unauthorized access to the premises.
- H. Signage: Signs shall be limited to the address, legal name or any registered alternate name, and emergency contact information. All signs shall comply with Montclair Code Chapter 347, Article XVIII, Signs, § 347-105 et seq., and State law.

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§ 110-12. Class 5/Category A Cannabis Retailers.

Class 5/Category A Cannabis Retailers shall be permitted as provided in Montclair Code Chapter 347—Zoning, subject to the following:

- A. Hours: No Cannabis Retailer shall be open to the public between the hours of 11:00 p.m. and 8:00 a.m., Monday through Sunday.
- B. Identification Plan: Class 5 Cannabis Retailers shall submit an identification plan for review to the Township detailing all measures taken to ensure compliance that patrons are at least 21 years of age.
- C. Odor control: The Class 5 Cannabis Retail facility shall provide an air treatment system with sufficient odor-absorbing ventilation and exhaust systems such that any odor generated inside the facility is not detectable by a person of reasonable sensitivity at the property line of the subject property. Odor from the facility shall be monitored on an annual basis at the discretion of the Township by a licensed, qualified contractor chosen by the Township at a cost that should be paid for by the cannabis business property owner.
- D. Records: Records, including but not limited to NJ State Sales and Use Tax form ST-50, 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.
- E. Security Plan: Class 5 Cannabis Retailers shall submit a security plan for review to the Township detailing all security measures taken to ensure community safety and to eliminate unauthorized access to the premises.
- F. Signage: Signs shall be limited to the address, legal name and emergency contact information. All signs shall comply with Montclair Code Chapter 347, Article XVIII, Signs, § 347-105 et seq., and State law.

§ 110-13. Alternative treatment centers.

Alternative treatment centers shall be permitted as provided in Montclair Code Chapter 347—Zoning, subject to meeting all requirements of the laws and regulations of the State of New Jersey. In the event that an Alternative Treatment Center holds a Class 5 Cannabis Retailer License, that Alternative Treatment Center shall also be required to comply with all State and Township laws, regulations, requirements, rules, ordinances, and codes applicable to Cannabis Retailers.

§ 110-14. Evaluation of Municipal License applications.

The Township Council shall evaluate all applicants for a Municipal License and issue a decision on the application at its sole discretion after consideration and evaluation of the following criteria:

- A. Applicant's owners' or principals' qualifications and experience operating in highly regulated industries, including Cannabis, medical cannabis, health care, pharmaceutical manufacturing, and retail pharmacies, with preference to experience operating such

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businesses within the State of New Jersey and where the value of owners' experience shall outweigh the experience of non-owner principals;

- B. Applicant's qualifications and experience related to public safety and security, including any of the applicant's owners' or principals' experience in law enforcement and drug enforcement, and a summary of the applicant's plans for storage of products and currency, physical security, video surveillance, security personnel, and visitor management;
- C. Applicant's or its owners' demonstrated commitment or sufficient experience as responsible employers, defined as the applicant entity being a party to a labor peace agreement or the applicant entity or its parent company being a party to a collective bargaining agreement in the regulated Cannabis industry in an effort to create well-paying jobs with employee benefits in the municipality;
- D. Applicant's written commitment to employment of Montclair residents in at least 50% of full-time equivalent positions;
- E. Summary of the applicant's environmental impact and sustainability plan; whether the applicant entity or its parent company has any recognitions from or registrations with federal or New Jersey State environmental regulators for innovation in sustainability; and whether the applicant entity or its parent company holds any certification under international standards demonstrating the applicant has an effective environmental management system or has a designated sustainability officer to conduct internal audits to assess the effective implementation of an environmental management system;
- F. Applicant's ties to the host community, demonstrated by at least one shareholder's proof of residency in Montclair for five or more years in the past ten years or at least one shareholder's continuous ownership of a business based in Montclair for five or more years in the past ten years;
- G. Applicant's commitment to provide community benefits;
- H. Applicant's demonstrated commitment to diversity in its ownership composition and hiring practices and whether the applicant entity or its parent company holds any certifications as a New Jersey minority-owned, women-owned, or veteran-owned business; and
- I. Applicant's demonstrated compliance with State and local laws, regulations, requirements, rules, ordinances, and codes governing Cannabis and/or medical cannabis.

§ 110-15. Term of Municipal License and Municipal License renewals.

- A. Any Municipal License issued pursuant to this Chapter shall be valid for a period of one year from the date of issuance and shall be renewed in accordance with the provisions of this Chapter.
- B. Any annual renewal application may be submitted up to ninety (90) days, but in no event later than sixty (60) days, prior to the expiration of a Municipal License.

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- C. The Township Council may, at its discretion, adjust the renewal date of a Municipal License to correlate with an applicant’s State license and renewal schedule.
- D. Renewal of any Municipal License shall be governed by any Code amendments, additional restrictions or changes in regulations adopted since the previous Municipal License was issued or renewed.
- E. Change of location of any cannabis business license or modification to expand a cannabis licensed premise shall first require a zoning determination letter, followed by Township Planning Board site plan approvals and the payment of a change of location/expansion fee of \$2,500.00. After issuance of site plan approval from the Township Planning Board and payment of the location/expansion fee, the Township Council shall adopt a resolution of support for the location change to the Licensee’s new location for submission to the NJ State Cannabis Regulatory Commission (CRC) for its approval of said location change. The Licensee shall not be permitted to change location unless and until final written approval issued by the CRC is submitted to the Township Clerk, and then, final written approval to change location is issued by the Township Manager or his/her designee.
- F. Every Municipal License shall automatically expire at the end of its term, unless renewed annually in accordance with this Chapter.

§ 110-16. Fees.

- A. The nonrefundable initial application fee for a Resolution of Municipal Support of Cannabis Establishments and Cannabis Distributors shall be \$15,000.00 and shall be paid concurrently with submission of the application for a Resolution of Municipal Support.
- B. The applicant and proposed Municipal Licensee shall submit all required nonrefundable fees according to the following schedule.

License	Initial Application Fee	Annual Municipal License & Renewal Application Fee
Retailer	\$15,000	\$15,000
Manufacturer	\$15,000	\$15,000
Cultivator	\$15,000	\$15,000
Wholesaler	\$15,000	\$15,000
Distributor	\$15,000	\$15,000
Delivery Service	\$5,000	\$5,000
Microbusiness	\$7,500	\$7,500

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- C. The Initial Application and Annual Municipal License Renewal Application Fees shall be submitted concurrently with the applicable Municipal License application form and accompanying documents and shall be paid to the Township of Montclair and delivered to the Township Clerk. The Initial and Annual Municipal License Renewal Application fees are nonrefundable.

§ 110-17. Conversion of Alternative Treatment Centers.

This Chapter shall not be construed to prevent the conversion of an Alternative Treatment Center to a Cannabis Establishment, Cannabis Distributor, or Cannabis Delivery Service; provided, however, that any such Alternative Treatment Center must first obtain written approval from the Township and the State of New Jersey, and receive all appropriate State and Municipal Licenses and/or permits prior to operating as a converted Cannabis Establishment, Cannabis Distributor, or Cannabis Delivery Service. The fee for the conversion to an Alternative Treatment Center (ATC) is \$15,000.00. The conversion fee shall be submitted with its application for conversion to an ATC and is non-refundable.

§ 110-18. Cannabis use on premises prohibited.

No Cannabis shall be smoked, eaten or otherwise consumed or ingested on the premises of a Cannabis Establishment, Cannabis Distributor, or Cannabis Delivery Service, other than in an authorized Cannabis Consumption Area.

§ 110-19. Cannabis Consumption Areas prohibited.

Cannabis Consumption Areas are prohibited in the Township.

§ 110-20. License posting.

All State and Municipal Licenses must be posted under glass or equivalent protective surface and shall be posted on the premises in a clear and conspicuous manner so that the same may be easily observed.

§ 110-21. Transfer of license.

- A. No Municipal License shall be transferred, in whole or in part, without CRC approval, documentary proof that the new owner(s) meets all the state and Township requirements for ownership of a cannabis business as outlined in this Chapter, and with the prior written approval by a resolution of the Township Council. The transferee shall be required to submit an application for transfer in the form prescribed by the Township with all supporting documentation. Preference is given to new owner(s) who shall maintain the same classification of cannabis business. For purposes of this Chapter, any change in control or ownership of the Licensee, whether resulting from a merger, consolidation, stock transfer, asset sale, or otherwise, shall be deemed a transfer that requires a resolution with the prior written consent of the Township Council, and no successor in interest of a Municipal Licensee shall acquire any rights or powers without the prior written consent of

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the Township Council and submission of an attestation by the successor in interest in compliance with Section 110-9B(7) of this Chapter.

- B.** A fee of \$15,000.00 per Municipal License, in addition to any other fees permitted or required by this Chapter, shall be paid to the Township as a condition of approval of a permitted Municipal License transfer. No transfer shall be effective, and no new Municipal License shall be issued to the transferee, unless and until the fees are received by the Township and the Municipal Licensee has received the Township's written consent by resolution of the Township Council.

§ 110-22. Copy of license renewal to Township.

Within fourteen days of receiving a license renewal, a Cannabis Establishment, Cannabis Distributor, or Cannabis Delivery Service shall submit a copy thereof to the Township.

§ 110-23. Disciplinary actions; sanctions; penalties.

- A. Violations:** Unless otherwise provided by State law, any violation of any provision of this Chapter shall, upon conviction, be punishable by up to the maximum penalties permitted by N.J.S.A. 40:49-5, which currently consist of a fine of up to \$2,000.00 and/or by imprisonment for a term not exceeding 90 days and/or by a period of community service not exceeding ninety (90) days, in the discretion of the Municipal Court. Each and every violation shall be deemed and taken to be a separate and distinct offense. Each day that a violation is committed, exists, or continues shall be deemed and taken to be a separate and distinct offense. The minimum fine for a violation of any provision of this Chapter shall be \$100.00, unless specifically stated to the contrary herein.
- B. Summary Suspensions:** Notwithstanding the foregoing, any Enforcement Officer may order the immediate summary suspension of a Municipal License for any one of the following grounds:
- (1) any deliberate and willful violation of any applicable law, regulation, requirement, rule, ordinance, or code;
 - (2) three or more violations of any applicable law, regulation, requirement, rule, ordinance, or code;
 - (3) engaging in or permitting acts that jeopardize the public health, safety, and/or general welfare of the Township and/or its citizens;
 - (4) any material misrepresentation or omission on the Municipal Licensee's initial or renewal Municipal License application;
 - (5) the failure of the Municipal Licensee to inform the Township of any material change to any information contained in the Municipal Licensee's initial or renewal Municipal License application;

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- (6) the failure to pay the appropriate Cannabis taxes as per Chapter 309 of this Code for three consecutive quarters;
- (7) the revocation, suspension, or nonrenewal of any State License or Municipal License or permit by the Commission or the Township, or any final non-appealable revocation or permanent suspension or nonrenewal of a Municipal License or permit issued by another New Jersey municipality; or
- (8) the failure to comply with any renewal requirements or provide copies of State issued Licenses or permits when due; or
- (9) operating, selling, delivering, manufacturing, cultivating, and/or gifting cannabis by a cannabis business not licensed to operate or conduct the cannabis business activity that requires a separate municipal cannabis license in the Township.

The Summary Suspension Order shall be in writing issued by the Enforcement Officer and shall state the reasons therefor. A Municipal Licensee subject to a Summary Suspension Order shall immediately cease engaging in all regulated activities until such time that the Municipal License is reinstated by the Township Council, or the Summary Suspension Order is withdrawn by the Enforcement Officer. A Summary Suspension Order shall remain in effect unless and until modified as set forth in this Section.

- C. **Notice of Intent to Suspend or Revoke:** Notwithstanding the foregoing, any Enforcement Officer may issue a Notice of Intent to Suspend or Revoke a Municipal License for a violation by the Municipal Licensee of any provision of this Chapter, or whenever it shall appear that the Municipal Licensee is conducting its regulated activity in violation of any State or local laws, regulations, requirements, rules, ordinances, or codes, or in a manner contrary to the public health, safety, and welfare of the Township and/or its citizens, or for any of the grounds enumerated in Subsection B of this Section. The Notice of Intent to Suspend or Revoke shall contain a brief statement of the grounds to be relied upon for revoking or suspending the Municipal License.
- D. **Response to Summary Suspension Order or Notice of Intent to Suspend or Revoke:** Upon receipt of a Summary Suspension Order or a Notice of Intent to Suspend or Revoke, the Municipal Licensee may, within five (5) business days, file with the Township Manager a written request for a hearing, and the hearing shall proceed as set forth in Subsection E of this Section. If the Municipal Licensee does not request a hearing, the Municipal Licensee shall be deemed in default with no right to a hearing notwithstanding the provisions of Subsection E herein, and the Township Manager shall proceed to investigate and issue a report and recommendation to the Township Council without a hearing within thirty-five days of issuance of the Summary Suspension Order or Notice of Intent to Suspend or Revoke. Notwithstanding anything to the contrary herein, if the Municipal Licensee completely cures all of the matters described in the Summary Suspension Order or the Notice of Intent to Suspend or Revoke and provides proof of same to the Enforcement Officer's satisfaction prior to the time that the Township Manager issues its report and recommendation to the Township Council, the Enforcement Officer may, in its

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sole discretion, withdraw the Summary Suspension Order or the Notice of Intent to Suspend or Revoke and notify the Township Manager of such withdrawal.

- E. **Conduct of Hearing:** Any hearing to be conducted before the Township Manager under this Section shall occur as soon as reasonably practicable at the Township Manager's sole discretion but in no event later than four months after receipt of a request for such hearing. Written notice of the time and place of such hearing shall be served upon the Municipal Licensee at least five days prior to the date set for such hearing. Notice of the hearing may be given either by personal delivery thereof to the Municipal Licensee or be deposited with the United States Postal Service in a sealed envelope, postage prepaid, addressed to the Municipal Licensee at the business address appearing upon said Municipal License. At the hearing, the Municipal Licensee and Enforcement Officer issuing the Summary Suspension Order or Notice of Intent to Suspend or Revoke shall have an opportunity to be heard and present evidence and witnesses in support or defense of the grounds stated in the Summary Suspension Order and/or Notice of Intent to Suspend or Revoke. The formal rules of evidence shall not apply to the conduct of the hearing, and the Township Manager shall determine the admissibility, relevance, and materiality of the evidence offered and may exclude evidence deemed by the Township Manager to be cumulative or irrelevant. The Municipal Licensee may agree to waive the opportunity to present evidence at the hearing and instead present its position by documentary submission only on notice to the Enforcement Officer with an opportunity to respond as scheduled by the Township Manager. The Township Manager shall, within ten days of the conclusion of the hearing, issue a report to the Township Council concerning the information presented at the hearing and the grounds stated in the Summary Suspension Order and/or the Notice of Intent to Suspend or Revoke and recommend whether any discipline should be imposed upon the Municipal Licensee. The Township Council, in its sole discretion, shall have the right to appoint an independent Hearing Officer to preside over the hearing in lieu of the Township Manager.
- F. **Final Order:** Within forty-five days of the Township Manager's issuance of its report and recommendation, the Township Council shall convene, and upon due consideration of the Township Manager's report and recommendation, and after deliberation, may overturn a Summary Suspension Order and/or dismiss a Notice of Intent to Suspend or Revoke, or if the Township Council concludes that the charges contained in any Summary Suspension Order and/or Notice of Intent to Suspend or Revoke have been sustained and substantiated, it may revoke or suspend the Municipal License. The Township Council may, in accordance with N.J.S.A. 40:48-25, issue subpoenas for witnesses or documents to aid in its consideration and deliberation. The Township Council shall memorialize its decision and the reasons therefor by Resolution, which Resolution shall set forth the Township Council's findings and conclusions regarding the matter. Any Final Order of the Township Council shall be final and conclusive. Review of any Final Order issued by the Township Council shall be sought by an action in lieu of prerogative writs in the Superior Court, Law Division.
- G. All disciplinary measures contained in this Section are in addition to the Township's right to seek all other available remedies, including actions in law or equity.

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§ 110-24. Inactive licenses.

The Township Council, or its designee, may suspend or revoke any Municipal License upon thirty (30) days' notice to the Licensee if:

- A. The licensed premises fails to commence its cannabis business operations within one (1) year of receiving its Municipal License; or
- B. Following the commencement of its cannabis business operations, the licensed premises become inactive or unoccupied for at least ~~six~~three (3) months.

Notwithstanding the foregoing, a licensee may appeal to the Township Council which may in its discretion grant a reasonable extension of up to ~~six~~nine (9) months for good cause shown. The fee to appeal for an extension shall be \$2,500.00. A licensee may request a hardship waiver or reduction of said fee which the Township Council may grant at its sole discretion.

In the event a license is revoked or forfeited, the Township Council may, in its sole discretion, award the license to a qualified applicant that meets the application requirements in Section 110-9 and evaluation criteria in Section 110-14 with the highest ranking in the last round of application evaluations completed by the Township Council or advertise a notice for the submission of applications to award said cannabis license in accordance with the provisions of this Chapter 110 (Cannabis) for evaluating and awarding a cannabis business license.

§ 110-25. Loss of State License.

A Municipal License shall be automatically suspended if and when the corresponding License or permit for the Licensee or subject location expires or is suspended by the Commission or any other State authority having jurisdiction thereover. While not a condition precedent to or requirement for the automatic suspension, after receiving notice of the license or permit expiration or suspension, the Manager shall confirm the suspension of the Municipal License in writing to the Licensee. If the Municipal License remains suspended for at least six months, the Township Council may revoke the Municipal License. A Municipal License shall be automatically revoked, without the need for notice by the Township to the Municipal Licensee, if and when the corresponding License or permit for the Licensee or subject location is surrendered or revoked by the Commission or any other State authority having jurisdiction thereover.

§ 110-26. Rules.

The Township has the authority to adopt any rules and regulations it deems necessary or appropriate to implement this Chapter.

§ 110-27. Inconsistent ordinances repealed.

All ordinances or parts of ordinances inconsistent herewith are repealed as to such inconsistencies. If any section, subsection, sentence, clause, phrase or portion of this Chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

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§ 110-28 Compliance with law.

All Cannabis Establishments, Cannabis Distributors, and Cannabis Delivery Services shall comply with all applicable State and local laws, regulations, requirements, rules, ordinances, and codes.

§ 110-29. When effective.

This Chapter shall take effect as provided by law.