

AN ORDINANCE AMENDING CHAPTER 5, SECTION 34.2, SECTION 34.3, SECTION 34.4, SECTION 34.5, SECTION 34.6, SECTION 34.8 AND CHAPTER 25, SECTION 24.2 OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF WEST ORANGE

(LICENSED CANNABIS ENTITIES)

BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF WEST ORANGE, NEW JERSEY that Chapter 5 and Chapter 25 of the Revised General Ordinances of the Township of West Orange be and are hereby amended as follows:

I. PURPOSE

The purpose of this ordinance is to update the provision of the Municipal Code of the Township of West Orange governing the local licensing requirements and zoning conditions for Licensed Cannabis Entities within the Township of West Orange to: (i) clarify that it shall be unlawful for any individual or entity to distribute cannabis or cannabis products that do not have a license from the New Jersey Cannabis Regulatory Commission and a local license from the Township of West Orange, including any gifting of cannabis or cannabis products; (ii) update and amend the total number of local licenses allowable Licensed Cannabis Entities (iii) require approval from the Township for any changes in ownership of a License Cannabis Entity; (iv) provide that all Licensed Cannabis Entities holding a local license, must submit a renewal application not less than sixty (60) days before the expiration of the local license; (v) extend the existing distance from the property line of any property with a school building for which the operation of a Cannabis Entity is prohibited from 100 feet (100') to 500 feet (500'); (vi) add an additional condition whereby a Cannabis Entity shall not be allowed to operate within 500 feet (500') from the property line of any property with a house of worship; (vii) clarify the parking requirements for Licensed Cannabis Entities; and (viii) provide reference to the Township Municipal Code provisions governing the standards and criteria for commercial signage for Cannabis Entities. This ordinance also provides for certain exemptions to Applicants for a Local License who have received a resolution of Local Support from the Township prior to January 10, 2023.

II. CHAPTER 5, SECTION 34.2 SHALL BE AND HEREBY IS AMENDED AND SUPPLEMENTED TO INCORPORATE THE FOLLOWING:

5-34.2 Definitions.

For the purpose of this section, the following words and phrases shall have the meanings respectively ascribed to them by this section:

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Pre-Approved Entities means Applicant(s) who have: (i) received a Resolution of Local Support from the Township on or before January 10, 2023 with all subsequent modifications, if any, approved by the Township of West Orange; and (ii) whose cannabis business receives a license

from the Commission.

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Stakeholders means all shareholders, partners, convertible debt holders and option holders of a corporation, partnership and/or other single or multiple member business enterprise or other entity.

III. CHAPTER 5, SECTION 34.3 SHALL BE AND HEREBY IS AMENDED AND SUPPLEMENTED TO INCORPORATE THE FOLLOWING:

5-34.3 Local License Required; Violations and Penalties.

It shall be unlawful for any individual or entity to distribute cannabis or cannabis products except for a Licensed Cannabis Entity acting within the scope of a license issued by both the Commission and within the scope of a Local License in accord with this section.

Pursuant to N.J.S.A. 24:6I-45 (c)(2) of the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act, no Licensed Cannabis Entity shall be allowed to operate within the Township of West Orange until such person or entity shall be licensed and registered in accord with this section. For violation of any provision of this subsection, penalties shall be in accordance with Chapter 1, § 1-5.

IV. CHAPTER 5, SECTION 34.4 SHALL BE AND HEREBY IS AMENDED AND SUPPLEMENTED TO INCORPORATE THE FOLLOWING:

5-34.4 Local License Standards and Limitations.

- a. The Township may approve or deny an application for a Local License to operate a License Cannabis Entity at its sole discretion, consistent with all governing State Law, based on an evaluation of the benefits compared to the potential harm of the prospective licensee's operation of a Licensed Cannabis Entity as proposed in the prospective licensee's application for a Local License.

- b. The number of Licensed Cannabis Entities holding a Local Licenses shall be limited to a combined total of four (4) irrespective of the categories of Licensed Cannabis Entities. This cap shall be inclusive of all Local Licenses issued to Targeted Microbusinesses. This cap of four (4) Licensed Cannabis Entities with Local Licenses may be increased to allow Pre-Approved Entities to move forward.

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V. CHAPTER 5, SECTION 34.5 SHALL BE AND HEREBY IS AMENDED AND SUPPLEMENTED TO INCORPORATE THE FOLLOWING:

5-34.5 Application for Local License and Local License Fee.

- a. Applications for licensing pursuant to this section shall be submitted to the Office of the

Township Clerk under oath on a form furnished by the Township. Applicants shall submit one hard copy of the entire application for licensing and a thumb drive containing: (i) scanned copy of the entire application for licensing; and (ii) a scanned copy of the application without the requirements set forth in subsection (b)(4)(a) of this provision. Upon the filing of the application, the Applicant shall pay to the Township an application fee in an amount to be established by resolution of the Township Council. The Office of the Township Clerk shall then transmit a copy of the entire application to the Office of Police Chief for the West Orange Police Department or the Chief's designee for review of the application. The Office of the Township Clerk shall also provide the copy of the application without the requirements set forth in subsection (b)(4)(a) of this provision to the: (i) Board of Education; (ii) the Township Zoning Officer; (iii) the Health Department; (iv) Township Fire Chief; and (v) the Special Improvement District, if the proposed location is within the Special Improvement District. All departments and/or bodies receiving the application shall review the application and forward their comments to the Police Chief for the West Orange Police Department or the Chief's designee no later than thirty (30) days from submission of the application.

b. The application shall require submission of the following information:

1. The name and home address of the Applicant. If the Applicant is not a natural person, the Applicant shall submit a statement setting forth the names and home addresses of all Stakeholders in the Applicant. All such Stakeholders who are not themselves natural persons shall list the names and home addresses of the Stakeholders of that entity. The disclosure shall continue until the names and home addresses of every natural person that is a Stakeholder of the Applicant whether directly or indirectly is provided.
2. The name of any other business entities in which any of the individuals identified pursuant to subsection (b)(1) of this provision have or have had an ownership interest which: (i) cultivates, manufactures, wholesales or dispenses cannabis or cannabis products; (ii) invests or finances in any such entity; or (iii) is regulated by any governmental entity.
3. A copy of the license issued by the Commission authorizing the Applicant to operate as a Licensed Cannabis Entity with a copy of all application materials and documents submitted to the Commission for a license.
4. Plans prepared by a duly licensed architect, engineer, or planner which shall depict the layout and design for the proposed location of the Licensed Cannabis Entity within the Township.
 - (a). The required plans shall depict the proposed security measures for the location in order for the West Orange Police Department to evaluate the sufficiency of the security measures as required under this section. The plans shall be deemed

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confidential and shall only be transmitted to the Police Chief for the West Orange Police Department or the Chief's designee.

(b). The Applicant shall also provide either a lease agreement or agreement of sale for the property where the Applicant intends to operate the Licensed Cannabis Entity. The lease agreement or agreement to purchase must be executed by the owner of the property where the Applicant intends to operate the Licensed Cannabis Entity. The lease agreement or agreement of sale may be contingent upon the Applicant's ability to successfully: (i) obtain a Local License; and (ii) if applicable, obtain approval from the West Orange Planning Board or the West Orange Zoning Board of Adjustment. If the owner of the property is a corporation, the Applicant shall also provide a copy of a corporate resolution of the corporation authorizing the execution of the lease agreement or agreement of sale. No property owner may execute a lease agreement or agreement to purchase for more than one entity at the proposed location and shall notify the Township Clerk in writing of any termination and/or expiration of the lease agreement or agreement to purchase no later than five (5) days of such termination or expiration.

5. Upon termination or expiration of the lease agreement, the Licensed Cannabis Entity must cease all operations.

6. Acknowledgment and agreement authorizing the West Orange Police Department to perform background checks and/or investigations regarding any individuals disclosed pursuant to subsection (b)(1) of this provision and any employees of the Applicant.

7. If the Applicant is applying for a Local License as a Targeted Microbusiness, a copy of any and all documents issued by the Commission declaring the Applicant as microbusiness under the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act with a copy of all application materials and documents submitted to the Commission for such a declaration.

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c. The Police Chief for the West Orange Police Department or the Chief's designee shall review the application, review the comments from the departments provided pursuant to subsection (a) of this provision, and prepare a memorandum addressed to the Township Council: (i) analyzing the Applicant's ability to comply with all of the Township's requirements for a Licensed Cannabis Entity, including the required security measures; (ii) assessing the benefits compared to the potential harm of the Applicant's proposed operation of a Licensed Cannabis Entity; and (iii) recommending whether to grant or deny the application for a Local License. The Police Chief or the Chief's designee shall transmit the memorandum to the Office of the Township Clerk.

d. Within sixty (60) days from the transmission of the memorandum to the Office of the Township Clerk, the Township Council shall adopt a resolution either granting the application or denying the application. The Township Council's failure to adopt a resolution within the sixty (60) day period shall be deemed a denial of the application.

VI. CHAPTER 5, SECTION 34.6 SHALL BE AND HEREBY IS AMENDED AND SUPPLEMENTED TO INCORPORATE THE FOLLOWING:

5-34.6 License Term, Transferability, and Renewal.

- a. All licenses shall be issued for the term of one_year(s) and shall expire one year(s) after the date of issuance.
- b. Licenses shall not be transferable, assignable, or divisible.
- c. Any change in ownership subject to disclosure under Chapter 5, Section 34.5(b)(1) of the Township of West Orange Municipal Code shall be subject to approval by the Township of West Orange by written notice to the Licensed Cannabis Entity within two (2) weeks. If approval is not received, the Licensed Cannabis Entity shall cease all operations.
- d. All Licensed Cannabis Entities shall submit their applications for renewal no later than sixty (60) days before the expiration of the license, except that a Licensed Cannabis Entity may request from the Township Council an extension of thirty (30) days to submit an application for renewal provided that the request for an extension is submitted no later than thirty (30) days before the expiration of the license. The Township shall approve or deny the Applicant's renewal application by written notice within thirty (30) days from submission of the application for renewal. If approval is not received, or if the Licensed Cannabis Entity did not submit their application in a timely fashion consistent with this subsection, the Licensed Cannabis Entity shall cease all operations.

VII. CHAPTER 5, SECTION 34.8 SHALL BE AND HEREBY IS AMENDED AND SUPPLEMENTED TO INCORPORATE THE FOLLOWING:

5-34.8 Operating Requirements and Prohibitions.

- a. A Licensed Cannabis Entity may only operate during the following hours; Sundays from 8:00 A.M. through 7:00 P.M.; Mondays, Tuesdays, and Wednesdays from 8:00 A.M. through 8:00 P.M.; and Thursdays, Fridays, and Saturdays from 8:00 A.M. through 9:00 P.M. A Licensed Cannabis Cultivator and a Licensed Cannabis Manufacturer shall not be subject to these hours of operations, except that incoming or outgoing deliveries of any kind shall only occur between the hours of 8:00 A.M. through 8:00 P.M.
- b. No persons under the age of twenty-one (21) shall be allowed in a Licensed Cannabis Establishment no person under the age of eighteen (18) shall be allowed in a Licensed Medical Marijuana Facility.
- c. The sale or consumption of alcohol at a Licensed Cannabis Entity shall be prohibited.
- d. Cannabis Consumption Areas, as defined in the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act, N.J.S.A. 24:6I-31, et. seq., shall

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be prohibited.

e. A Licensed Cannabis Entity shall be secured and have full-time security protocols in place subject to review and approval from the West Orange Police Department which shall include at least a twenty-four (24) hour security video system with footage to be kept for at least thirty (30) days and a vault for storage of money when the Licensed Cannabis Entity is closed. Prior to the commencement of any operations, a Licensed Cannabis Entity must first obtain from the Police Chief, or designee, written approval of the Licensed Cannabis Entity's security protocols. The Police Chief, or designee, shall have the authority to require additional safety and security measures.

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f. A Licensed Cannabis Retail and a Licensed Medical Cannabis Dispensary shall have no less than one (1) on site parking space for every 250 square feet (250') of space being utilized by the Licensed Cannabis Retail or Licensed Medical Cannabis Dispensary.

g. All Cannabis Entities shall be prohibited from operating a drive through window.

VIII. CHAPTER 25, SECTION 24.2 SHALL BE AND HEREBY IS AMENDED AND SUPPLEMENTED TO INCORPORATE THE FOLLOWING:

25-24.2 Conditional Uses.

b. Specific Requirements. Subject to the stipulations, guiding principles and conditions contained in this section, the Planning Board shall have the power to grant conditional uses authorized by the Table of District Regulations, in specified districts, as follows:

2. Business and Industrial Districts.

(o) Licensed Cannabis Entities. Licensed Cannabis Retailers and Licensed Medical Cannabis Dispensaries shall be permitted as a conditional use in the B-1, B-2, and I Districts. All other Licensed Cannabis Entities shall be permitted as a conditional use in the I Districts. These conditional uses shall be subject to the following conditions:

(1) The Licensed Cannabis Entity shall be required to have a Local License pursuant to Chapter 5, Section 34 of the Township of West Orange Municipal Code.

(2) No Licensed Cannabis Entity, except a Pre-Approved Entity at its originally approved location, shall be located within five hundred feet (500') of the property line of any property with any school building.

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(3) No Licensed Cannabis Entity, except a Pre-Approved Entity at its originally approved location, shall be located within 500 feet (500') from the property line of any property with a House of Worship, as defined under Chapter 25, Section 4.

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(4) All Licensed Cannabis Entities shall comply with the following Parking Requirements for Nonresidential Uses: (i) Licensed Cannabis Retailers shall comply

with the minimum required number of parking spaces for Retail Stores and personal services stores or studios not separately listed; and (ii) all other Licensed Cannabis Entities shall comply with the minimum required number of parking spaces for Light industrial, laboratory and research uses.

- (5) No Licensed Cannabis Entity shall be housed in a vehicle or any movable or mobile structure.
- (6) No Licensed Cannabis Entity shall be allowed to operate as a Home Occupation.
- (7) Any signage for a Licensed Cannabis Entity shall be subject to the approval from either the Planning Board or the Zoning Board of Adjustment under the guidelines and standards governing commercial signs as set forth within the Township Municipal Code.
- (8) A Licensed Cannabis Entity shall meet all of the required security measures as set forth in Chapter 5, Section 34 of the Township of West Orange Municipal Code.
- (9) Cannabis Consumption Areas, as defined in the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act, N.J.S.A. 24:6I-31, et. seq., shall be prohibited from all Licensed Cannabis Entities.

IX. REPEAL OF CONFLICTING ORDINANCES

Any Ordinances of the Township which are in conflict with this Ordinance are hereby repealed to the extent of such conflict.

X. SEVERABILITY

If any part of this Ordinance shall be deemed invalid, such parts shall be severed and the invalidity thereof shall not affect the remaining parts of this Ordinance.

XI. EFFECTIVE DATE

This Ordinance shall take effect upon final passage and publication in accordance with the law.

SUSAN McCARTNEY, MAYOR

**TAMMY WILLIAMS
COUNCIL PRESIDENT**

KAREN J. CARNEVALE, R.M.C., MUNICIPAL CLERK

INTRODUCED: June 27, 2023

ADOPTED:

Legislative History

The purpose of this ordinance is to update the provision of the Municipal Code of the Township of West Orange governing the local licensing requirements and zoning conditions for Licensed Cannabis Entities within the Township of West Orange to: (i) clarify that it shall be unlawful for any individual or entity to distribute cannabis or cannabis products that do not have a license from the New Jersey Cannabis Regulatory Commission and a local license from the Township of West Orange, including any gifting of cannabis or cannabis produce; (ii) update and amend the total number of local licenses allowable Licensed Cannabis Entities (iii) require approval from the Township for any changes in ownership of a License Cannabis Entity; (iv) provide that all Licensed Cannabis Entities holding a local license, must submit a renewal application not less than sixty (60) days before the expiration of the local license; (v) extend the existing distance from the property line of any property with a school building for which the operation of a Cannabis Entity is prohibited from 100 feet (100') to 500 feet (500'); (vi) add an additional condition whereby a Cannabis Entity shall not be allowed to operate within 500 feet (500') from the property line of any property with a house of worship; (vii) clarify the parking requirements for Licensed Cannabis Entities; and (viii) provide reference to the Township Municipal Code provisions governing the standards and criteria for commercial signage for Cannabis Entities. This ordinance also provides for certain exemptions to Applicants for a Local License who have received a resolution of Local Support from the Township prior to January 10, 2023.