

AN ORDINANCE SUPERCEDING AN ORDINANCE KNOWN AS  
ORDINANCE ESTABLISHING AND REGULATING THE SALE AND  
DISTRIBUTION OF CANNABIS IN BOROUGH OF VICTORY GARDENS  
ADOPTED BY THE BOROUGH COUNCIL ON AUGUST 17, 2021

This new Ordinance is to be known as:

AN ORDINANCE TO ESTABLISH LICENSURE OF CANNABIS  
ESTABLISHMENT AND REGULATION OF CANNABIS USE IN THE  
BOROUGH OF VICTORY GARDENS

**WHEREAS**, the sale and distribution of Cannabis has been determined to be legal in the State of New Jersey by way of P.L. 2021.16, known as the “**New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act**” (the “**Act**”); and

**WHEREAS**, 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, which the governing body chooses not to do; and

**WHEREAS**, the governing body of Victory Gardens Borough (Borough) has determined that the best interests of the Borough are served by allowing the establishment of a facility or facilities to act upon said legislation; 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;

**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 on licensed cultivator to another licensed cultivator, or cannabis items in bulk from any type of licensed cannabis business;

**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 delivery which would be presented by the delivery service for fulfillment by a retailer and the delivered to a customer; and

**WHEREAS**, the governing body has determined that the best interests of the Borough are served by licensing one (2) Class 5 and (1) Class 6 as above defined facility; and

**NOW THEREFORE**, it is ordained that Cannabis establishments shall be permitted pursuant to his Ordinance only if the following requirements are complied with:

- a. The regulations of this Section are subject to the enabling authority of the State of New Jersey and are subject to compliance with all statutes and/or regulations adopted by the State of New Jersey or its instrumentalities. If any provision of this Section is inconsistent with the statutes and /or regulations of the State of New Jersey, the State statutes and/or regulations shall prevail.
- b. Prior to the operation of any cannabis establishment, a permit or license must be obtained from the State of New Jersey and from the Borough of Victory Gardens for the applicable types of cannabis establishment. No cannabis establishment shall be permitted to operate without State and Borough permits or licenses.
- c. Permitted uses shall, at all times, comply with the terms and conditions of the licensee's cannabis establishment license for permits or licenses issued by the State of New Jersey and the Borough.
- d. No cannabis establishment shall be allowed in any District except in District "B" as set forth in the Borough Code.

- e. No cannabis establishment under Class 5 shall be housed in a vehicle or any movable or mobile structure.
- f. Odor. Cannabis establishments shall have equipment to mitigate odor. The facility shall be equipped with a ventilation system with carbon filters sufficient in type and capacity to mitigate cannabis odors emanating from the interior of the premises.
- g. Noise. Outside generators and other mechanical equipment used for any kind of power supply, cooling, or ventilation shall be enclosed and have appropriate baffles, mufflers, and/or other noise reduction systems to mitigate noise pollution.
- h. Security. All cannabis establishments shall be secure in accordance with State of New Jersey statutes and regulations; further shall have a round-the-clock video surveillance system, 365 days a year; and shall have trained, licensed security personnel onsite at all times during operating hours.
- i. Hours. No cannabis retailer may open to customers for business before 8:00 am or remain open to customers for business after 10:00 pm except on Sunday when such hours are 10:00 am to 9:00 pm.

**NEW SECTION CHAPTER 6B: LICENSING, REGISTRATION AND BUSINESS REGULATIONS FOR CANNABIS SALES AND DELIVERY:**

A new section entitled **Chapter 6 B, Licensing, Registration and Business Regulations for Cannabis Sales and Delivery** is established.

**6B.1 CANNABIS ESTABLISHMENTS:** The regulations of this Ordinance are subject to the enabling authority of the State of New Jersey and are subject to compliance with statutes and/or regulations adopted by the State of New Jersey or its instrumentalities, including the Cannabis Regulatory Commission. If any provision of this Ordinance is inconsistent with State statutes and/or regulations, the State statutes and/or regulations shall prevail.

**6B.2 DEFINITIONS:**

**CLASS 5 CANNABIS RETAILER LICENSE:** for locations at which cannabis items and related supplies are sold to consumers. The retailer is prohibited from selling any item or items sold in any other establishment within the Borough.

**CLASS 6 CANNABIS DELIVERY LICENSE:** for businesses providing courier services for consumer purchases that are fulfilled by a licensed cannabis retailer licensed by the Borough 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 delivery which would be presented by the delivery service for fulfillment by a retailer and then delivered to a customer.

## **6B-3 LICENSING**

### **a. Local licensing authority.**

1. The Borough Council is hereby designated to act as the local licensing authority for the Borough for all cannabis establishments. Under all circumstances in which State Law requires communication to the Borough by the Cannabis Regulatory Commission or any other State agency with regard to the licensing of cannabis establishments by the State, or in which State law requires any review or approval by the Borough 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 Borough Council.

2. Under no circumstances shall a local license for a cannabis establishment be issued by the Borough Council until or unless the State has issued the requisite permits or licenses to operate such a facility and the application for such license is approved by the Borough Planning Board.

### **b. Classification of Licenses.** The Borough, subject to land use approval and State licensure, may issue the following municipal licenses to operate a cannabis establishment:

Class 5: Cannabis Retailer license

Class 6: Cannabis Delivery license

**c. Maximum number of licenses.** The Borough may issue a maximum of two (2) Class 5 licenses and one (1) Class 6 license. Licensure in all classes may be, but are not required to be, held by the same entity or individual, but an entity may not hold more than one cannabis retailer license. Any license conditionally issued by the Borough is contingent upon the locally licensed entities or individual's subsequent recipient of a State permit or license of the same class or type of regulated cannabis activity.

**d. Application.** Applicant for a license shall provide the Borough Clerk with a completed copy of the Borough's application form. The applicant shall have the option of filing the Borough's completed application form prior or contemporaneously with the Planning Boards application form.

3. The applicant shall submit all required nonrefundable fees for the application and Conditional license in accordance with the following fee schedule:

- Class 5: \$10,000.00 Cannabis Retailer license
- Class 6: \$10,000.00 Cannabis Delivery license

4. The applicant shall submit all annual registration fees in accordance with the following fee schedule, which shall be refunded in the event the applicant does not receive a license:

- Class 5: \$10,000.00 per year Cannabis Retailer license
- Class 6: \$10,000.00 per year Cannabis Delivery license

5. Notwithstanding the foregoing competitive application process, a notification of award and conditional municipal license shall entitle the recipient applicant to pursue a State permit or license in the appropriate classification for up to 12 months, which may be extended in the Borough Councils discretion for an additional 6 months for good cause. No license to operate shall be issued until the applicant has received a State permit and satisfied other prerequisites of municipal licensure. If the recipient of a notice of award and conditional license has not received a State permit or license within 12 months from issuance, unless extended for good cause, the Borough Council shall issue a new request for applications and evaluate all applicants for licensure under the above criteria.

6. The applicant and the application shall otherwise comply with any, and all qualification standards set forth in the State and Municipal laws, ordinances and regulations.

7. In the event there are multiple applicants for a license, the Borough Council shall evaluate all applicants and issue a notification of award after consideration and evaluation of the following criteria:

Provided the applications that are submitted and are equally qualified, then in that event the earliest submitted application shall be awarded. In the event they are simultaneously submitted, then in that event, the award shall be alphabetically made.

**a. Term of license and license renewals.**

1. Any local license issued pursuant to this Chapter shall be valid for a period of five (5) years from the date of issuance and shall be renewed in accordance with the provisions of this Chapter.
2. The Borough Council may, at their discretion, adjust the renewal date of the local license to correlate with an applicant's State licensing and renewal schedule.
3. Renewal of any license shall be governed by any code amendments, additional restrictions or changes in regulations adopted since the previous license was issued or renewed.

4. Transfer of ownership of any local license or change of location of any license or modification to expand a licensed premises shall be subject to Borough Planning review and zoning approval.
5. Except where the Borough Council has received a complete renewal application along with the requisite fees, and has issued a license renewal, it shall be unlawful for any person to manufacture, sell, distribute, transfer, transport, or otherwise remove cannabis or cannabis products from the premises of any license after the expiration date recorded on the face of the license.

**6B-4 Disciplinary Actions Revocations, Suspensions, Fines Sanctions; Penalties**

- a. Any license issued under this Chapter may be revoked, suspended, or fined for violation of any of the provisions of this chapter or any provision of any applicable statute or any of the rules and regulations of the Cannabis Regulatory Commission.
- b. Notice of a hearing for the suspension, revocation, or monetary fines for violation(s) of a license shall specifically set forth the grounds upon which the proposed action is based and the time and place of the hearing. It shall be served by mailing a copy to the licensee at his or her last known address and location of the license by certified mail, return receipt requested and by regular mail, at least five days prior to the date set for the hearing.
- c. The hearing shall be held before the mayor and council and any action shall be determined by a majority vote, with the mayor having a vote.
- d. At the hearing, the licensee shall have the right to appear and be heard, to be represented by an attorney, licensed by the Supreme Court of New Jersey, to present witnesses in his or her behalf, to cross-examine opposing witnesses and to have a permanent record made of the proceedings at his or her own expense. The council, with the mayor having a vote, shall take such action as it deems appropriate if they are satisfied by a preponderance of the evidence that the licensee is guilty of the acts charged
- e. Any person violating any provision of this ordinance shall, upon conviction be subject to fines of no more than \$2,500.00 for the first offense, no more than \$5,000.00 for the second offense and no more than \$10,000.00 for the third and additional offenses. The funds collected by the Borough for offenses under this Ordinance shall be paid into the general accounts of the Borough.
- e. Any action taken by the council, with the mayor, for the purposes of this Ordinance, having a vote, shall be in addition to any other penalty which may be imposed for a violation of this chapter.

- f. Inactive licenses. Following the commencement of retail sales of cannabis or cannabis products, may suspend or revoke any license if the licensed premises have been inactive or unoccupied by the licensee for at least 6 months.
- g. State license. The Borough Council, with the mayor voting, for the purposes of this Ordinance, the Administrator shall suspend or revoke any license if the corresponding State license or permit for the subject location is expired, surrendered, suspended, or revoked.

**6B-5.** Any and all ordinances or parts thereof in conflict or inconsistent with this Ordinance are hereby repealed, but only to the extent of such conflict or inconsistency, it being the legislative intent that all such ordinances or part of ordinances now existing or in effect unless the same are in conflict or inconsistent with any provision of this Ordinance shall remain in effect.

**6B-6.** The provisions of this Ordinance are declared to be severable and if any section, subsection, sentence, clause or phrase thereof for any reason be held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses and phrases of this Ordinance, but shall remaining in effect; it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

**6B-7. Governing Body Approval of Applications:** Whenever the Cannabis Regulatory Commission established by the Act (the "Commission") forwards to the municipality any application for initial licensing or renewal of an existing license for any cannabis establishment, distributor, or delivery service pursuant to section 19 of the Act or for a cannabis consumption area pursuant to section 28 of P.L. 2019, c.153 (C.24-61-21), or otherwise solicits the position of the municipality on any matter related to cannabis related activities within the municipality or upon the request of an applicant for or holder of such license, the governing body shall determine whether the application complies with the municipality's restrictions on the number of cannabis establishments, distributors, or delivery services, and on their location, manner, or time of operation, and promptly inform the Commission, applicant for or holder of a license whether the application complies with same and whether it either approves or denies each application or other request for municipal authorization forwarded to it. Notwithstanding the foregoing nothing herein shall prohibit any elected or appointed official or employee from expressing their opinions or views on cannabis-related matters in their personal or individual official capacity, or endorsing an applicant for or holder of a license issued by the Commission, provided that such official shall not represent that their opinions or views are those of the municipality unless based on a duly adopted ordinance or resolution of the municipality, or other action of a majority of the governing body.

- a. **Transfer Tax Imposed.** There is hereby imposed a transfer tax of two percent on receipts from the sale of cannabis by a cannabis cultivator to another cannabis cultivator; receipts from the sale of cannabis items from one cannabis manufacturer to another cannabis establishment; and receipts from the retail sales of cannabis items by a cannabis retailer to retail consumers who are 21 years of age or older; and a tax of one percent of the receipts

from each sale by a cannabis wholesaler. Such tax shall be collected or paid and remitted to the municipality by the cannabis establishment from the purchasing or receiving the cannabis or cannabis item, or from the consumer at the point of sale, on behalf of the municipality by the cannabis retailer selling the cannabis item to that consumer. The transfer tax shall be stated, charged, and shown separately on any sales slip, invoice, receipt, or other statement or memorandum of the price paid or payable, or equivalent value of the transfer, for the cannabis or cannabis item. No cannabis establishment required to collect a transfer tax imposed hereunder shall advertise or hold out to any person or to the public in general, in any manner, directly or indirectly, that the transfer tax or user tax will not be separately charged and stated to another cannabis establishment or the consumer, or that the transfer tax will be refunded to the cannabis establishment or the consumer.

- b. **Tax Liability.** Every cannabis establishment required to collect a transfer tax imposed by ordinance pursuant to this section shall be personally liable for the transfer tax or user tax imposed, collected or required to be collected under this section. Any cannabis establishment shall have the same right with respect to collecting the transfer tax from another cannabis establishment or the consumer as if the transfer tax was a part of the sale and payable at the same time, or with respect to non-payment of the transfer tax or user tax by the cannabis establishment or consumer, as if the transfer tax was a part of the purchase price of the cannabis or cannabis item, or equivalent value of the transfer of the cannabis or cannabis item, and payable at the same time; provided, however, that the chief fiscal officer of the municipality shall be joined as a party in any action or proceeding brought to collect the transfer tax or user tax.
  
- c. **Collection of Taxes and Lien.** All revenues collected from a transfer tax imposed by ordinance pursuant to this section shall be remitted to the chief financial officer in the manner prescribed herein. The chief financial officer shall collect and administer any transfer tax imposed by ordinance pursuant to this chapter. The municipality may enforce the payment of delinquent taxes or transfer fees imposed by the ordinance pursuant to this section in the same manner as provided for municipal real property taxes. In the event that the transfer tax imposed by ordinance pursuant to this section is not paid as and when due by a cannabis establishment, the unpaid balance, and any interest accruing thereon, shall be a lien on the parcel of real property comprising the cannabis establishment's premises in the same manner as all other unpaid municipal taxes, fees, or other charges. The lien shall be superior and paramount to the interest in the parcel of any owner, lessee, tenant, mortgagee, or other person, except the lien of municipal taxes, and shall be on a parity with and deemed equal to the municipal lien on the parcel for unpaid property taxes due and owing in the same year. The municipality shall file in the office of its tax collector a statement showing the amount and due date of the unpaid balance and identifying the lot and block number of the parcel of real property that comprises the delinquent cannabis establishment's premises. The lien shall be enforced as a municipal lien in the same manner as all other municipal liens are enforced.



d. **Administration of Transfer Tax.** The chief financial officer is charged with the administration and enforcement of the provisions of this chapter, and is empowered to prescribe, adopt, promulgate and enforce rules and regulations relating to any matter pertaining to the administration and enforcement of this chapter, including provisions for the reexamination and corrections of declarations and returns, and of payments alleged or found to be incorrect, or as to which an overpayment is claimed or found to have occurred, and to prescribe forms necessary for the administration of this chapter. Should a cannabis establishment fail or refuse to provide adequate information to the chief financial officer to determine the amount of tax due, the chief financial officer may use information provided to the chief financial officer from other sources (i.e., the Commissioner or Department of Treasury) to determine the amount of tax liability.

d.1 Its shall be the duty of the chief financial officer to collect and receive the taxes, fines, and penalties imposed by this chapter. It shall also be the duty of the chief financial officer to keep a record showing the date of such receipt. The chief financial officer is authorized to enter into agreements with the State of New Jersey to obtain information to facilitate administration of the tax. The chief financial officer is authorized to issue a ruling upon written request of a taxpayer or upon its own violation.

d.2 The chief financial officer is hereby authorized to examine the books, papers and records of any taxpayer to verify the accuracy of any declaration or return, or if no declaration or return was filed, to ascertain the tax due. Every taxpayer is hereby directed and required to give to the chief financial officer, or to any agent designated by him/her, the means, facilities and opportunity for such examinations and investigations, as are hereby authorized.

e. **Recordkeeping.** Taxpayers liable for the transfer tax are requested to keep such records as will enable the filing of true and accurate returns or the tax and such records shall be preserved for a period of not less than three (3) years from the filing date or due date, whichever is later, in order to enable the chief financial officer or any agent designated by him to verify the correctness of the declarations or returns filed. If records are not available in the municipality to support the returns which were filed or which should have been filed, the taxpayer will be required to make them available to the chief financial officer either by producing them at a location in the municipality or by paying for the expenses incurred by the chief financial officer or his agent in traveling to the place where the records are regularly kept.

f. **Returns.** All cannabis establishments operating in the municipality are required to file a transfer tax return with the chief financial officer to report their sales during each calendar quarter and the amount of tax in accordance with the provisions of this chapter. Returns shall be filed and payments of tax imposed for the proceeding calendar quarter shall be made on or before the last day of April, July, October, and January, respectively. A taxpayer who has

overpaid the transfer tax, or who believes it is not liable for the tax, may file a written request on an amended tax return with the chief financial officer within two (2) years of the date of payment.

- g. **Confidentiality.** The returns filed by taxpayers, and the records and files of the chief financial officer respecting the administration of the transfer tax, shall be considered confidential and privileged and neither the municipality nor any employee or agent engaged in the administration thereof or charged with the custody of any such records or files, nor any former officer or employee, nor any person who may have secured information therefrom, shall divulge; disclose, use for their own personal advantage, or examine for any reason other than a reason necessitated by the performance of official duties any information obtained from the said records or files or from any examination or inspection of the premises or property of any person. Neither the chief financial officer nor any employee engaged in such administration or charged with the custody of any such records or files shall be required to produce any of them for the inspection of any person or for use in any action or proceeding except when the records or files or the facts shown thereby are directly involved in an action or proceeding under the provisions of the State Uniform Tax Procedure Law or of the tax law affected, or where the determination of the action or proceeding will affect the validity of or amount of the claim of the municipality under the tax provisions of this chapter.
- h. **Audit and Assessment.** The chief financial officer may initiate an audit by means of an audit notice. If, as a result of an examination conducted by the chief financial officer, a return has not been filed by a taxpayer or a return is found to be incorrect and transfer taxes are owed, the chief financial officer is authorized to assess and collect any tax due. If no return has been filed and tax is found to be due, the tax actually due may be assessed and collected with or without the formality of obtaining a return from the taxpayer. Deficiency assessments (i.e., where a taxpayer has filed a return but is found to owe additional tax) shall include taxes for the three (3) years to the date when the deficiency is assessed. Where no return was filed, there shall not be a limit to the period of assessment. Upon proposing an assessment, the chief financial officer shall send the taxpayer an interim notice by certified mail, return receipt requested, which advises the taxpayer of additional taxes that are due. Should the taxpayer wish to dispute the assessment administratively by requesting a hearing with the chief financial officer, it must do so within thirty (30) days of the date of such interim notice. If, after the chief financial officer sends an interim notice, a taxpayer fails to timely requesting a hearing with the Chief financial officer or requests a hearing and after conduction a hearing, the chief financial officer determines that the taxes are due, the chief financial officer shall send the taxpayer by certified mail, return receipt requested, a final notice. Should the taxpayer wish to dispute the assessment set forth in the final notice, he or she must initiate an appeal in the New Jersey Tax Court within ninety (90) days after the mailing of any final notice regarding a decision, order, finding, assessment, or action hereunder.

- i. **Time Limitations.** The following periods of limitations shall apply to suits for collection of taxes: When a return has been filed but no tax paid, any suit brought to recover the tax due and unpaid shall be filed within two (2) years after the return was due or filed, whichever is later. Where no return was filed or a fraudulent return was filed, there shall be no limits to file suit for the collection of taxes. Where, before the expiration of the time prescribed in this section for the filing a lawsuit against the taxpayer, both the chief financial officer and the taxpayer have consented in writing to its extension after such time, the suite may be field at any time prior to the agreements in writing made before the expiration of the period previously agreed upon.
- j. **Hearings.** Any person who receives an interim notice from the chief financial officer may, within thirty (30) days after the date of an interim notice, request a hearing with the chief financial officer. Any person who fails to request a chief financial officer’s hearing in a timely manner waives the right to administratively contest any element of assessment. The chief financial officer shall accept payments of disputed tax amounts under protest pending appeals; however, any request for refund of such monies must be filed in accordance with this section.
- k. **Appeals.** Any aggrieved taxpayer may, within ninety (90) days after the mailing of any final notice regarding a decision, order, finding, assessment, or action hereunder, or publication of any rule, regulation or policy of the chief financial officer, appeal to the Tax court pursuant to the jurisdiction granted by N.J.S.A. 2B:13-2a(3) to review actions or regulations of the municipal officials by filing a complaint in accordance with the New Jersey Court Rule 8:3-1.1. The appeal provided by this section shall be the exclusive remedy available to any taxpayer for review of a final decision of the chief financial officer in respect to a determination of liability for the tax imposed by this chapter.

**6B-8. Operational Requirements.** A cannabis retail facility or dispensary issued a permit or license by the State of New Jersey and operating in the Borough under this ordinance shall at all times comply with the following operational requirements.

- a. A cannabis facility shall comply with the zoning code, the building code, and the property maintenance code at all times.
- b. The facility must hold at all times a valid license or permit issued by the State of New Jersey to undertake cannabis retail activities at the permitted property. A State issued license is valid only for the location identified on the license and until the expiration date printed on the license and cannot be transferred to another location in the Town without a new application. The State issued license shall be prominently displayed inside the permitted premises in a location where it can be easily viewed by law enforcement and administrative authorities.

- c. Retail operations shall be conducted solely within the permitted premises on the permitted property. No retail facility or activities shall be permitted to operate from a moveable, mobile or transitory location, except for the permitted transportation of cannabis and cannabis products to and from the facility pursuant to the terms of the State license or permit.
- d. No person under the age of 18 shall be permitted to enter into the permitted premises without a parent or legal guardian.
- e. A cannabis retail facility shall at all times maintain a security system that meets State law requirements, and shall also include:
  - 1. Security surveillance cameras installed to monitor all entrances along with the interior and exterior of the permitted premises;
  - 2. Burglary alarm systems which are professionally monitored and operated 24 hours a day, 7 days a week;
  - 3. All security recordings and documentation shall be preserved for at least 30 days and made available to law enforcement upon request for inspection.
- f. All cannabis in whatever form stored at the permitted premises shall be kept in a secure manner and shall not be visible from outside the permitted premises, nor shall it be grown, processed, exchanged, displayed, or dispensed outside the permitted premises.
- g. The amount of cannabis on the permitted property and under the control of the permit holder, owner or operator of the facility shall not exceed the amount permitted by the State license.
- h. Cannabis offered for sale and distribution must be packaged and labeled in accordance with State law.
- i. No pictures, photographs, drawings, or other depictions of cannabis or cannabis paraphernalia shall appear on the outside of any permitted premises nor be visible outside of the permitted premises on the permitted property.
- j. The words “marijuana,” “cannabis” and any other words used or intended to convey the presence or availability of marijuana shall not appear on the outside of the permitted premises nor be visible outside of the permitted premises on the permitted property.
- k. The public consumption, or use, of cannabis, alcohol, or other controlled substances on the permitted premises is prohibited.
- m. The facility’s operation and design shall minimize any impact to adjacent uses,

including the control of any odor such that no odor is detectable beyond the permitted property. No facility shall be operated in a manner creating noise, dust, vibration, glare, fumes, or odors beyond the boundaries of the property on which the facility is operated; or creating any other nuisance that hinders the public health, safety, and welfare of the residents of the Borough of Victory Gardens.

m. No person operating or employed by a cannabis retail facility shall provide or otherwise make available cannabis to any person who is not legally authorized to possess same under state law.

n. Cannabis may be transported within the Town under this ordinance by a company licensed to do so by the State, and to effectuate its purpose, only:

1. In a manner consistent with all applicable State laws and rules, as amended.
2. In a secure manner designed to prevent the loss of the cannabis;
3. Using vehicles that do not have exterior markings including the words “marijuana,” “cannabis,” or any similar or slang words; pictures or other renderings of the cannabis plant; advertisements for cannabis or for its sale, transfer, cultivation, delivery, transportation or manufacture; or any other word, phrase or symbol indicating or tending to indicate that the vehicle is transporting cannabis.

o. No vehicle may be used for the ongoing or continuous storage of cannabis, but may only be used incidental to, and in furtherance of, the transportation of cannabis and cannabis products.

**Definitions and Repealer.** Unless specifically defined otherwise herein, any term used herein shall incorporate the definition of that term in the Act. Any article, section, paragraph, subsection, clause, or other provision of the Borough of Victory Gardens Ordinances inconsistent with the provisions of this ordinance is hereby repealed to the extent of such inconsistency.

**Interpretation and Savings Provision.** No ordinance, regulation or interpretation thereof shall conflict with the Act. If any section, paragraph, subsection, clause, or provision of this ordinance shall be adjudged by a court of competent jurisdiction to conflict with the Act or otherwise be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause, or provision so adjudged, and the remainder of this ordinance shall be deemed valid and effective.

**Effective Date.** This ordinance shall take effect upon its passage and publication and filing as otherwise provided for by law.

**6B-9.** This Ordinance shall be a part of The General Ordinances of the Borough of Victory Gardens though codified and fully set forth therein. The Borough Clerk shall have this Ordinance codified and incorporated in the official copies of the Borough Code. The Borough Clerk and the Borough Attorney are authorized and directed to change any Chapter, Article and/or Section number of the General Ordinances of the Borough of Victory Gardens in the event that the codification of this Ordinance reveals that there is a conflict between the numbers and the existing Code, and in order to avoid confusion and possible accidental repeal of existing provisions not intended to be repealed.

**NOW THEREFORE, BE IT RESOLVED** by the Mayor and convened Council of the Borough of Victory Gardens that the Ordinance establishing and regulating the sale and distribution of cannabis in the Borough of Victory Gardens be Adopted on this            day of            , 2023.

BOROUGH OF VICTORY GARDENS

ADOPTED:

\_\_\_\_\_  
DAVID HOLEMAN, Mayor

\_\_\_\_\_  
DEBORAH EVANS, Borough Clerk

Introduced: 6-13-2023  
Adopted: 7-11-2023