

**BOROUGH OF ELMWOOD PARK
BERGEN COUNTY, NEW JERSEY
RESOLUTION R-353-23**

**RESOLUTION BY: COUNCILWOMAN PELLEGRINE
SECONDED BY: COUNCILWOMAN DENNIS**

**INTRODUCE ORDINANCE #23-33
SECOND READING**

WHEREAS, a public notice has been given by the Borough Clerk that an ordinance entitled:

AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF ELMWOOD PARK, NEW JERSEY AMENDING THE BOROUGH CODE AND ALL GENERAL ORDINANCES OF THE BOROUGH; MORE SPECIFICALLY, CHAPTER 4, LICENSING AND BUSINESS REGULATIONS, SECTION 4.7 (CLARIFYING APPLICATION FEES AND LICENSE FEES; CLARIFYING TYPES AND NUMBERS OF LICENSES THAT MAY BE ISSUED);

was introduced and passed at a meeting held on Thursday, August 17, 2023 and that further consideration of this ordinance would be taken up at this meeting; and

WHEREAS, all persons interested in said ordinance were given an opportunity to be heard concerning the same;

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Elmwood Park, that an ordinance entitled:

AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF ELMWOOD PARK, NEW JERSEY AMENDING THE BOROUGH CODE AND ALL GENERAL ORDINANCES OF THE BOROUGH; MORE SPECIFICALLY, CHAPTER 4, LICENSING AND BUSINESS REGULATIONS, SECTION 4.7 (CLARIFYING APPLICATION FEES AND LICENSE FEES; CLARIFYING TYPES AND NUMBERS OF LICENSES THAT MAY BE ISSUED);

pass on final reading.

APPROVED: September 21, 2023

Robert Colletti, Mayor

ATTEST: _____

Shanee Morris, CMR
Acting Borough Clerk

Record of Council Vote on Passage

	AYE	NAY	Abstain	Absent		AYE	NAY	Abstain	Absent
Dennis	X				Pellegrine	X			
Fasolo				X	Sheridan	X			
Golabek	X				Balistreri				X

This resolution was approved by the Mayor and Council of the Borough of Elmwood Park at a regular scheduled meeting held on the 21st day of September 2023. Signed and sealed before me.

Shanee Morris, CMR
Acting Borough Clerk

Dated

**BOROUGH OF ELMWOOD PARK
BERGEN COUNTY, NEW JERSEY
ORDINANCE NO.: 23-33**

AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF ELMWOOD PARK, NEW JERSEY AMENDING THE BOROUGH CODE AND ALL GENERAL ORDINANCES OF THE BOROUGH; MORE SPECIFICALLY, CHAPTER 4, LICENSING AND BUSINESS REGULATIONS, SECTION 4.7 (CLARIFYING APPLICATION FEES AND LICENSE FEES; CLARIFYING TYPES AND NUMBERS OF LICENSES THAT MAY BE ISSUED);

BE IT ORDAINED by the mayor and council of the borough of elmwood park as follows (additions noted in UNDERLINE, deletions noted in ~~STRIKETHROUGH~~):

INTENT OF THIS ORDINANCE

WHEREAS, This Ordinance intends to amend a specific section of the Licensing and Business Regulation Ordinance.

NOW THEREFORE BE IT ORDAINED by the Mayor and Council of the Borough of Elmwood Park, County of Bergen, and State of New Jersey as follows:

- § 4-7.3. Licensing. [Added 8-19-2021 by Ord. No. 21-13; amended 3-17-2022 by Ord. No. 22-041
- a. Local Licensing Authority.
1. The Borough "~~Cannabis and Marijuana~~ Administration Board" is hereby designated to act as the local agency to process and administer the licensing procedure for the Borough for all cannabis establishments. Upon completion of the review of the applications for licensing, a written report and recommendation shall be submitted to the Borough Council, who is and will be considered the licensing authority, as to the approval or denial of the particular license application. 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 of the Borough of Elmwood Park.
 2. Under no circumstances shall a local license for a cannabis establishment issued by the Borough Council be effective until or unless the State has issued the requisite permits or licenses to operate such a facility. It is the intent of this section that no cannabis establishment may lawfully operate in the Borough of Elmwood Park without the issuance of a State permit or license and full regulatory oversight of the cannabis establishment by the Cannabis Regulatory Commission or other states licensing authority as well as oversight and issuance of a license by the Borough.
- 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~~ business
- Class I 1 Cannabis e Cultivation Class 2 ~~Cannabis m Manufacturing~~
 - Class 3 Cannabis Wholesaler
 - Class 4: Cannabis Distributor ~~cannabis supplier license (cultivation processing manufacturing, wholesalers, and distributors) (class 1 to 4 of the state statute~~
 - Class ~~II-V~~ 5: cannabis Cannabis retailer Retailer license
 - Class ~~III-VI~~ 6: cannabis Cannabis delivery Delivery service Service license
are hereby prohibited from operating anywhere in the Borough of Elmwood Park, except for the delivery of cannabis items and related supplies by a licensed cannabis delivery service based and initiated from a cannabis delivery service licensed location outside of the Borough of Elmwood Park.
- Class IV: Conditional
Class V: ~~Microbusiness license.~~ [Amended 7-21-2022 by Ord. No. 22-191

- c. Maximum Number of Licenses. The Borough may issue no more than ~~two~~ three (3) each of the following license categories: Cultivators, ~~Processors~~ Manufacturers, Wholesalers, and Distributors; and a maximum of ~~three~~ four (4) Class ~~H 5~~ Class H 5 Cannabis Retailer license; zero (0) Class ~~H 6~~ Class H 6 Cannabis Delivery Service licenses and ~~two~~ Three (3) each ~~Class IV-Conditional Licenses and Class License, Class V License,~~ Microbusiness License.

Class ~~H 6~~ H 6 Cannabis delivery service is hereby prohibited from operating anywhere in the Borough of Elmwood Park, except for the delivery of cannabis items and related supplies by a licensed cannabis delivery service based and initiated from a cannabis delivery service licensed location outside of the Borough of Elmwood Park. Licensure in all classes maybe, 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. [Amended 7-21-2022 by Ord. No. 22-19; 7-21-2022 by Ord. No. 22-191]

- d. Application. Persons wishing to obtain any classification of cannabis license shall file a license application with the Cannabis ~~and Marijuana~~ Administration Board on a standardized form established by the Cannabis ~~and Marijuana~~ Administrative Board and approved by the Mayor and Council and available in the Borough Clerk's office. The Cannabis ~~and Marijuana~~ Administrative Board shall establish a reasonable application period and deadline for all applications. Except as specifically provided below, an application shall be deemed incomplete and shall not be processed by the Cannabis ~~and Marijuana~~ Board until all documents and application fees are submitted. To be deemed complete, all applications shall be accompanied by the following:

1. The applicant shall submit proof that the applicant has or will have lawful possession of the premises proposed for the cannabis establishment, which proof may consist of:
 - (a) 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. The applicant shall submit 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.
3. The location proposed for licensing by the applicant shall comply with all applicable municipal zoning laws and the location restrictions set forth in this Code.
4. The applicant shall submit to the satisfaction of the Cannabis ~~and Marijuana~~ Administrative Board proof of financial capability to open and operate the cannabis establishment for which the applicant is seeking a license. Standards for proof of financial capability shall be determined by the Cannabis ~~and Marijuana~~ Administrative Board and approved by the Borough Council.
5. The applicant shall submit all required nonrefundable fees for the application for conditional license in accordance with the following fee schedule: [Amended 7-21-2022 by Ord. No. 22-19]

<u>Class 1 Cannabis Cultivation</u>	<u>\$500.00</u>
<u>Class 2 Cannabis Manufacturing</u>	<u>\$500.00</u>
<u>Class 3 Cannabis Wholesaler</u>	<u>\$500.00</u>
<u>Class 4: Cannabis Distributor</u>	<u>\$500.00</u>
<u>Class 5: Cannabis Retailer</u>	<u>\$500.00</u>

~~Class I: \$500 Cannabis Supplier license (Cultivator, Processors, Wholesalers, and Distributors).~~

~~(b) Class II: \$500 Cannabis Retailer license.~~

~~(c) Class IV Conditional License : \$500.00 Conditional License~~

~~(d) Class V Microbusiness License: \$500.00 Microbusiness License~~

~~4- Editor's Note:~~ This ordinance also provided that notwithstanding the creation of ~~Class IV and Class V licenses~~ Conditional and Microbusiness Licenses, the Mayor and Council shall refrain from issuing these licenses until such time that the Mayor and Council are satisfied that the issuance of these licenses is in the best interest of the Borough. Such consideration shall be implemented by way of adoption of resolution(s) and upon the satisfaction of the Mayor and Council and consideration of the best interest of the Borough.

6. Within ten (10) business days of the Borough's notification to applicant of award of conditional municipal license, the applicant shall submit all annual registration fees required in accordance with the following fee schedule, which shall be refunded in the event the applicant does not receive a license from the State of New Jersey Cannabis Regulatory Commission:

Class 1 Cannabis Cultivation \$40,000.00

Class 2 Cannabis Manufacturing \$40,000.00

Class 3 Cannabis Wholesaler \$40,000.00

Class 4: Cannabis Distributor \$40,000.00

Class 5: Cannabis Retailer \$20,000.00

~~(a) Class I: \$40,000.00 per year Cannabis Supplier License (Cultivators, Processors, Wholesalers, and Distributors.~~

~~(b) Class II: \$20,000 per year Cannabis Retailer License.~~

g. Inactive Licenses.

1. Following the commencement of retail sales of cannabis or cannabis products, the Cannabis ~~and Marijuana~~ Administrative Board may recommend to the Borough Council to suspend or revoke any license if the licensed premises have been inactive or unoccupied by the licensee for at least six (6) months.

h. State License.

1. The Cannabis ~~and Marijuana~~ Administrative Board may recommend to the Borough Council that the Borough Council may suspend or revoke any license if the corresponding State license or permit for the subject location is expired, surrendered, suspended, or revoked.

4-8. SALES NEAR SCHOOLS RESTRICTED.

§ 4-8.1. Definitions. [1969 Code 44-111

As used in this section:

CONDITIONAL LICENSE — A license granted subject to a future location to be acquired upon receipt of a state cannabis license. [Added 7-21-2022 by Ord. No. 22-191

GOODS — Shall mean any goods, ~~wares~~ wares or merchandise, and particularly foodstuffs.

MICROBUSINESS LICENSE — A license granted where all the owners of the business must be current New Jersey resident(s) and must have resided in the State of New Jersey for the past two (2) years: at least fifty-one (51%) percent ~~present~~ of the owners, directors, officers and employees must be residents of the Borough of Elmwood Park (or at least an adjoining municipality); the business can have no more than ten (10) employees; the business operating space can be no more than 2,500 square feet (and in the case of cultivators, can have a height of no more than 24 feet); there are limitations on the monthly volume of cannabis that the business can be involved in; no owner, director, officer or other person with a financial interest and decision-making authority in any other cannabis business (whether that business is a microbusiness or not) is permitted to have any financial interest in a microbusiness. [Added 7-21-2022 by Ord. No. 22-191

PERSON — Shall mean any person, firm, ~~association~~ association or corporation.

PUBLIC SCHOOL PROPERTY — Shall mean any property of the Board of Education of the Borough of Elmwood Park, upon which is located a public school.

SALE — Shall mean the sale or offering for sale or soliciting trade.

SCHOOL HOURS — Shall mean any time between 7:00 a.m. and 6:00 p.m., on weekdays, exclusive of Saturdays, during such days as the school may be in session.

STREET — Shall mean any public road, ~~sidewalk~~ sidewalk or other thoroughfare.

SECTION 1. If any part of this Ordinance is for any reason held to be invalid, such a decision shall not affect the validity of the remaining portions of the Ordinance.

SECTION 2. All ordinances or parts of ordinances inconsistent with this Ordinance are hereby repealed or amended to the extent of such inconsistency.

SECTION 3. This Ordinance shall take effect upon final passage and publication.

SECTION 4. This Ordinance shall be a part of the Code of the Borough of Elmwood Park as though codified and fully set forth therein. The Borough Clerk shall have this ordinance codified and incorporated in the official copies of the Code.

SECTION 5. The Borough Clerk and the Borough Attorney are authorized and directed to change any Chapter, Article, and/or Section number of the Code of the Borough of Elmwood Park 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.

ATTEST: _____

Shanee Morris, CMR
Acting Borough Clerk

APPROVED: _____

Robert Colletti, Mayor

Introduced: August 17, 2023

Adopted: September 21, 2023