

**ORDINANCE #06.23**

**AN ORDINANCE OF THE BOROUGH OF PAULSBORO AMENDING AND REPLACING IN ITS ENTIRETY CHAPTER 6A “CANNABIS” TO ALLOW CANNABIS CULTIVATORS, MANUFACTURERS, WHOLESALE, DISTRIBUTORS, RETAILERS, AND DELIVERY SERVICES TO OPERATE WITHIN THE MANUFACTURING DISTRICT AND TO ESTABLISH PROCEDURES FOR THE LICENSING, REGISTRATION, AND REGULATION OF CANNABIS FACILITIES**

**WHEREAS**, on November 3, 2020, more than two-thirds of the registered voters in New Jersey voted to approve 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 21 years of age and older; and

**WHEREAS**, in the County of Gloucester more than 70% of registered voters voted in favor of Public Question No. 1; 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”), which legalized the recreational use of marijuana by adults 21 years of age or older; and

**WHEREAS**, the Act establishes a comprehensive regulatory and licensing scheme for commercial, recreational (adult use) cannabis operations, use and possession; and

**WHEREAS**, the Act establishes six (6) marketplace classes of licensed businesses to cultivate, manufacture, wholesale, distribute, sell and deliver cannabis and cannabis related products; and

**WHEREAS**, Section 31(a) 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**, by way of Ordinance No. 11.16 adopted on October 4, 2016, the Borough of Paulsboro (“Borough”) adopted a redevelopment plan for the entirety of the Borough entitled “Redevelopment Plan for the Borough of Paulsboro” (the “Redevelopment Plan”), which adopted the underlying zoning then in effect throughout the Borough of Paulsboro, subject to certain exceptions; and

**WHEREAS**, by way of Ordinance No. 08.21 adopted on August 20, 2021, the Borough amended the Redevelopment Plan for the entirety of the Borough and imposed development regulations on any one or more classes of cannabis establishments, cannabis distributors, or cannabis delivery services throughout the Borough, specifically permitting certain uses in the M District and prohibiting all uses in any other District (the “Amended Redevelopment Plan”) ; and

**WHEREAS**, by way of Ordinance No. 09.22 adopted on September 13, 2022, the Borough further amended the previous development regulations to allow one or more classes of cannabis establishments, cannabis distributors, or cannabis delivery services within Block 124, Lot 2 on the Official Tax Map of the Borough of Paulsboro; and

**WHEREAS**, the Borough finds, given the Schedule I status of cannabis under the federal Controlled Substance Act, 21 U.S.C. 801 et seq., that significant complexities challenge the cannabis industry, including access to banking, security, water consumption, energy usage, and odor, such that only qualified operators should be permitted to safely operate strictly regulated cannabis facilities in the municipality on a limited basis and subject to reasonable restrictions, in order to protect the health, safety, and welfare of the general public; and

**WHEREAS**, the Borough is empowered to adopt an ordinance to regulate buildings and structures, and their use and occupancy, and to prevent and abate conditions detrimental to the health safety, and welfare of the general public pursuant to N.J.S.A. 40:48-2.12a and N.J.S.A. 40:48-2.12f; and

**WHEREAS**, the Borough is empowered to adopt an ordinance to provide for the inspection of buildings to assure the health, safety, and public welfare of the municipality and its residents pursuant to N.J.S.A. 40:48-2.12a1; and

**WHEREAS**, the Borough finds that it is in the best interest of the Borough to establish local licensing and registration requirements for cannabis facilities, to establish official regulations of the Borough, and to proactively establish enforcement provisions for regulated cannabis establishments.

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and Council of the Borough of Paulsboro, County of Gloucester, State of New Jersey:

Section 1. That the aforementioned recitals are incorporated herein as though fully set forth at length.

Section 2. Chapter 6A of the Borough of Paulsboro Municipal Code (entitled “Cannabis”) shall be deleted in its entirety and replaced as set forth in Exhibit A attached hereto.

Section 3. Chapter 72, Article IV, “Cannabis Taxes and Civil Penalties” shall be deleted and reserved.

Section 4. All other Chapters of the Borough Code not amended by this Ordinance shall remain valid and in full force and effect and are not amended by this Ordinance.

Section 5. All ordinances or parts of ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

Section 6. Should any section, clause, sentence, phrase, or provision of this Ordinance be declared unconstitutional or invalid by a Court of competent jurisdiction, such decision shall not affect the remaining portions of this Ordinance.

Section 7. This Ordinance shall take effect after final passage, approval, and publication, as provided by law.

**ATTEST:**

**BOROUGH OF PAULSBORO**

\_\_\_\_\_  
Elsie Tedeski, Acting Municipal Clerk

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Gary Stevenson, Mayor

Chapter 6A

CANNABIS

**Article I. Generally.**

§6A-1. **Authority.**

The regulations of this article 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, including the Commission. If any provision of this article is inconsistent with state statutes and/or regulations, the state statutes and/or regulations shall prevail.

§6A-2. **Purpose.**

The purpose of this article is to enable the Borough of Paulsboro to take effective action to assure that all cannabis-related businesses advance the requirements of their licensure as regulated by the State of New Jersey, by ensuring the citizens of the Borough of Paulsboro are provided ample opportunity to participate within this new industry while advancing community development initiatives, including but not limited to social-justice-related programming, job training, enhanced recreational opportunities, public health and drug prevention education, and/or support thereof.

§6A-3. **Permitted Use and Bulk Standards**

The Borough's cannabis development regulations are set forth in Ordinance No. 09.22, as amended.

**Article II. Definitions.**

§6A-4. **Definitions.**

A. The following terms, as used in this Chapter, shall have the meanings as set forth in N.J.S.A. 24:6I-33:

- CANNABIS**
- CANNABIS CULTIVATOR**
- CANNABIS DELIVERY SERVICE**
- CANNABIS DISTRIBUTOR**
- CANNABIS ITEM**
- CANNABIS MANUFACTURER**
- CANNABIS PRODUCT**
- CANNABIS RETAILER**
- CANNABIS WHOLESALER**
- COMMISSION**
- CONSUMER**
- LICENSEE**

**PREMISES or LICENSED PREMISES**

**B.** In addition to the foregoing definitions, the following definitions shall apply:

**CANNABIS ESTABLISHMENT**

A cannabis cultivator, a cannabis manufacturer, or a cannabis wholesaler.

**CANNABIS FACILITY**

The property or location at which a cannabis establishment, cannabis distributor or cannabis delivery service is licensed to operate its business.

**CONCEPT PLAN**

A site plan, land survey or conceptual plan drawn on a tax map depicting all of the following:

1. All existing structures, setbacks, distances and an indication of whether the existing structures and uses will be retained or removed;
2. All proposed project improvements, dimensions, setbacks, and other proposed site improvements;
3. All means of vehicular and pedestrian access, ingress and egress to and from the site and the cannabis facility, including the location and width of proposed sidewalks, the distances to adjacent public streets, the location of any existing and proposed driveways on the site and the distances and locations of any existing driveways on adjacent lots that are within 75 feet of the site;
4. The location of all existing utilities, including but not limited to water and sewer mains, electricity, and cable, the anticipated means and locations of connecting to said utilities; and
5. The location and height of any fences, signs, and/or accessory buildings.

**CONCURRENT LICENSE HOLDER**

Any person, firm, corporation, or other entity authorized pursuant to N.J.S.A. 24:6I-46 to concurrently hold more than one state license.

**CREAMM ACT**

The New Jersey Cannabis Regulatory Enforcement Assistance, and Marketplace Modernization Act, P.L.2021, c.16 (C.24:6I-31 et al.), as amended and supplemented, that authorizes the CRC to expand and further develop the current Medicinal Cannabis Program, as well as develop, regulate, and enforce the rules and activities associated with recreational cannabis for adults 21 years or older.

**INDOOR CANNABIS CULTIVATOR**

A cannabis cultivator that grows, cultivates and/or produces cannabis entirely within a permanent building or structure, whose contents are not visible from any public area outside of the building or structure, and is accessible only through one or more locked doors that are secured against unauthorized entry.

**LOCAL LICENSE**

A license issued by the Borough of Paulsboro pursuant to Section 6A-7, authorizing the operation of a cannabis establishment, cannabis distributor or cannabis delivery service within the Borough of Paulsboro.

**LOCAL LICENSE HOLDER**

Any cannabis establishment, cannabis distributor and/or cannabis delivery service that has been issued a local license pursuant to this Code.

**MICROBUSINESS**

A person or entity licensed under the CREAMM Act as a cannabis cultivator, cannabis manufacturer, cannabis wholesaler, cannabis distributor, or cannabis delivery service that may only, with respect to its business operations, and capacity and quantity of product: (1) employ no more than 10 employees; (2) operate a cannabis establishment occupying an area of no more than 2,500 square feet, and in the case of a cannabis cultivator, grow cannabis on an area no more than 2,500 square feet measured on a horizontal plane and grow above that plane not higher than 24 feet; (3) possess no more than 1,000 cannabis plants each month, except that a cannabis distributor's possession of cannabis plants for transportation shall not be subject to this limit; (4) acquire each month, in the case of a cannabis manufacturer, no more than 1,000 pounds of usable cannabis; and (5) acquire for resale each month, in the case of a cannabis wholesaler, no more than 1,000 pounds of usable cannabis, or the equivalent amount in any form of manufactured cannabis product or cannabis resin, or any combination thereof.

**OUTDOOR CANNABIS CULTIVATOR**

A cannabis cultivator that grows, cultivates and/or produces cannabis in such a manner as to not qualify as an indoor cannabis cultivator.

**RESOLUTION OF LOCAL SUPPORT**

A Resolution adopted by the Borough Council in accordance with Section 6A-5 indicating the Borough's local support for the suitability of the proposed location for the cannabis facility and for the cannabis establishment, the cannabis distributor and/or the cannabis delivery service.

**STATE LICENSE**

A license issued to a cannabis establishment, cannabis distributor and/or cannabis delivery service by the Commission or any other State agency authorized to issue licenses to cannabis establishments, cannabis distributors and/or cannabis delivery services, as applicable, pursuant to the CREAMM Act.

**ZONING COMPLIANCE AFFIDAVIT**

A letter or affidavit issued by the Borough Zoning Officer pursuant to Section 6A-6 indicating that the proposed location for the cannabis facility will conform to municipal zoning requirements allowing for such activities related to the cultivation, manufacturing, or dispensing of medical cannabis, cannabis products, and related supplies as will be conducted at the proposed cannabis facility as required by the CREAMM Act.

**Article III. Cannabis Site Suitability Review**

**§6A-5. Local Support.**

No person, firm, corporation or other entity shall own or operate a cannabis establishment, cannabis distributor or cannabis delivery service without first having acquired a properly adopted Resolution of Local Support and a Zoning Compliance Affidavit in accordance with the provisions of this Chapter.

- A. Application. All applicants requesting proof of local support required under the CREAMM Act shall submit a completed application form and supply all items requested by local officials in a manner prescribed by the Borough. Said application must include a non-refundable fee of \$2,500.00 for the administrative review of the applicant's concept plan, and any other information deemed necessary to determine the suitability of the specific cannabis establishment, cannabis distributor and/or cannabis delivery service and activities related to its business operations for the proposed cannabis facility.
- B. An application for a Resolution of Local Support shall be deemed incomplete, and shall not be processed by the Borough, until all documents and application fees are submitted. In order to be deemed complete, the applicant shall submit a fully executed application and proof of all of the following:
  - 1. The proposed location of the cannabis facility, including a copy of a concept plan and proof that the applicant has or will have lawful possession of the premises proposed for the cannabis facility, which proof may consist of a deed, a lease, a real estate contract contingent upon successful licensing, or a binding letter of intent by the owner of the premises indicating an intent to lease the premises to the entrant contingent upon successful licensing.
  - 2. An description as to why the proposed location of the cannabis facility is an appropriate location.
  - 3. Applicant's owners' or principals' qualifications and experience operating in highly regulated industries, including cannabis, healthcare, pharmaceutical manufacturing, retail pharmacies, or other relevant industries with preference to experience operating such businesses within the State of New Jersey;
  - 4. Applicant's business plan, including the value proposition for consumers, an overview of proposed financing for the business, product(s), market

analysis, its regulatory compliance plan, and its ability to obtain liability insurance;

5. A description of the proposed business activities/operations to be conducted at the cannabis facility, including all principal and accessory uses;
  6. Applicant's qualifications and experience related to public safety and security, including any of the applicant's owners' or principals' experience in law enforcement and drug enforcement;
  7. A summary of the applicant's plans for storage of products and currency, physical security at the cannabis facility, video surveillance, security personnel, and visitor management;
  8. Summary of the applicant's environmental impact, mitigation and sustainability plan, including water management practices, odor mitigation practices, pest control and disease management practices (pesticides, nutrients, and additives), solid and hazardous waste disposal practices, and use of renewal energy;
  9. A description of the applicant's commitment to the local community and commitment to social responsibility; and
  10. Any other information which the applicant feels would be relevant to the Borough's evaluation of the suitability of issuing a Resolution of Local Support.
- C. All applications for a Resolution of Local Support shall be subject to review by Borough officials and, if deemed necessary, the Redevelopment Committee. Borough officials and/or the Redevelopment Committee shall issue its recommendations to the Borough Council who shall adopt a resolution to either approve or deny the request of support, which may include conditions for approval. The Borough Council reserves the right to reject any application for any reason at its sole discretion.
- D. Land-Use Compliance Required. The adoption of a Resolution of Local Support does not constitute a zoning permit or land use approval and no property or part thereof hereafter may be used and no building or part thereof hereafter may be demolished, erected, constructed, reconstructed, moved, extended, converted, altered, maintained or used except upon receipt of all applicable permits, licenses, and other approvals and in conformity with the provisions of this Chapter, Ordinance #09.22, as may be amended, Borough Ordinances, and all other applicable government requirements, conditions, and approvals.
- E. Expiration of Resolution of Local Support. All Resolutions of Local Support shall expire one (1) year from the date of issuance unless:



1. The Borough has, by resolution, extended the expiration date of the Resolution of Local Support; or
  2. The applicant has received a state license.
- F. Appeal. In the event of the denial of a Resolution of Local Support, the applicant may appeal to the Borough Council for a hearing. The appeal shall be filed, in writing, with the Borough Clerk within fourteen (14) calendar days after notification of the denial. The Borough Council shall hold its hearing within thirty (30) calendar days thereafter, and its decision shall be final.

§6A-6. **Zoning Compliance.**

- A. All applicants requesting a letter or affidavit of zoning compliance pursuant to the CREAMM Act, shall forward to the Borough Zoning Officer a completed application form and supply all items requested by the Zoning Officer in order to determine zoning compliance in accordance with this Section 6A-6. Upon receipt of a full and complete application, the Zoning Officer, and if necessary the Borough Engineer, shall promptly review the application and determine whether or not to issue or deny a Zoning Compliance Affidavit. No Zoning Compliance Affidavit shall issue until a full and complete application has been received containing all required submission materials, and the Zoning Officer has confirmed that the proposed location for the cannabis facility will conform to municipal zoning requirements. If the Zoning Officer cannot grant the Zoning Compliance Affidavit the Zoning Officer shall issue a denial, notifying the applicant of the reasons, therefore.
- B. An application for a Zoning Compliance Affidavit shall be deemed incomplete, and shall not be processed by the Zoning Officer, until all documents and application fees are submitted. In order to be deemed complete, the applicant shall submit a fully executed application and proof of all of the following:
1. A copy of the Resolution of Local Support issued pursuant to Section 6A-5 above;
  2. A concept plan for the proposed cannabis facility;
  3. A detailed floor plan of the proposed cannabis facility;
  4. A description of the proposed business activities/operations to be conducted at the cannabis facility, including all principal and accessory uses;
  5. Accurate drawing of a any proposed sign including dimensions, materials to be used, and illustration for the proposed sign, as well as information regarding the height and proposed location of the proposed sign(s);

6. A detailed description of any proposed fencing, including the height, materials to be used and location of the proposed fencing;
  7. The number and dimensions of all proposed parking spaces, including the number of handicapped spaces; and
  8. The number, dimensions and locations of all proposed accessory structures.
- C. **Land-Use Compliance Required.** The issuance of a Zoning Compliance Affidavit does not constitute a zoning permit or land use approval and no property or part thereof hereafter may be used and no building or part thereof hereafter may be demolished, erected, constructed, reconstructed, moved, extended, converted, altered, maintained or used except upon receipt of all applicable permits, licenses and other approvals and in conformity with the provisions of this Chapter, Ordinance #09.22, as may amended, Borough ordinances and all other applicable government requirements, conditions, and approvals.
- D. **Appeals.** Appeals from the actions of the Zoning Officer pursuant to this Section 6A-6 shall be made to the Borough Council for an interpretation of Ordinance #09.22, as may be amended.

#### **Article IV. Cannabis Licensing**

##### **§6A-7. Licensing.**

- A. **Local License Required.** No person, firm, corporation or other entity may own or operate a cannabis establishment, cannabis distributor or cannabis delivery service without first having acquired an annual local license in accordance with the provisions of this Chapter.

The initial local license term shall commence immediately upon the issuance of the initial local license and shall expire on December 31 of that calendar year. Each renewal local license shall be valid for a one (1) year period beginning on January 1 and ending on December 31 of the calendar year.

- B. **Local licensing authority.**

1. The Borough Council is hereby designated to act as the local licensing authority for the Borough of Paulsboro for all cannabis establishments, cannabis distributors and cannabis delivery services. Under all circumstances in which State law requires communication to the Borough by the 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, cannabis distributor or cannabis delivery service issued by the Borough Council be effective unless or until the State has issued the requisite permits or licenses to operate such a facility, including the State license. It is the intent of this Chapter that no cannabis establishment, cannabis distributors or cannabis delivery services may lawfully operate in the Borough of Paulsboro without the issuance of a State license and full regulatory oversight of the cannabis establishment by the Commission or other state licensing authority as well as oversight and issuance of a license by the Borough.

C. **Classification of licenses.** The Borough may issue the following local licenses:

Class I Cannabis cultivator license  
Class II Cannabis manufacturer license  
Class III Cannabis wholesaler license  
Class IV Cannabis distributor license  
Class VI Cannabis delivery license  
Microbusiness license

No Class V cannabis retail license shall be issued.

D. **Application.** All applicants requesting either a local license, whether as an initial local license or a renewal local license, shall file a license application with the Borough, on a standardized form established by the Borough and available in the Clerk's office. An application for a local license shall be deemed incomplete, and shall not be processed by the Borough, until all documents and application fees are submitted. To be deemed complete, all application shall be accompanied by the following:

1. A deed or lease evidencing the applicant's lawful possession of the premises on which the cannabis establishment, cannabis distributor, or cannabis delivery service will be located;
2. A copy of an approved zoning permit and copy of an approved site plan signed by the Borough of Paulsboro Planning Board or a copy of the Resolution signed by the Borough of Paulsboro Planning Board approving a site plan waiver for the premises on which the cannabis establishment, cannabis distributor, or cannabis delivery service will be located;
3. A fully executed Redevelopment Agreement; provided however, if a Redevelopment Agreement had been previously executed and has been terminated, the applicant shall submit the Certificate of Completion that has been issued by the Borough pursuant to the terminated Redevelopment Agreement;
4. An affidavit and documentary proof of compliance with all state and local laws regarding affirmative action, anti-discrimination and fair employment

practices. The applicant shall also certify under oath that they will not and shall not discriminate based on race, color, religion (creed), gender, gender expression, age, national origin (ancestry), disability, marital status, sexual orientation, or military status, in any of its activities or operations;

5. A copy of the State license. If no State license has been issued, the applicant may submit proof of application for a State license and may request that the local license be conditionally approved, conditioned upon receipt of a State license; except that for any class of local license for which there is a numerical limit, a copy of the State license must be provided at the time of application; and
6. A description of the proposed business activities/operations to be conducted at the cannabis facility, including but not limited to hours of operations, operating procedures, organizational structure, number of employees, job title and job description of employees, cannabis handling procedures, and workplace safety plan; and
7. A complaint procedures plan, which contains procedures and plans for receiving, recording and handling complaints regarding cannabis products, cannabis items, the cannabis facility and/or business operations of the cannabis establishment, cannabis distributor or cannabis delivery service, as applicable; and
8. A waste disposal plan, which sets forth the procedures and plans for sanitation and disposal of waste at the cannabis facility; and
9. A security plan, which sets forth the procedures and plans for security at the cannabis facility; and
10. An odor mitigation plan, which sets forth the plans and procedures for controlling odor at the cannabis facility; and
11. A copy of the cannabis facility floor plan, including square footage information; and
12. Proof of all property taxes, and all transfer taxes and/or user taxes imposed under this Chapter have been paid; and
13. If the application is for a renewal local license, a copy of all of the complaints received during the prior 12-month period, and a description of the manner in which such complaints were handled.
14. If the application is for a microbusiness:
  - a. Proof that the ownership interest in the microbusiness is held by current New Jersey residents who have resided in the State for at least the past two (2) consecutive years.

- b. Proof of residency in the Borough of Paulsboro, or a bordering municipality, for at least 51 percent of the owners, directors, officers, or employees of the microbusiness.
- c. A sworn affidavit that the microbusiness shall:
  - i. Employ no more than ten (10) persons.
  - ii. Operate a cannabis establishment occupying an area no more than 2,500 square feet.
  - iii. In the case of a cannabis cultivator, grow cannabis on an area no more than 2,500 square feet measured on a horizontal plane and grow above that plane no higher than twenty-four (24) feet, unless approved by the commission.
  - iv. Possess no more than 1,000 cannabis plants each month, except that a cannabis distributor's possession of cannabis plants for transportation shall not be subject to this limit.
  - v. In the case of a cannabis manufacturer, acquire no more than 1,000 pounds of usable cannabis each month.
  - vi. In the case of a cannabis wholesaler, acquire for resale no more than 1,000 pounds of usable cannabis, or the equivalent amount in any form of manufactured cannabis product or cannabis resin, or any combination thereof, each month.

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

Class I Cannabis cultivator license	\$2,500.00
Class II Cannabis manufacturer license	\$2,500.00
Class III Cannabis wholesaler license	\$2,500.00
Class IV Cannabis distributor license	\$2,500.00
Class VI Cannabis delivery license	\$2,500.00
Microbusiness license	\$2,500.00

F. If an applicant applies for more than one (1) class of license, where permitted by law, the nonrefundable application fee shall be determined as follows:

1. The applicant shall first pay \$2,500.00 for the first class of license sought in its application; and
2. The applicant shall pay \$1,000.00 for each additional class of license sought in its application.

- G. The applicant shall submit all annual license fees required in accordance with the following fee schedule, which shall be refundable in the event the applicant does not receive a license:

Class I Cannabis cultivator license	\$10,000.00
Class II Cannabis manufacturer license	\$8,000.00
Class III Cannabis wholesaler license	\$8,000.00
Class IV Cannabis distributor license	\$8,000.00
Class VI Cannabis delivery license	\$2,500.00
Microbusiness license	\$5,000.00

- H. Applications for a local license shall be considered on a rolling basis. In the event multiple applicants are under consideration simultaneously, the Borough shall evaluate those applicants and issue a notification of award after consideration and evaluation of the application and supporting materials. The Borough may award a conditional local license, which will not be effective until all of the conditions of the conditional local license have been satisfied. The Borough reserves the right to reject any application at its sole discretion.
- I. If an applicant applies for more than one (1) class of license, where permitted by law, the license fee shall be determined as follows:
1. The applicant shall pay, in full, the highest fee associated with the class of license sought in its application; and
  2. The applicant shall pay fifty percent (50%) of the fee associated with each additional class of license sought in its application.

§6A-8. **Suspension or Revocation of a License.**

- A. The Borough Council may suspend or revoke a local license if:
1. The application or the cannabis establishment, cannabis distributor or cannabis delivery service is not in compliance with any provision of this chapter or all statutes and/or regulations adopted by the State of New Jersey or its instrumentalities.
  2. The application for a local license contains false or misleading information;
  3. An owner, officer, or board member of a local license holder provides false or misleading information to the Borough.
  4. The Borough receives formal notice from the Commission that the local license holder has had its state license suspended or terminated.
  5. A violation by the local license holder or the cannabis establishment, cannabis distributor or cannabis delivery service of any of the provisions of this Code or the CREAMM Act has occurred.

1. An owner, officer or board member of the local license holder has been convicted of a crime involving any controlled dangerous substance or controlled substance analog as set forth in chapter 35 of Title 2C of the New Jersey Statutes except paragraph (4) of subsection a. of N.J.S.A. 2C:35-10, or any similar law of the United States or any other state.
  6. The failure or refusal of the local license holder to comply with any of the provisions of this Code or the CREAMM Act.
  7. The failure or refusal of the local license holder to carry out its policies and procedures or to be in compliance with the statements and representations provided to the Borough or the State in its application for licensure.
  8. Operating a cannabis establishment, cannabis distributor or cannabis delivery service without a state license or local license.
  9. The failure or refusal to return an adequate plan of correction to the Borough within ten (10) business days after receipt of a notice to correct.
  10. The failure or refusal to correct any deficiency specified by the Borough in a notice to correct within the period specified in a plan of correction.
  11. The failure or refusal to cooperate fully with an investigation, inspection or audit by the Borough or any law enforcement agency.
  12. Failure to maintain proper record keeping as required in Section 6A-11 and/or failure to allow the Borough access to any records as required in Section 6A-11.
  13. The failure to comply with the provisions of this chapter regarding the payment of fees.
  14. The failure to comply with any condition placed upon the local license when the license was issued or any condition or requirement made by the Borough.
  15. The premises and/or the cannabis facility has been inactive or unoccupied for at least six (6) months following the issuance of the local license.
- B. Except as permitted in subsection D below, prior to suspending or revoking a local license, the Borough Council shall provide notice to the local license holder of its intent to suspend or revoke the local license and shall schedule a hearing on the proposed suspension or revocation within thirty (30) days of said notice. Following the hearing, if the Borough Council determines that suspension or revocation is warranted, the Borough Council shall issue notification to the local license holder of the reasons for the suspension or revocation.
- C. Any suspension or revocation of a local license shall become effective immediately upon notification of the suspension or revocation to the local license

holder. The notification shall be deemed effective if: (1) it is made at the time of the hearing; or (2) notice of the suspension or revocation is mailed by certified mail, return receipt requested, to the address listed on the local license or in the license application for the local license.

- D. Notwithstanding the foregoing section, when the Borough has reasonable grounds to believe that a local license holder or cannabis establishment has engaged in deliberate and willful violation of any applicable law or regulation, or that the public health, safety and/or general welfare has been jeopardized and requires emergency action, the Borough Council may enter a summary suspension order for the immediate suspension of a local license pending further investigation, subject to the following procedure:
1. The summary suspension order shall be in writing and shall state the reason(s) therefore. The local license holder shall be afforded an opportunity for a hearing as outlined herein.
  2. The Borough shall convene a review panel consisting of the Administrator, a second administrative officer designated by the Mayor, and the Chief of Police. The hearing shall be scheduled within thirty (30) days of the date of the suspension order.
  3. Upon completion of the hearing, the review panel shall issue its decision regarding the alleged offenses. The review panel is authorized to impose any fines, penalties, conditions, restrictions or combination thereof authorized by the State of New Jersey or this Chapter, including the suspension of license for a period not to exceed six months.

## **Article V. Standards and Requirements of Licensees**

### **§6A-9. Standards of Conduct for All Local License Holders.**

Every local license holder under this chapter shall:

- A. Permit reasonable inspections of the cannabis facility by Borough of Paulsboro authorities for the purpose of enforcing the provisions of this chapter.
- B. Comply with all federal, state and local statutes, laws, regulations and ordinances relating to the cannabis facility and the conduct of the business thereon.
- C. Refrain from unfair or deceptive acts or practices, or consumer fraud, in the conduct of the business, and avoid maintaining a public nuisance.
- D. Refrain from operating a business after expiration of a license or during the period that the license may be suspended or revoked.
- E. Ensure that the local license holder and all of the individuals and entities holding an interest in the local license holder shall comply with all State requirement



related to good character and criminal background for any holder of a State license.

- F. Ensure that any person, firm, corporation or other entity having or proposed to have an ownership interest in the local license holder shall not have had any cannabis license or permit revoked for a violation affecting public safety in the State of New Jersey or a subdivision thereof within the preceding five (5) years.
- G. Ensure that the local license holder and the cannabis facility shall comply with any and all qualification standards set forth in any State and/or Borough laws or regulations, all provisions of the Borough Code, all provisions of any applicable redevelopment plan, and all statutes and/or regulations of the State of New Jersey and/or its instrumentalities.
- H. Comply at all times with the terms and conditions of the State license and the local license.
- I. Not be in default under any applicable redevelopment agreement.
- J. Maintain all state licenses and local licenses for the applicable cannabis class. No cannabis establishment, cannabis distributor or cannabis delivery service shall be permitted to operate without State license and a local license.
- K. Maintain in good repair and operation all noise mitigation equipment and techniques. 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.
- L. Maintain all security. All cannabis facilities shall be secured in accordance with State of New Jersey statutes and regulations; shall have a round-the-clock video surveillance system, 365 days a year; and shall have trained security personnel onsite at all times during operating hours. All security equipment identified in the license application shall be maintained in good and working order and all security protocols shall be followed in accordance with the representations made in the license application.

All 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.

§6A-10. **Record keeping.**

- A. Local license holders and all cannabis facilities must maintain adequate and accurate books and records that provide a true accounting of all financial

transactions, expenditures and control of inventory and prepare annual financial statements using generally accepted accounting principles. The Borough shall have the power and authority to enter any cannabis facility at any time and have access to the books and records of such business for the purpose of ascertaining proper payment of transfer tax or user tax. An audit of the financial statements and operations of the local license holder and/or cannabis facility may be conducted and the information received from the local license holder under the provisions of this section shall be deemed confidential and available only to those concerned in such matters.

§6A-11. **Reporting of Changes.**

Local license holders shall promptly report any changes to their state licenses and/or any changes to the cannabis facility to the Borough. Increases in authorized production levels, changes in processing techniques, security protocols, recordkeeping, odor mitigation, and/or waste disposal may require additional improvements to the premises and/or changes to the conditions of Borough approval.

- A. Failure to report changes or to comply with this provision may result in the revocation of Borough permits, licenses, and/or approvals.
- B. Cannabis establishments that have had their state license or Borough permits, licenses, or approvals revoked shall cease operations immediately.

**Article VI. Regulation of Cannabis Facilities**

§6A-12. **Interval Testing for Malodors.**

- A. Local license holders and Cannabis facilities shall perform interval testing for malodors no less frequently than bi-weekly. Odor samples shall be taken by each member of an ad hoc committee consisting of at least three (3) designees of the cannabis facility utilizing a device known as an olfactometer. All members of the ad hoc committee shall be appropriately trained in how to operate the olfactometer and to record sample data prior to performing any interval testing. Samples shall be taken from at least five (5) separate locations located along the lot perimeter with at least one sample collected from the north, south, east, and west of the cannabis facility.
- B. Local license holders and all cannabis facilities must maintain adequate and accurate books and records that provide a true accounting of all interval testing for malodors required in Section 6A-11, including dates and times of samples, reading locations, reading levels, and the names of all operators of the olfactometer, including their training history.
- C. The Borough shall have the power and authority to enter any cannabis facility at any time and have access to the testing records of such business for the purpose of ascertaining compliance with this ordinance.

§6A-13. **Nuisances at Cannabis Facilities**

- A. **Nuisance defined.** In order to prevent nuisance from noise, odor, dust, light, glare, heat, noxious gasses, smoke, traffic, vibrations, unsafe conditions or other negative impacts, of a cannabis facility, or which otherwise may be injurious to the public health, safety, or welfare of the inhabitants of the Borough of Paulsboro, all of which shall be considered a nuisance:
1. The creation of noise when measured at the property boundary of the land on which the cannabis facility is located in excess of 20 dBA above ambient noise level;
  2. The emission of odor that is detectible at and/or travels beyond the property boundary of the land on which the cannabis facility is located; or
  3. The receipt of three (3) or more complaints regarding the cannabis facility within a period of sixty (60) days; or
  4. Maintaining, cultivating and/or grow cannabis upon private property within the Borough except in full compliance with the provisions of this Chapter; or
  5. Disposal of cannabis or any part thereof, cannabis waste and/or any other waste from a cannabis facility except in strict accordance with a waste disposal plan provided to the Borough.
- B. **Order to Abate a Nuisance.** In the event that the Borough has reason to believe that a local license holder and/or cannabis facility has created a nuisance, the Borough shall issue a notice to the local license holder and/or cannabis facility identifying the alleged nuisance and, may do one or more of the following:
1. The Borough may order the local license holder and/or cannabis facility to submit to independent testing to verify or refute the existence of the alleged nuisance at the expense of the local license holder and/or cannabis facility.
  2. The Borough may order a local license holder and/or cannabis facility, at its own expense, to remove any nuisance found thereon within twenty-four (24) hours or such other time the Borough deems reasonable.
- C. **Compliance with Order to Abate.** The local license holder and/or cannabis facility shall have seven (7) days after receipt of an order to abate a nuisance in which to comply with the Borough's order, unless an appeal has been filed.

3. If the local license holder and/or cannabis facility fails to comply with such order, subject to the appeal rights below, the Borough of Paulsboro may revoke the local license.
4. The Borough shall notify a cannabis establishment in writing of any order taken pursuant to this section. If the cannabis establishment fails to either comply with the order or request a hearing before the Borough Council after said seven (7) days, the Borough of Paulsboro may cause the nuisances to be removed, and all expenses incurred thereby shall constitute a debt due the Borough of Paulsboro. If the cannabis establishment requests a hearing before the Borough Council, such hearing shall occur no later than the next regularly scheduled Council Meeting.

D. **Appeal of Order to Abate.** The local license holder and/or cannabis facility shall have seven (7) days after receipt of an order to abate a nuisance in which to appeal to the Borough Council for a hearing. The request for an appeal shall be filed, in writing, with the Borough Clerk. The Borough Council shall hold its hearing within thirty (30) calendar days thereafter, and its decision shall be final.

§6A-14. **Private Cultivation Prohibited**

The maintaining, cultivating, or growing of cannabis upon private property within the Borough without a state license and a local license is strictly prohibited.

**Article VII. Consumption in Certain Places**

§6A-15. **Consumption in certain places prohibited.**

- A. No person acting individually or participating with one or more persons shall consume or attempt to consume cannabis or possess, display, dispense or distribute cannabis out of its original container:
  1. While in a public place, private place of which he is not an owner, tenant or lawful occupant, or in any public conveyance, without permission of any owner, tenant, lawful occupant or any person having the authority to grant such permission.
  2. While in or on any property owned by the Borough of Paulsboro in the County of Gloucester without the permission of the Borough of Paulsboro.
  3. While in a private motor vehicle that is not being operated, in any public place, other than a public highway, or the right-of-way of a public highway, or upon any private place of which he is not an owner, tenant or lawful occupant without the express permission of the property owner, tenant, lawful occupant or other person having the authority to grant such permission.

B. In determining whether or not any of the unlawful acts set forth in Subsection A of this section have been committed, the trier of fact, in addition to or as part of the proofs, may consider the following factors:

1. Statement made by an owner or by anyone in control of the cannabis.
2. The proximity of the defendant to the cannabis and his opportunity or ability to consume.
3. Whether the defendant or any person(s) in close proximity to him exhibits an odor of cannabis coming from his and/or their person or exhibits physical conduct, attributes or demeanor associated with the consumption of cannabis.
4. Direct or circumstantial evidence of the intent of an owner or anyone in control of the cannabis to deliver, distribute or make available such cannabis to the defendant or any other person or persons in close proximity to the defendant.

#### **Article VIII. Violations; Sanctions; Penalties; Appeal**

§6A-16. **Citable Offense.** Every person, firm, corporation or other entity who engages in any of the following is guilty of an offense punishable as set forth in Section 6A-17 below:

- A. Violates any of the provisions of this Chapter;
- B. Cultivates, grows, sells, offers to sell, distributes, delivers, transports, cannabis or otherwise engages in any activity for which a local license and/or state license is required, except in accordance with the provisions of this Chapter;
- C. Uses and/or permits or allows his or her property or premises to be used for the cultivation, growing, selling, offering for sale, distribution, delivery, or transport of cannabis, or any other activity for which a local license and/or state license is required, except in accordance with the provisions of this Chapter;

After written notice is provided to any such person, firm, corporation or other entity of such violation, the continued existence of such violation for each and every day after the service of such notice shall be deemed a separate and distinct offense.

§6A-17. **Penalties.**

The penalties for offenses under this Chapter shall be as follows:

- A. For cannabis license holders:
  1. First Offense: Up to \$2,500 per violation per day, as well as such penalties as may otherwise be provided by law.
  2. Second Offense: Up to \$3,500 per violation per day, as well as such penalties as may otherwise be provided by law.

3. Third violation: Summary suspension.

B. For individuals:

1. A minimum fine of \$250 or a maximum of \$2,000 per violation per day, as well as such penalties as may otherwise be provided by law.

§6A-18. **Right of Entry.** Persons designated by resolution as code enforcement officers of the Borough are authorized to enter upon and inspect cannabis facilities, premises and properties subject to this Chapter to ensure compliance with the provisions of this Chapter. Reasonable advance notice of any such entry and inspection shall be provided and, before entry, consent shall be obtained in writing from the owner or other person, firm, corporation or other entity in lawful possession of the cannabis facilities, premises and/or property. If consent cannot for any reason be obtained, an inspection warrant shall be obtained from the municipal court prior to any such entry and inspection. In those cases where consent is denied, the Borough may seek to recover the costs it incurs in obtaining a warrant from the property owner and/or person, firm, corporation or other entity in lawful possession of the property.

§6A-19. **Appeal.** Unless otherwise provided, any person, firm, corporation or other entity aggrieved by the final determination of the Borough Council may seek relief therefrom in any court of competent jurisdiction, as provided by the laws of the State of New Jersey.

## **Article IX. Taxation of Cannabis**

§6A-20. **Purpose.**

The purpose of this article is to impose a tax on the sale of cannabis or cannabis products by licensed commercial cannabis establishments operating in the Borough of Paulsboro, pursuant to the CREAMM Act, to specify the type of tax and rate of tax to be levied and the method of collection, and to comply with all requirements for the imposition of a transfer or user tax pursuant to state law. This article is enacted solely to raise revenue and not for regulation. This article does not authorize the conduct of any business or activity in the Borough of Paulsboro but provides for the taxation of such businesses or activities as they occur.

§6A-21. **Imposition of Cannabis Transfer Tax and User Tax.**

A. The Borough of Paulsboro hereby imposes and shall collect a transfer tax on the sale of cannabis or cannabis items by a cannabis establishment that is located within the Borough:

1. The transfer tax is applicable to:

a. Receipts from the sale of cannabis by a cannabis cultivator to another cannabis cultivator;

- b. Receipts from the sale of cannabis items from one cannabis establishment to another cannabis establishment; and
  - c. Receipts from the retail sales of cannabis items by a cannabis retailer to retail consumers who are 21 years of age or older.
2. The rates of the transfer tax shall be as follows:
- a. A. Two percent (2%) of the receipts from each sale by a cannabis cultivator;
  - b. Two percent (2%) of the receipts from each sale by a cannabis manufacturer;
  - c. One percent (1%) of the receipts from each sale by a cannabis wholesaler; and
  - d. Two percent (2%) of the receipts from each sale by a cannabis retailer.
- B. A user tax is hereby imposed, at the equivalent transfer tax rates, on any concurrent license holder operating more than one cannabis establishment. The user tax shall be imposed on the value of each transfer or use of cannabis or cannabis items not otherwise subject to the transfer tax imposed pursuant to this section, from the concurrent license holder's cannabis establishment that is located in the Borough to any of the other concurrent license holder's cannabis establishments, whether located in the Borough or another municipality.

§6A-22. **Transfer and user tax in addition to other tax.**

The transfer tax and user tax imposed herein shall be in addition to any other tax imposed by law.

§6A-23. **Collection and Payment of taxes.**

The transfer tax or user tax shall be collected or paid and remitted to the Chief Financial Officer of the Borough of Paulsboro in the manner provided in this Article. The cannabis establishment selling the cannabis or cannabis item shall be required to collect the transfer tax or user from the cannabis establishment purchasing or receiving the cannabis or cannabis item and to pay or remit the same to the Chief Financial Officer. The transfer tax or user 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. The taxes imposed by this Article shall be computed and paid for each calendar month. Said taxes are due and payable to the Chief Financial Officer on or before the 20th day of the succeeding month.

§6A-24. **Liability to collect tax.**

Every cannabis establishment required to collect a transfer tax or user tax imposed by this article 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 or user tax from another cannabis establishment as if the transfer tax or user tax was a part of the sale and payable at the same time, or with respect to nonpayment of the transfer tax or user tax by the cannabis establishment, as if the transfer tax or user 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. The Chief Financial Officer of the Borough of Paulsboro shall be joined as a party in any action or proceeding brought to collect the transfer tax or user tax.

§6A-25. **Charge and refund of tax.**

No cannabis establishment required to collect a transfer tax or user tax imposed by this article 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 or user tax will be refunded to the cannabis establishment or the consumer.

§6A-26. **Recordkeeping.**

Every cannabis establishment that is required to collect the transfer tax or user tax imposed by this Article shall maintain a copy of all sales slips, invoices, receipts, or other statements or memorandums of the price paid or payable, or equivalent value of the transfer, for the cannabis or cannabis item sold, used or transferred for a period of at least two (2) years, and shall make the same available for inspection and/or audit, upon request by the Chief Financial Officer of the Borough of Paulsboro, within five (5) business days of the request.

§6A-27. **Administration.**

- A. The Chief Financial Officer is hereby authorized and empowered to administer, regulate, and collect payment of all taxes imposed by this article.
- B. The Chief Financial Officer may order an audit of any taxpayer under this article for the purpose of ascertaining the correctness or completeness of any return or payment.

§6A-28. **Violations and penalties.**

- A. The payment of delinquent taxes or transfer fees imposed by this article shall be enforced in the same manner as provided for delinquent real property taxes.
- B. In the event that the transfer tax or user tax imposed by this article is not paid 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, firm, corporation, or other entity except the lien of municipal taxes, and shall be on a parity with and deemed equal to the municipal lien the parcel for unpaid property taxes due and owing in the same year.

- C. In the event that a lien is imposed on a delinquent taxpayer pursuant to this section, the Borough shall file in the office of the 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.

#### **Article X. Severability**

§6A-29. If any portion, or sentence, clause or phrase of this regulation shall be held invalid for any reason, the remainder of this regulation shall continue in full force and effect.