First Reading

INTRODUCED BY: Councilman Del Russo				
SECONDED BY: Councilman Fitzhenry				
COUNCIL	AYE	NAY	ABSTAIN	ABSENT
FITZHENRY	X			
CAVADAS	X			
KARCIC	X			
SHEEDY	X			
DEL RUSSO	X			
BOCCHINO	X			
PRONTI				
TOTAL				

Second & Final Reading

INTRODUCED BY: Councilwoman Sheedy				
SECONDED BY: Councilwoman Cavadas				
COUNCIL	AYE	NAY	ABSTAIN	ABSENT
FITZHENRY	X			
CAVADAS	X			
KARCIC	X			
SHEEDY	X			
DEL RUSSO	X			
BOCCHINO	X			
PRONTI				
TOTAL				

ORDINANCE NO. 2329
BOROUGH OF NORTH ARLINGTON
BERGEN COUNTY, NEW JERSEY

AN ORDINANCE AMENDING THE BOROUGH CODE OF THE BOROUGH OF NORTH ARLINGTON TO CREATE A NEW SECTION ENTITLED "RECREATIONAL CANNABIS ESTABLISHMENTS"

WHEREAS, pursuant to N.J.S.A.40:48-2, the governing body of a municipality may make, amend, repeal, and enforce such other ordinances, regulations, rules and by-laws not contrary to the laws of this state or of the United States, as it may deem necessary and proper for the good government, order and protection of person and property, and for the preservation of the public health, safety and welfare of the municipality and its inhabitants, and as may be necessary to carry into effect the powers and duties conferred and imposed by this subtitle, or by any law; and

WHEREAS, in 2020 New Jersey voters approved Public Question No. 1, which amended the New Jersey Constitution to allow for the legalization of a controlled form of marijuana called "cannabis" for adults at least 21 years of age; and

WHEREAS, on February 22, 2021, Governor Murphy signed into law P.L. 2021, c. 16, known as the "New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act" (the "Act" or "NJCREMM"), which legalizes the recreational use of marijuana by adults 21 years of age or older, and establishes a comprehensive regulatory and licensing scheme for commercial recreational (adult use) cannabis operations, use and possession; and

WHEREAS, the Act establishes six marketplace classes of licensed businesses, including:

- Class 1 Cannabis Cultivator license, for facilities involved in growing and cultivating cannabis;
- Class 2 Cannabis Manufacturer license, for facilities involved in the manufacturing, preparation, and packaging of cannabis items;
- Class 3 Cannabis Wholesaler license, for facilities involved in obtaining and selling cannabis items for later resale by other licensees;
- Class 4 Cannabis Distributer license, for businesses involved in transporting cannabis plants in bulk from one licensed cultivator to another licensed cultivator, or cannabis items in bulk from any type of licensed cannabis business to another;
- Class 5 Cannabis Retailer license for locations at which cannabis items and related supplies are sold to consumers; and
- Class 6 Cannabis Delivery license, for businesses providing courier services for consumer purchases that are fulfilled by a licensed cannabis retailer in order to make deliveries of the purchased items to a consumer, and which service would include the ability of a consumer to make a purchase directly through the cannabis delivery service which would be presented by the delivery service for fulfillment by a retailer and then delivered to a consumer.

WHEREAS, section 31a of the Act authorizes municipalities by ordinance to adopt regulations governing the number of cannabis establishments (defined in section 3 of the Act as "a cannabis cultivator, a cannabis manufacturer, a cannabis wholesaler, or a cannabis retailer"), cannabis distributors or cannabis delivery services allowed to operate within their boundaries, as well as the location manner and times of operation of such establishments, distributors or delivery services, and establishing civil penalties for the violation of any such regulations; and

WHEREAS, section 31b of the Act authorizes municipalities by ordinance to prohibit the operation of any one or more classes of cannabis establishments, distributors, or delivery services anywhere in the municipality; and

WHEREAS, section 31b of the Act also stipulates, however, that any municipal regulation or prohibition must be adopted within 180 days of the effective date of the Act (i.e., by August 22, 2021); and

WHEREAS, pursuant to section 31b of the Act, the failure to do so shall mean that for a period of five years thereafter, the growing, cultivating, manufacturing, selling and reselling of cannabis and cannabis items shall be permitted uses in all industrial zones, and the retail selling of cannabis items to consumers shall be a conditional use in all commercial and retail zones; and

WHEREAS, at the conclusion of the initial and any subsequent five-year period following a failure to enact local regulations or prohibitions, the municipality shall again have 180 days to adopt an ordinance regulating or prohibiting cannabis businesses, but any such ordinance would be prospective only and would not apply to any cannabis business already operating within the municipality; and

WHEREAS, regulating the manufacture, distribution, and sale of marijuana is of paramount concern to the Borough of North Arlington and must be designed in such a way that that enhances public health, minimizes potential harm to the community and enhances the Borough's ability to keep marijuana away from minors; and

WHEREAS, the Borough of North Arlington believes it to be necessary and proper for the good government, order and protection of person and property, and for the preservation of the public health, safety and welfare of the municipality and its inhabitants to create a new Chapter of the Borough Code of the Borough of North Arlington entitled, "Recreational Cannabis Establishments" to allow for strict regulation of the legalized marijuana market and industry in the Borough of North Arlington, with stringent quality control and best practices by all licensees that will better ensure a safer product than an unregulated market; and

WHEREAS, the Borough of North Arlington seeks to regulate the legalized marijuana market and industry by prohibiting the retail sale or delivery of cannabis within the Borough of North Arlington (Class 5 Cannabis Retailer and/or Class 6 Cannabis Delivery) and permitting the growing and cultivation of cannabis (Class 1 Cannabis Cultivator), manufacturing, preparation and packaging of cannabis items (Class 2 Cannabis Manufacturer), obtaining and selling cannabis items for later resale to other licensed businesses (Class 3 Cannabis Wholesaler) and transporting cannabis from one licensed business to another licensed business (Class 4 Cannabis Distributor)

NOW THEREFORE BE IT ORDAINED by the Borough Council of the Borough of North Arlington that the Borough Code of the Borough of North Arlington is hereby amended as follows to create a new Chapter entitled, "Recreational Cannabis Establishments" which shall read as follows:

Chapter. Recreational Cannabis Establishments

Article I. General Provisions.

§1. Purpose and Intent.

It is the purpose and intent of this chapter to promote the health, safety, morals and general welfare of the residents and businesses within the Borough of North Arlington by regulating the

cultivation, processing, extraction, manufacturing, testing, distribution, transportation, sale and consumption of marijuana, whether for medical or recreational purposes as currently allowed under New Jersey State law. It is the purpose and intent of this chapter to prohibit Cannabis Dispensaries but permit Cannabis Businesses, upon application and approval of a regulatory permit, and in accordance with the criteria and procedures set forth in this Code. It is the purpose and intent of this Chapter to provide opportunities for cannabis businesses to operate in the Borough, while imposing regulations on the use of land to protect the Borough's neighborhoods, residents, and businesses from negative impacts. It is a further purpose and intent of this Chapter to regulate the cultivation, manufacturing, processing, testing and transporting of cannabis and cannabis-related products in a manner which is responsible and protects the health, safety, and welfare of the residents of the Borough of North Arlington, and to enforce rules and regulations consistent with state law. In part to meet these objectives, an annual permit shall be required in order to own and/or to operate a Cannabis Business within the Borough of North Arlington. Nothing in this Chapter is intended to authorize the possession, use, or provision of cannabis for purposes which violate state or federal law. The provisions of this Chapter are in addition to any other permits, licenses and approvals which may be required to conduct business in the Borough, and are in addition to any permits, licenses and approval required under State, County, or other law.

§2. Legal Authority; Application of this Chapter to Cannabis Dispensaries.

Pursuant to the New Jersey Constitution, and the provisions of the "New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act" (the "Act" or "NJCREMM"), the Borough of North Arlington is authorized to adopt ordinances that establish standards, requirements and regulations for local licenses and permits for cannabis and cannabis-related activity. Any standards, requirements and regulations regarding health and safety, security, and worker protections established by the State of New Jersey, or any of its departments or divisions, shall be the minimum standards applicable in the Borough of North Arlington to cannabis and/or cannabis-related activity.

§3. Compliance with Laws.

It is the responsibility of the owners and operators of the cannabis business to ensure that it is, at all times, operating in a manner compliant with all applicable state and local laws, and any regulations promulgated thereunder, and any specific additional operating procedures or requirements which may be imposed as conditions of approval of the cannabis business permit. Nothing in this Chapter shall be construed as authorizing any actions which violate federal, state law or local law with respect to the operation of a cannabis business.

Article II. Definitions.

§4. Words and Terms Defined.

When used in this Chapter, the following words shall have the meanings ascribed to them as set forth herein. Any reference to New Jersey statutes includes any regulations promulgated thereunder and is deemed to include any successor or amended version of the referenced statute or regulatory provision.

(a) "Cannabis" means all parts of the Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from marijuana. "Cannabis" also means marijuana as defined by the New Jersey Health and Safety Code. "Cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this Chapter, "cannabis" does not mean industrial hemp, as that term is defined by the New Jersey Food and Agricultural Code.

(b) "Cannabis business activity" includes cultivation, manufacture, processing, laboratory testing, transporting, delivery, distribution, or sale of cannabis or a cannabis product, within the meaning of New Jersey Business and Professions Code.

(c) "Cannabis concentrate" means manufactured cannabis that has undergone a process to concentrate the cannabinoid active ingredient, thereby increasing the product's potency. An edible cannabis product is not considered food, as defined by the New Jersey Health and Safety Code, or a drug, as defined by the New Jersey Health and Safety Code.

(d) "Cannabis Business" means the business of commercial cannabis cultivation, cannabis manufacturer, cannabis testing laboratory, and cannabis distributor.

(e) "Cannabis business permit" means a regulatory permit issued by the Borough pursuant to this Chapter to a cannabis business and is required before any cannabis activity may be conducted in the Borough of North Arlington. The initial permit and annual renewal of a cannabis business permit is made expressly contingent upon the business' ongoing compliance with all of the requirements of this Chapter, any regulations adopted by the Borough governing the cannabis activity at issue, compliance with any conditions of approval placed on the use of the Cannabis Business site, and payment of all fees, taxes and any other amounts owed to the Borough related to the Cannabis Business Activity.

(f) "Cannabis Distributor" means a Cannabis Operator permitted pursuant to this Chapter to operate a location or a facility where a Person conducts the business of procuring Cannabis from permitted Cannabis Cultivation Sites or Cannabis Manufacturers for sale to permitted Cannabis Dispensaries, and the inspection, quality assurance, batch testing by a licensee, storage, labeling, packaging and other processes prior to transport to permitted Cannabis Dispensaries.

(g) "Cannabis License" means a State license issued pursuant to NJCREMM, as may be amended from time to time.

(h) "Cannabis Licensee" means a person issued a Cannabis License under NJCREMM to engage in commercial Cannabis activity.

(i) "Cannabis Nursery" means a location operating as a nursery solely for purposes of supplying immature plants to cannabis cultivation facilities.

(j) "Cannabis Operator" or "Operator" means the person or entity that is engaged in the conduct of any commercial Cannabis use.

(k) "Cannabis Testing Laboratory" means a facility, entity, or site in the State that offers or performs tests of Cannabis or Cannabis Products and is both of the following:

(1) Accredited by an accrediting body that is independent from all other Persons involved in the Cannabis Testing Laboratory.

(2) Registered with the New Jersey Department of Public Health.

(l) "Borough" means the Borough of North Arlington.

(m) "Cultivation" means any activity, whether occurring indoors or outdoors, involving the propagation, planting, growing, harvesting, drying, curing, grading and/or trimming of cannabis plants or any part thereof for any purpose, including cannabis.

(n) "Cultivation site" means a facility where cannabis is cultivated, propagated, planted, grown, harvested, dried, cured, graded or trimmed, or that does all or any combination of those activities, and where the operator holds a valid cannabis business permit for cultivation from the Borough and a valid state license for cultivation pursuant to the NJCREMM (as the same may be amended from time to time).

(o) "Delivery" means the commercial transfer of medical cannabis or medical cannabis products from a dispensary, up to an amount determined to be

authorized by the State of New Jersey, or any of its departments or divisions, to anyone for any purpose. "Delivery" also includes the use by a dispensary of any technology platform owned, controlled and/or licensed by the dispensary, or independently licensed by the State of New Jersey under the NJCREMM (as the same may be amended from time-to-time), that enables anyone to arrange for or facilitate the commercial transfer by a licensed dispensary of cannabis or cannabis products.

(p) "Dispensary" means a cannabis business facility where cannabis, medical cannabis products, or devices for the use of medical cannabis or medical cannabis products are offered, either individually or in any combination, for retail sale, including an establishment (whether fixed or mobile) that delivers, pursuant to express authorization, medical cannabis and medical cannabis products as part of a retail sale, and where the operator holds a valid cannabis business permit from the Borough authorizing the operation of a dispensary and a valid state license as required by state law to operate a dispensary.

(q) "Dispensing" means any activity involving the retail sale of cannabis or cannabis products from a dispensary.

(r) "Distribution" means the procurement, sale and transport of medical cannabis or cannabis products between cannabis businesses.

(s) "Distributor" means a person holding a valid cannabis business permit for distribution issued by the Borough and a valid state license for distribution pursuant to the NJCREMM (as the same may be amended from time to time).

(t) "Dried flower" means all dead cannabis that has been harvested, dried, cured or otherwise processed, excluding leaves and stems.

(u) "Edible cannabis product" means manufactured cannabis that is intended to be used, in whole or in part, for human consumption. An edible medical cannabis product is not considered food as defined by the New Jersey Health and Safety Code or a drug as defined by the New Jersey Health and Safety Code.

(v) "Indoor structure" means a fully enclosed and secured structure, or a space within a building, greenhouse or other structure which has a complete roof enclosure supported by connecting walls extending from the ground to the roof, which is secure against unauthorized entry, provides complete visual screening, complies with all odor control and other design standards required by this chapter, and which is accessible only through one or more lockable doors and is inaccessible to minors.

(w) "Indoors" means within a fully enclosed and secure structure. The term indoors includes any indoor structures.

(x) "Live plants" means living cannabis flowers and plants, including seeds, sprouts, immature plants (including unrooted clones), and vegetative stage plants.

(y) "Manufacturer" means a person that conducts the production, preparation, propagation or compounding of manufactured cannabis, as defined in this section, or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis at a fixed location that packages or repackages cannabis or cannabis products or labels or relabels its container, where the operator holds a valid cannabis business permit for manufacturing from the Borough of North Arlington and a valid state license for manufacturing pursuant to the NJCREMM (as the same may be amended from time to time).

(z) "Manufactured cannabis" means raw cannabis that has undergone a process whereby the raw agricultural product has been transformed into a concentrate or manufactured product intended for internal consumption or topical application.

(aa) "Manufacturing site" means a location that produces, prepares, propagates or compounds cannabis or cannabis products, directly or indirectly, by extraction methods, independently by means of chemical synthesis or by a combination of extraction and chemical synthesis, and is owned and operated by a person issued a valid Cannabis business permit for manufacturing from the Borough and a valid state license for manufacturing pursuant to the NJCREMM (as the same may be amended from time to time).

(bb) "Marijuana" means "cannabis," as that term is defined in this Chapter.

(cc) "Outdoors" means any location within the Borough that is not within a fully enclosed and secure structure.

(dd) "Person" means an individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate or any other group or combination acting as a unit and includes the plural as well as the singular number

(ee) "State license" means a permit or license issued by the State of New Jersey or one of its departments or divisions, pursuant to the New Jersey Constitution and the provisions of NJCREMM (as the same may be amended from time to time) to engage in cannabis activity.

(ff) "Topical cannabis" means a product intended for external use. A topical cannabis product is not considered a drug as defined by the New Jersey Health and Safety Code.

(gg) "Transport" means the transfer of cannabis or cannabis products from the permitted business location of one licensee to the permitted business location of another licensee for the purposes of conducting cannabis activity authorized by the NJCREMM (as the same may be amended from time to time).

(hh) "Transporter" means a person issued a state license and a cannabis business permit by the Borough of North Arlington authorizing the transport of cannabis or cannabis products in amounts authorized by the State of New Jersey, or by one of its departments or divisions under NJCREMM.

Article III. Permits Required for Owner/Operator and Employees.

§5. Cannabis Business Permit Required to Engage in Cannabis business.

No person may engage in any cannabis business, including cultivation, manufacture, processing, laboratory testing, transporting, dispensing or distribution of cannabis or a cannabis product unless the person (1) has a valid cannabis business permit from the Borough of North Arlington and (2) is currently in compliance with all applicable state and local laws and regulations pertaining to the cannabis business and the cannabis business activities, including the duty to obtain any required state licenses.

§6. Cannabis Business Employee Permit Required.

(a) Any person who is an employee or who otherwise works or volunteers within a cannabis business must be legally authorized to do so under applicable state law.

(b) Any person who is an employee or who otherwise works or volunteers within a cannabis business shall wear a name badge issued by the cannabis business management for identification purposes.

Article IV. Number and Type of Authorized Cannabis Businesses Permitted.

§7. Maximum Number of Cannabis Businesses Permitted to Operate within the Borough.

(a) For the following types of Cannabis Businesses, the maximum number of each that shall be permitted to operate in the Borough at any given time shall be at the sole discretion of the Borough Council:

Class 1 Cannabis Cultivator license, for facilities involved in growing and cultivating cannabis.

Class 2 Cannabis Manufacturer license, for facilities involved in the manufacturing, preparation, and packaging of cannabis items.

Class 3 Cannabis Wholesaler license, for facilities involved in obtaining and selling cannabis items for later resale by other licensees.

Class 4 Cannabis Distributer license, for businesses involved in transporting cannabis plants in bulk from one licensed cultivator to another licensed cultivator, or cannabis items in bulk from any type of licensed cannabis business to another.

(b) Nothing in this Chapter creates a mandate that the Borough Council must issue any Cannabis Business Permits potentially available.

(c) The following types of Cannabis Businesses shall not be permitted to operate in the Borough at any time:

Class 5 Cannabis Retailers at which cannabis items and related supplies are sold to consumers; and

Class 6 Cannabis Delivery businesses which are primarily located in the Borough which provide courier services for consumer purchases that are fulfilled by a licensed cannabis retailer in order to make deliveries of the purchased items to a consumer, and which service would include the ability of a consumer to make a purchase directly through the cannabis delivery service which would be presented by the delivery service for fulfillment by a retailer and then delivered to a consumer.

Article V. Application for Cannabis Business Permit.

§8. Initial Application Procedure.

(a) Any person desiring a license under this chapter shall file with the Borough Clerk an original and five copies of an application under oath, in writing, on a form furnished by the Borough Clerk.

(b) The application shall set forth the following information:

(1) The applicant's name, business name and business address.

(2) Whether the applicant is an individual, partnership, corporation or another entity and, if another entity, a full explanation and description thereof.

(3) If the applicant is an individual, the applicant's residence address and date and place of birth.

(4) If the applicant is a partnership, the full names, residence addresses and dates and

places of birth of each partner.

(5) If the applicant is a corporation or other entity: in the case of a corporation, the full names, residence addresses and dates and places of birth of each major officer and each stockholder, the name and address of the registered agent and the address of the principal office upon whom and where service of process is authorized to be made (the term "stockholder" as used herein means and includes any person having an interest, either legal or equitable, in 10% or more of the stock issued and outstanding of the applicant corporation); in the case of another entity, the full names, residence addresses and dates and places of birth of each person owning or having any interest, legal or equitable, aggregating in value 10% or more the total capital of the said entity, the name and address of the registered agent, if any, and the address of the principal office, if any, upon whom and where service of process is authorized to be made.

(6) Whether the applicant or any partners, officers or stockholders thereof have ever been convicted of a crime and, if so, the name of the person convicted, the nature of the crime or charge involved and the disposition thereof (the term "officers" as used herein means and includes the president, vice president, secretary and treasurer of a corporate applicant).

(7) The business addresses of the manager or the person in charge of the licensed premises during the five-year period preceding the date of application.

(8) A description of the metes and bounds of the place where the business is to be located and carried on.

(9) A survey or scale drawing of the plot showing the structures and open spaces/areas to be used in the business, approved existing or proposed entrances and exits to and from the place where the business is to be conducted, the location and place of said business and location and size of all structures and fences thereon and the setback thereof from street lines.

(10) A scale drawing of the interior of the premises showing all entrances and exits to and from the place where the business is to be conducted; the location and placement of all antifire equipment, i.e., hoses, extinguishers, sprinkler systems, etc.; and the location of all fire exits.

(11) A scale drawing showing the proposed plan of evacuation in the event of an emergency.

(12) A valid certificate of occupancy for the premises.

(13) A copy of all documents submitted by the applicant to the State in connection with the application for a state operating number and all documents issued by the State indicating that the applicant has been qualified or pre-qualified for a state operating license.

(b) The Borough's Reservation of Rights: The Borough reserves the right to reject any or all applications. The Borough may also modify, postpone or cancel any request for applications or the entire program under this Chapter, at any time without liability, obligation or commitment to any party, firm, or organization. Persons submitting applications assume the risk that all or any part of the program, or any particular category of permit potentially authorized under this Chapter, may be cancelled at any time prior to permit issuance. The Borough further reserves the right to request and obtain additional information from any candidate submitting an application. In addition to any other appropriate reasons for rejection, including but not limited to a failure to comply with any requirement of any State or local law, rule or regulation, **an application RISKS BEING REJECTED for any of the following reasons:**

(1) Proposal not containing the required elements or exhibits, or not organized in the required format.

(2) Proposal considered not fully responsive to this request for permit application.

§9 Processing of application.

(a) Submission by Clerk to departments.

(1) Upon receipt of such application, the Borough Clerk shall submit same to the Police Department, Fire Department, Department of Code Enforcement, zoning offices and Health Department for reports with references to the compliance or noncompliance of the proposed establishment with municipal and state rules, regulations, statutes and ordinances and the truth of the matter contained in the application.

(2) The Clerk shall submit each completed application for license or renewal thereof to the various departments within 10 days of receipt of the completed application, and the department shall have 30 days from their receipt to investigate and prepare the reports concerning the license application or renewal, except in the event the Department of Code Enforcement identifies a violation of the premises sought to be used by the license applicant. Notice of the violation shall immediately be given to the applicant who shall have the time afforded by the appropriate municipal ordinance or regulation to correct the violation. The Department of Code Enforcement shall not issue its report to the Borough Clerk until such time as the period to correct has expired.

(b) Upon return of said application and reports, the Borough Clerk shall submit same to the Borough Council for action at its next scheduled Borough Council meeting. If there are objections to the issuance of the license, the Clerk must submit the application and reports to the Council within 10 days, and the Council must give notice to the applicant within five days of their receipt of the reports concerning this application, and within 30 days of the submission, a hearing shall be held for the Borough Council concerning the application to decide to grant or deny the license unless the parties agree to additional time for that decision.

(c) Upon the consent and approval of the Borough Council and upon receipt of a copy of a certificate of occupancy for the licensed premises, the Borough Clerk shall issue such license.

§10. License fee; term.

(a) The annual fee for a license under this chapter shall be $500.

(b) Such license shall run for a period of one year, commencing January 1 and ending December 31 of the year of its issuance.

§11. Denial of license.

No license shall be granted by the Council if:

(a) The licensee has failed to comply with the provisions of this chapter;

(b) The licensed premises or use thereof is not permitted by the terms and provisions of the zoning ordinances;

(c) Licensee is in violation of any law, code or regulation involving the business to be licensed;

(d) The individual applicant or or any principal or manager of a firm applicant have been convicted of an offense against the narcotic laws of the State of the New Jersey or a crime involving moral turpitude which touches on the business to be licensed.

§ 12. License renewals.

(a) All existing licenses and those that hereafter issue, upon payment of the prescribed license fee and compliance with the terms of this chapter, shall be renewed annually as of January 1. Applications for renewal of an expiring license shall be made with the payment of the annual fee and the filing of an application provided by the Borough Clerk. The application shall include a statement that no changes have been made in any of the facts or information stated in the original application or to the licensed premises during the preceding licensed period. If there are any material changes, those shall be noted on the application form.

(b) All applications for renewal of an expiring license shall be submitted to the Borough Clerk no later than October 1 prior to the January 1 renewal date. If the application for renewal shall not be received by October 1, then there shall be a delay in the processing of the license application. Inasmuch as 90 days is required for the Borough of North Arlington to properly process all applications, then any licensee submitting a renewal after October 1 shall be delayed at least 90 days from submission for processing. The delay in submitting the application for renewal shall cause the license, which expires on January 1, to be suspended on January 1 until the application can be processed by the Borough. The suspension shall be for the same time frame as the late filing. If the Borough delays beyond the time frames set forth in this section to review and consider the license application, then the license shall be reinstated temporarily until the Council can consider the license renewal application.

§13. Transferability.

The license shall authorize the licensee to conduct business only on the premises specified in the license. Without the consent of the Borough Council, the license shall not be transferable to any other premises, nor assignable or transferable in any manner or to any other person.

§14. Suspension or revocation of license.

All licenses are subject to suspension or revocation after due notice and hearing by the Borough Council for the violation of any of the terms of this chapter, for the violation by the licensee of state and municipal rules, regulations, statutes and/or ordinances or for allowing, suffering and/or permitting the violation of state and municipal rules, regulations, statutes and/or ordinances upon the licensed premises by the servants, agents, employees and/or patrons thereof where the licensee knew or should have known that such violations were being committed by the servants, agents, employees and/or patrons of the licensee.

§15. Effect of State License Suspension, Revocation, or Termination.

Suspension of a license issued by the State of New Jersey or by any of its departments or divisions shall immediately suspend the ability of a cannabis business to operate within the Borough, until the State of New Jersey or its respective department or division, reinstates or reissues the State license. Should the State of New Jersey or any of its departments or divisions revoke or terminate the license of a cannabis business, such revocation or termination shall also revoke or terminate the ability of a cannabis business to operate within the Borough of North Arlington.

Article VI. Requirements Before Permittee May Commence Operations.

§16. Borough Business License.

Prior to commencement of operations, a cannabis business shall obtain a Borough of North Arlington business license.

§17. Building Permits and Inspection.

Prior to commencement of operations, a cannabis business shall be subject to a mandatory building inspection and must obtain all required permits and approvals which would otherwise be required for any business of the same size and intensity operating in that zone. This includes, but is not limited to, obtaining any required building permit(s), fire department approvals, Health Department approvals and other zoning and land use permit(s) and approvals.

§18. Certification from Zoning Department.

Prior to commencing operations, a cannabis business must obtain a certification from the Zoning Officer certifying that the business is located on a site that meets all of the requirements of the Borough's Zoning and Municipal Code.

§19. Right to Occupy and to Use Property.

As a condition precedent to the Borough's issuance of a cannabis business permit pursuant to this Chapter, any person intending to open and operate a cannabis business shall provide sufficient evidence of the legal right to occupy and use the proposed location. In the event the proposed location will be leased from another person, the applicant shall be required to provide a signed and notarized statement from the owner of the property acknowledging that the property owner has read this Chapter and consents to the operation of the cannabis business on the owner's property.

§20. Limitations on Borough's Liability.

To the fullest extent permitted by law, the Borough of North Arlington shall not assume any liability whatsoever with respect to having issued a cannabis business permit pursuant to this Chapter or otherwise approving the operation of any cannabis business. As a condition to the approval of any cannabis business permit, the applicant shall be required to meet all of the following conditions before they can receive the cannabis business permit:

(a) Execute an agreement, in a form approved by the Borough Attorney, agreeing to indemnify, defend (at applicant's sole cost and expense) and hold the Borough of North Arlington, and its officers, officials, employees, representatives and agents, harmless from any and all claims, losses, damages, injuries, liabilities or losses which arise out of, or which are in any way related to, the Borough's issuance of the cannabis business permit, the Borough's decision to approve the operation of the cannabis business or activity, the process used by the Borough in making its decision, the alleged violation of any federal, state or local laws by the cannabis business or any of its officers, employees or agents.

(b) Maintain insurance at coverage limits and with conditions thereon determined necessary and

appropriate from time to time by the Borough Attorney.

(c) Reimburse the Borough of North Arlington for all costs and expenses, including but not limited to attorney fees and costs and court costs, which the Borough of North Arlington may be required to pay as a result of any legal challenge related to the Borough's approval of the applicant's cannabis business permit, or related to the Borough's approval of a cannabis activity. The Borough of North Arlington may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve any of the obligations imposed hereunder.

Article VII. Operating Requirements for All Cannabis Businesses.

§21. Records and Recordkeeping.

(a) Each owner and operator of a cannabis business shall maintain accurate books and records, detailing all of the revenues and expenses of the business, and all of its assets and liabilities. On no less than an annual basis (at or before the time of the renewal of a cannabis business permit issued pursuant to this Chapter), or at any time upon reasonable request of the Borough, each cannabis business shall file a sworn statement detailing the number of sales by the cannabis business during the previous twelve-month period (or shorter period based upon the timing of the request), provided on a per-month basis. The statement shall also include gross sales for each month and all applicable taxes paid or due to be paid.

(b) Each owner and operator of a cannabis business shall maintain a current register of the names and the contact information (including the name, address, telephone number and percentage of ownership) of anyone owning or holding an interest in the cannabis business, and separately of all the officers, managers, employees, agents and volunteers currently employed or otherwise engaged by the cannabis business. The register required by this paragraph shall be provided to the Borough Clerk or his/her designee(s) upon a reasonable request. If at any time a corporation, LLC, company, trust or other entity holds an interest in a cannabis business, the register required by this paragraph shall also include the name and contact information of a person designated as being able to answer all questions on behalf of that entity, together with the name of every person holding an interest in that cannabis business. The designated representative shall provide whatever additional information the Borough Clerk or his/her designee or the Police Department may reasonably request concerning the owners of that entity.

(c) All cannabis businesses shall maintain an inventory control and reporting system as required by state law.

(d) Subject to any restrictions under the Health Insurance Portability and Accountability Act (HIPPA) regulations, each cannabis business shall allow Borough of North Arlington officials to have access to the business's books, records and accounts, together with any other data or documents relevant to its

permitted cannabis activities, for the purpose of conducting an audit or examination. Books, records, accounts and any and all relevant data or documents will be produced no later than two (2) business days after receipt of the Borough's request, unless otherwise stipulated by the Borough.

§22. Security Measures.

(a) A permitted cannabis business shall implement sufficient security measures to deter and prevent the unauthorized entrance into areas containing cannabis or cannabis products and to deter and prevent the theft of cannabis or cannabis products at the cannabis business. Except as may otherwise be determined by the Borough, these security measures shall include compliance with all State security regulations required under the Cannabis Licensee's State cannabis license, as those regulations may be amended from time to time

(b) Every cannabis business shall provide adequate security on the premises, including lighting and alarms, to ensure the safety of persons and to protect the premises from theft. As part of an application for a cannabis use permit, each applicant shall prepare and submit a security plan for review and approval by the Chief of Police, which approval or denial will be based upon the security standards stated above and in compliance with any security measures agreed upon with the Chief of Police. Said plans shall remain updated and secured on file in the protective custody of the Building Department. The information provided for purposes of this section shall be maintained by the Building Department as confidential information and shall not be disclosed as public records unless pursuant to subpoena issued by a court of competent jurisdiction.

(c) The Borough Council may impose further security requirements above and beyond the minimum-security requirements imposed by State regulations, upon the recommendation of the Borough Administrator in consultation with the Chief of Police based on the unique circumstances associated with a particular cannabis business. Except as may otherwise be determined by the Borough Council, these security measures shall include compliance with all State security regulations required under the Cannabis Licensee's State cannabis license, as those regulations may be amended from time to time.

(d) A cannabis business shall identify a designated security representative/liaison to the Borough of North Arlington, who shall be reasonably available to meet with the Borough Administrator, the Borough's Police Chief, the Borough Fire Chief or their designees, regarding any security related measures or operational issues.

(e) The cannabis business shall cooperate with the Borough whenever the Borough Administrator or his designee makes a request, upon reasonable notice to the cannabis business, to inspect or audit the effectiveness of any security plan or of any other requirement of this Chapter.

(f) A cannabis business shall notify the Chief of Police and the Borough Administrator or his/her designee within twenty-four (24) hours after discovering any of the following:

(1) Significant discrepancies identified during inventory.

(2) Diversion, theft, loss, or any criminal activity involving the cannabis business or any agent or employee of the cannabis business.

(3) The loss or unauthorized alteration of records related to cannabis, registering qualifying patients, primary caregivers or employees or agents of the cannabis business.

(g) When more than one cannabis businesses is located adjacent to, or in close proximity to another cannabis business, the businesses may present a joint security plan to the Chief of Police for review and approval to avoid redundant activity and excess costs, provided the required level of security and effectiveness are not compromised, as determined by the Chief of Police.

§23. Restriction on Alcohol Sales.

No person shall cause or permit the sale, dispensing, or consumption of alcoholic beverages on the premises of the cannabis business. Alcoholic beverages may be consumed on the premise incident to a properly permitted event such as a grand-opening or community event.

§24. Fees and charges.

(a) No person may commence or continue any cannabis activity in the Borough, without timely paying in full all fees, taxes and charges required for the operation of a cannabis activity. Fees and charges associated with the operation of a cannabis activity shall be established by resolution of the Borough Council which may be amended from time to time.

(b) All cannabis businesses authorized to operate under this Chapter shall pay all sales, use, business and other applicable taxes, and all license, registration and other fees required under federal, state and local law. Each cannabis business shall be required to cooperate with Borough with respect to any request to audit the cannabis business' books and records for the purpose of verifying compliance with this section, including but not limited to a verification of the amount of taxes required to be paid during any period.

§25. Miscellaneous Operating Requirements.

(a) Hours of Operation. Cannabis businesses may be open for access to the public only between the hours of 8:00 A.M. and 9:00 P.M.

(b) Restriction on Consumption. Cannabis shall not be smoked, ingested, used or otherwise consumed on the premises of a cannabis business or elsewhere in the Borough of North Arlington, other than within private residences.

(c) No cannabis or cannabis products or graphics depicting cannabis or cannabis products shall be visible from the exterior of any property issued a cannabis business permit or on any of the vehicles owned or used as part of the cannabis business. No outdoor storage of cannabis or cannabis products is permitted at any time.

(d) Emergency Contact. Each cannabis business shall provide the Borough Clerk or his/her designee(s), the Borough's Chief of Police, and the Borough's Fire Chief with the name and telephone number (including mobile number) of one or more on-site employee(s) or owner(s), to whom emergency notice can be provided at any hour of the day.

(e) Signage and Notices.

(1) In addition to the requirements otherwise set forth in this section, business identification signage for a cannabis business shall conform to the requirements of the Borough of North Arlington Municipal Code, including, but not limited to, seeking the issuance of a Borough sign permit.

(2) No signs placed on the premises of a cannabis business shall obstruct any entrance or exit to the building or any window.

(3) Each entrance to a cannabis business shall be visibly posted with a clear and legible notice indicating that smoking, ingesting, or otherwise consuming cannabis on the premises or in the areas adjacent to the cannabis business is prohibited.

(4) Business identification signage shall be limited to that needed for identification only and shall not contain any logos or information that identifies, advertises or lists the services or the products offered. No cannabis business shall advertise by having a person holding a sign and advertising the business to passersby, whether such person is on the premises of the cannabis business or elsewhere including, but not limited to, the public right-of-way.

(5) Signage shall not be directly illuminated, internally or externally, except that the name and address of the business may be illuminated at night. No banners, flags, billboards or other prohibited signs may be used at any time.

(f) Minors.

(1) Persons under the age of twenty-one (21) years shall not be allowed on the premises of a cannabis business and shall not be allowed to serve as a driver for a mobile delivery service. It shall be unlawful and a violation of this Chapter for any person to employ any person at a cannabis business who is not at least twenty-one (21) years of age.

(2) The entrance to the cannabis business shall be clearly and legibly posted with a notice that no person under the age of twenty-one (21) years of age is permitted to enter upon the premises of the cannabis business.

(g) Odor Control. Odor control devices and techniques shall be incorporated in all cannabis businesses to ensure that odors from cannabis are not detectable off-site. Cannabis businesses shall provide a sufficient odor absorbing ventilation and exhaust system so that odor generated inside the cannabis business that is distinctive to its operation is not detected outside of the facility, anywhere on adjacent property or public rights-of-way, on or about the exterior or interior common area walkways, hallways, breezeways, foyers, lobby areas or any other areas available for use by common tenants or the visiting public, or within any other unit located inside the same building as the cannabis business. As such, cannabis businesses must install and maintain the following equipment or any other equipment which the Building Department determines is a more effective method or technology:

(1) An exhaust air filtration system with odor control that prevents internal odors from being emitted externally;

(2) An air system that creates negative air pressure between the cannabis business's interior and exterior so that the odors generated inside the cannabis business are not detectable on the outside of the cannabis business.

(h) Display of Permit and Borough Business License. The original cannabis business permit issued by the Borough pursuant to this Chapter and the Borough issued business license shall be posted inside the cannabis business in a location readily-visible to the public.

(i) Permits and other Approvals. Prior to the establishment of any cannabis business or the operation of any such business, the person intending to establish a cannabis business must first

obtain all applicable planning, zoning, building and other applicable permits from the relevant governmental agency which may be applicable to the zoning district in which such cannabis business intends to establish and to operate.

Article VIII. Additional Requirements for Cultivation Facilities.

§26. Operating Requirements.

(a) Outdoor Cultivation Prohibited. The cultivation of all cannabis must occur indoors, and only in a facility holding a valid cannabis business permit from the Borough under this Chapter. All outdoor cultivation is prohibited. The above restriction against outdoor cultivation specifically includes, but is not limited to, a prohibition on the outdoor cultivation of any plants which an individual may be growing for his/her personal use, even if the growth of plants for personal use is authorized under State law.

(b) In no case shall cannabis plants be visible from a public or private road, sidewalk, park or any common public viewing area.

(c) Cannabis cultivation shall be conducted in accordance with state and local laws related to land conversion, grading, electricity, water usage, water quality, woodland and riparian habitat protection, agricultural discharges and similar matters.

(d) Pesticides and fertilizers shall be properly labeled and stored to avoid contamination through erosion, leakage or inadvertent damage from pests, rodents or other wildlife.

(e) The cultivation of cannabis shall at all times be operated in such a way as to ensure the health, safety and welfare of the public, the employees working at the cannabis business, visitors to the area, neighboring properties and the end users of the cannabis being cultivated; to protect the environment from harm to streams, fish and wildlife; to ensure the security of the cannabis being cultivated; and to safeguard against the diversion of cannabis.

(f) All applicants for a cannabis cultivation permit shall submit the following in addition to the information generally otherwise required for a cannabis business:

(1) A cultivation and operations plan that meets or exceeds minimum legal standards for water usage, conservation and use; drainage, runoff and erosion control; watershed and habitat protection; and proper storage of fertilizers, pesticides and other regulated products to be used on

the parcel, and a description of the cultivation activities (indoor, mixed-light) and schedule of activities during each month of growing and harvesting, or explanation of growth cycles and anticipated harvesting schedules for all-season harvesting (indoor, mixed-light).

(2) A description of a legal water source, irrigation plan and projected water use.

(3) Identification of the source of electrical power and plan for compliance with applicable Building Codes and related codes.

(4) A plan for addressing odor and other public nuisances which may derive from the cultivation site.

Article IX. Additional Requirements for Manufactured Cannabis.

§27. Cannabis Manufacturing: Edibles and Other Cannabis Products.

The manufacturing of food or other products infused with or which otherwise contain cannabis shall be permitted. However, such product shall not be available for retail sale or purchase within the Borough of North Arlington.

§28. Packaging and Labeling.

(a) Before a cannabis manufacturer delivers any edible cannabis or edible cannabis product to a dispensary, the same shall be labeled and placed in tamper-evident packaging which at least meets the requirements of applicable State law, as the same may be amended from time-to-time or superseded or replaced by subsequent State legislation or by any department or division of the State of New Jersey.

(b) All items to be sold or distributed shall be individually wrapped at the original point of preparation by the business permitted as a cannabis manufacturer.

(c) Labeling must include a warning if nuts or other known allergens are used and must include the total weight (in ounces or grams) of cannabis in the package.

(d) The package must have a label warning that the product is to be kept away from children.

(e) The label must also state that the product contains cannabis and must specify the date of manufacture.

(f) Any edible cannabis product that is made to resemble a typical food product must be in a properly labeled, opaque (non-see-through) package before it leaves the cannabis manufacturing business.

(g) Deliveries must be in a properly labeled, opaque package when delivered.

APPROVED: _____
Daniel H. Pronti, Mayor

ATTEST: _____
Kathleen Moore, Borough Clerk

DATED: July 8, 2021

PUBLIC NOTICE

PUBLIC NOTICE IS HEREBY GIVEN THAT AT A REGULAR MEETING OF THE MAYOR AND COUNCIL OF THE BOROUGH OF NORTH ARLINGTON HELD ON THURSDAY, June 10, 2021 THE ABOVE ORDINANCE WAS INTRODUCED AND PASSED ON ITS FIRST READING. SAID ORDINANCE SHALL BE TAKEN UP FOR FURTHER CONSIDERATION FOR FINAL PASSAGE AT A REGULAR MEETING OF THE MAYOR AND COUNCIL TO BE HELD IN THE COUNCIL CHAMBERS, BOROUGH HALL, 214 RIDGE ROAD, NORTH ARLINGTON, BERGEN COUNTY, NEW JERSEY ON July 8, 2021, 7:00PM OR AS SOON THEREAFTER AS THE MATTER CAN BE REACHED, AT WHICH TIME AND PLACE ALL PERSONS WHO MAY BE INTERESTED THEREIN SHALL BE GIVEN AN OPPORTUNITY TO BE HEARD CONCERNING SAME. DURING THE WEEK PRIOR TO AND UP TO AND INCLUDING THE DATE OF SUCH MEETING, COPIES OF SAID ORDINANCE WILL BE MADE AVAILABLE AT THE BOROUGH CLERK'S OFFICE TO THE MEMBERS OF THE GENERAL PUBLIC WHO SHALL REQUEST SAME.

Kathleen Moore, RMC
Borough Clerk