

**AGENDA
MUNICIPAL COUNCIL
SPECIAL MEETING
THURSDAY, AUGUST 19, 2021
6:00 p.m.**

1. Call to Order and Pledge of Allegiance.
2. Roll Call.
3. Adequate Notice of this meeting as required by the Open Public Meetings Act of 1975, has been provided by a Special Notice sent to The Home News Tribune, on July 31ST and posted in the Main Lobby of the Municipal Complex on the same date.
4. **UNFINISHED BUSINESS:
ORDINANCES FOR FURTHER CONSIDERATION, PUBLIC HEARING, AND
FINAL ADOPTION:**

O.2112-2021	An Ordinance amending and supplementing the Township Code Chapter 11 (“General Licensing and Business Regulations”) and Chapter 37 (“Zoning”) to establish licensing requirements and land use regulations for cannabis businesses.
--------------------	--
5. Such other matters as the Council President deems necessary to bring before the Council at this time.
6. Oral Petitions and Remarks
7. Adjournment

ORDINANCE O.2112-2021

EXPLANATION: An Ordinance amending and supplementing the Township Code Chapter 11 (“General Licensing and Business Regulations”) and Chapter 37 (“Zoning”) to establish licensing requirements and land use regulations for cannabis businesses.

WHEREAS, the Township of Edison (the “**Township**”) is a public body corporate and politic of the State of New Jersey; and

WHEREAS, the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act, P.L.2021, c.16, *N.J.S.A. 24:6I-31 et seq.* (the “Act”) was enacted on February 22, 2021 to govern the development, regulation, and enforcement of the personal use of products containing cannabis by individuals aged 21 and older; and

WHEREAS, the Act gives the Township the ability to enact ordinances or regulations as to the number of licensed cannabis businesses, as well as their location, manner, times of operation, and licensing requirements within its jurisdiction; and

WHEREAS, the Act provides that the Township must act to adopt regulations and zoning rules to either permit or prohibit cannabis businesses by ordinance within 180 days of the Act’s enactment, or otherwise be opted into the default State regulations and zoning rules based on the Act; and

WHEREAS, the Township desires to allow certain classes of cannabis establishments to operate within its jurisdiction; and

WHEREAS, the Municipal Council wishes to create land use regulations and licensing requirements for cannabis establishments to promote the health, safety, and general welfare of the community; and

WHEREAS, it is in the best interest of the Township to be proactive in establishing such local land use regulations and licensing requirements for cannabis businesses in advance of the issuance of licenses by the State.

NOW, THEREFORE, BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF EDISON, AS FOLLOWS:

SECTION ONE: AMENDMENT TO ZONING ORDINANCE

Chapter 39 of the Township Code shall be and are hereby amended as follows:

[Section] Cannabis Establishments

a. Definitions. As used in this subsection, the following terms shall have the meanings indicated:

“Cannabis” means all parts of the plant *Cannabis sativa* L., whether growing or not, the seeds thereof, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds, except those containing resin extracted from the plant, which are cultivated and, when applicable, manufactured in accordance with P.L.2021, c.16 (C.24:6I-31 et al.) for use in cannabis products as set forth in this act, but shall not include the weight of any other ingredient combined with cannabis to prepare topical or oral administrations, food, drink, or other product. “Cannabis” does not include: medical cannabis dispensed to registered qualifying patients pursuant to the “Jake Honig Compassionate Use Medical Cannabis Act,” P.L.2009, c.307 (C.24:6I-1 et al.) and P.L.2015, c.158 (C.18A:40-12.22 et al.); marijuana as defined in N.J.S.2C:35-2 and applied to any offense set forth in chapters 35, 35A, and 36 of Title 2C of the New Jersey Statutes, or P.L.2001, c.114 (C.2C:35B-1 et seq.), or marihuana as defined in section 2 of P.L.1970, c.226 (C.24:21-2) and applied to any offense set forth in the “New Jersey Controlled Dangerous Substances

Act,” P.L.1970, c.226 (C.24:21-1 et al.); or hemp or a hemp product cultivated, handled, processed, transported, or sold pursuant to the “New Jersey Hemp Farming Act,” P.L.2019, c.238 (C.4:28-6 et al.).

“Cannabis Cultivator” means any licensed person or entity that grows, cultivates, or produces cannabis in this State, and sells, and may transport, this cannabis to other cannabis cultivators, or usable cannabis to cannabis manufacturers, cannabis wholesalers, or cannabis retailers, but not to consumers. This person or entity shall hold a Class 1 Cannabis Cultivator license.

“Cannabis Delivery service” means any licensed person or entity that provides courier services for consumer purchases of cannabis items and related supplies fulfilled by a cannabis retailer in order to make deliveries of the cannabis items and related supplies to that consumer, and which services include the ability of a consumer to purchase the cannabis items directly through the cannabis delivery service, which after presenting the purchase order to the cannabis retailer for fulfillment, is delivered to that consumer. This person or entity shall hold a Class 6 Cannabis Delivery license.

“Cannabis Distributor” means any licensed person or entity that transports cannabis in bulk intrastate from one licensed cannabis cultivator to another licensed cannabis cultivator, or transports cannabis items in bulk intrastate from any one class of licensed cannabis establishment to another class of licensed cannabis establishment, and may engage in the temporary storage of cannabis or cannabis items as necessary to carry out transportation activities. This person or entity shall hold a Class 4 Cannabis Distributor license.

“Cannabis Establishment” means a cannabis cultivator, a cannabis distributor, a cannabis manufacturer, a cannabis wholesaler, a cannabis retailer, or a cannabis delivery service.

“Cannabis extract” means a substance obtained by separating resins from cannabis by: (1) a chemical extraction process using a hydrocarbon-based solvent, such as butane, hexane, or propane; (2) a chemical extraction process using the hydrocarbon-based solvent carbon dioxide, if the process uses high heat or pressure; or (3) any other process identified by the Cannabis Regulatory Commission by rule or regulation.

“Cannabis item” means any usable cannabis, cannabis product, cannabis extract, and any other cannabis resin. “Cannabis item” does not include: any form of medical cannabis dispensed to registered qualifying patients pursuant to the “Jake Honig Compassionate Use Medical Cannabis Act,” P.L.2009, c.307 (C.24:6I-1 et al.) and P.L.2015, c.158 (C.18A:40-12.22 et al.); or hemp or a hemp product cultivated, handled, processed, transported, or sold pursuant to the “New Jersey Hemp Farming Act,” P.L.2019, c.238 (C.4:28-6 et al.).

“Cannabis Manufacturer” means any licensed person or entity that processes cannabis items in this State by purchasing or otherwise obtaining usable cannabis, manufacturing, preparing, and packaging cannabis items, and selling, and optionally transporting, these items to other cannabis manufacturers, cannabis wholesalers, or cannabis retailers, but not to consumers. This person or entity shall hold a Class 2 Cannabis Manufacturer license.”

“Cannabis product” means a product containing usable cannabis, cannabis extract, or any other cannabis resin and other ingredients intended for human consumption or use, including a product intended to be applied to the skin or hair, edible cannabis products, ointments, and tinctures. “Cannabis product” does not include: (1) usable cannabis by itself; or (2) cannabis extract by itself; or (3) any other cannabis resin by itself.

“Cannabis resin” means the resin extracted from any part of the plant *Cannabis sativa* L., including cannabis extract and resin extracted using non-chemical processes, processed and used in accordance with State Law. “Cannabis resin” does not include: any form of medical cannabis dispensed to registered qualifying patients pursuant to the “Jake Honig Compassionate Use Medical Cannabis Act,” P.L.2009, c.307 (C.24:6I-1 et al.) and P.L.2015, c.158 (C.18A:40-12.22 et al.); hashish as defined in N.J.S.2C:35-2 and applied to any offense set forth in chapters 35, 35A, and 36 of Title 2C of the New Jersey Statutes, or P.L.2001, c.114 (C.2C:35B-1 et seq.), or as defined in section 2 of P.L.1970, c.226 (C.24:21-2) and applied to any offense of the “New Jersey Controlled Dangerous Substances Act,” P.L.1970, c.226 (C.24:21-1 et al.); or hemp or a hemp product cultivated, handled, processed, transported, or sold pursuant to the “New Jersey Hemp Farming Act,” P.L.2019, c.238 (C.4:28-6 et al.).

“Cannabis Retailer” means any licensed person or entity that purchases or otherwise obtains usable cannabis from cannabis cultivators and cannabis items from cannabis manufacturers or cannabis wholesalers, and sells these to consumers from a retail store, and may use a cannabis delivery service or a certified cannabis handler for the off-premises delivery of cannabis items and related supplies to consumers. cannabis retailer shall also accept consumer purchases to be fulfilled from its retail store that are presented by a cannabis delivery service which will be delivered by the cannabis delivery service to that consumer. This person or entity shall hold a Class 5 Cannabis Retailer license.

“Cannabis Wholesaler” means any licensed person or entity that purchases or otherwise obtains, stores, sells or otherwise transfers, and may transport, cannabis items for the purpose of resale or other transfer to either another cannabis wholesaler or to a cannabis retailer, but not to consumers. This person or entity shall hold a Class 3 Cannabis Wholesaler license.

“Commission” means the Cannabis Regulatory Commission established pursuant to section 31 of P.L.2019, c.153 (C.24:6I-24).

“Conditional license” means a temporary license designated as either a Class 1 Cannabis Cultivator license, a Class 2 Cannabis Manufacturer license, a Class 3 Cannabis Wholesaler license, a Class 4 Cannabis Distributor license, a Class 5 Cannabis Retailer license, or a Class 6 Cannabis Delivery license that allows the holder to lawfully act as a cannabis cultivator, cannabis manufacturer, cannabis wholesaler, cannabis distributor, cannabis retailer, or cannabis delivery service as the case may be, which is issued pursuant to an abbreviated application process, after which the conditional license holder shall have a limited period of time in which to become fully licensed by satisfying all of the remaining conditions for licensure which were not required for the issuance of the conditional license.

“Consumer” means a person 21 years of age or older who purchases, directly or through a cannabis delivery service, acquires, owns, holds, or uses cannabis items for personal use by a person 21 years of age or older, but not for resale to others.

“Consumption” means the act of ingesting, inhaling, or otherwise introducing cannabis items into the human body.

“Delivery” means the transportation of cannabis items and related supplies to a consumer. “Delivery” also includes the use by a licensed cannabis retailer of any third party technology platform to receive, process, and fulfill orders by consumers, which third party shall not be required to be a licensed cannabis establishment, distributor, or delivery service, provided that any physical acts in connection with fulfilling the order and delivery shall be accomplished by a certified cannabis handler performing work for or on behalf of the licensed cannabis retailer, which includes a certified cannabis handler employed or otherwise working on behalf of a cannabis delivery service making off-premises deliveries of consumer purchases fulfilled by that cannabis retailer.

“License” means a license issued by the State, including a license that is designated as either a Class 1 Cannabis Cultivator license, a Class 2 Cannabis Manufacturer license, a Class 3 Cannabis Wholesaler license, a Class 4 Cannabis Distributor license, a Class 5 Cannabis Retailer license, or a Class 6 Cannabis Delivery license. The term includes a conditional license for a designated class, except when the context of the provisions of the Public Laws of the State otherwise intend to only apply to a license and not a conditional license.

“Licensee” means a person or entity that holds a license issued by the State, including a license that is designated as either a Class 1 Cannabis Cultivator license, a Class 2 Cannabis Manufacturer license, a Class 3 Cannabis Wholesaler license, a Class 4 Cannabis Distributor license, a Class 5 Cannabis Retailer license, or a Class 6 Cannabis Delivery license, and includes a person or entity that holds a conditional license for a designated class, except when the context of the provisions of the Public Laws of the State otherwise intend to only apply to a person or entity that holds a license and not a conditional license.

“Manufacture” means the drying, processing, compounding, or conversion of usable cannabis into cannabis products or cannabis resins. “Manufacture” does not include packaging or labeling.

“Medical cannabis” means cannabis dispensed to registered qualifying patients pursuant to the “Jake Honig Compassionate Use Medical Cannabis Act,” P.L.2009, c.307 (C.24:6I-1 et al.) and P.L.2015, c.158 (C.18A:40-12.22 et al.).

“Premises” or “licensed premises” includes the following areas of a location licensed under the Public Laws of the State: all public and private enclosed areas at the location that are used in the business operated at the location, including offices, kitchens, rest rooms, and storerooms; all areas outside a building that the Cannabis Regulatory Commission has specifically licensed for the production, manufacturing, wholesaling, distributing, retail sale, or delivery of cannabis items; and, for a location that the commission has specifically licensed for the production of cannabis outside a building, the entire lot or parcel that the licensee owns, leases, or has a right to occupy.

“Produce” means the planting, cultivation, growing or harvesting of cannabis. “Produce” does not include the drying of cannabis by a cannabis manufacturer, if the cannabis manufacturer is not otherwise manufacturing cannabis.

“Usable cannabis” means the dried leaves and flowers of the female plant *Cannabis sativa* L., and does not include the seedlings, seeds, stems, stalks, or roots of the plant.

b. State Licensed Cannabis Establishments Are Permitted.

1. Any business duly licensed by the State of New Jersey to conduct legal adult use cannabis operations, as defined by State law, may operate within the noted zones so long as: (i) the entity maintains its State license in good standing; and (ii) the entity otherwise remains in full compliance with the laws and regulations established by the State of New Jersey and the Cannabis Regulatory Commission, as may be amended.

2. Any licensed Cannabis Establishment shall provide a copy of its license issued by the Commission to the Police Department and Health Department no later than thirty (30) days prior to the commencement of any operations. A licensed Cannabis Establishment shall insure that a current license is on file with the Police Department and Health Department at all times. A copy of the current license issued by the Commission shall be posted within the licensed Cannabis Establishment at all times at a location readily visible by any and all patrons of the facility.

3. No licensed retail cannabis business shall be located in or upon any premises in which a grocery store, delicatessen, indoor food market, or other store engaging in retail sales of food operates, or in or upon any premises in which a store that engages in licensed retail sales of alcoholic beverages operates within the Township.

4. No License to operate within the Township shall be granted or renewed without such evidence as may be required by the Township Clerk’s Office to determine that the entity maintains all valid State and/or Departmental licenses and approvals, and that all such licenses and/or approvals remain in good standing at the time of registration.

c. Zoning Districts Where Cannabis Establishments Are Permitted.

Cannabis Establishments are a permitted use in the Township, in accordance with all applicable provisions set forth herein, state law, and all other applicable codes and regulations, including but not limited to the Building Code, in the following area:

The area southeast of Woodbridge Avenue between Amboy Avenue and Mill Road except for areas zoned for any class of residential use or within 1000’ (one thousand feet) of any area zoned for any class of residential use and as otherwise restricted in this ordinance or by State law.

d. Zoning Districts Where Cannabis Establishments Are Prohibited.

Cannabis Establishments are a prohibited use in all other Township Zoning Districts.

e. Site Standards for Cannabis Establishments.

1. There shall be no on-site sales of alcohol or tobacco products, and no on-site consumption of food, alcohol, tobacco, or cannabis by patrons.

2. Hours of public operation shall be limited to 9:00am to 7:00 pm daily.

3. No persons under the age of twenty-one (21) shall be allowed in a licensed Cannabis Establishment.

4. For any licensed cultivation, processing, or similar operation, the facility shall provide an air treatment system with sufficient odor absorbing ventilation and exhaust systems such that any odors generated inside the facility are not detectable by a person of reasonable sensitivity anywhere on adjacent property, within public rights of way, or within any other unit located within the same building as the licensed facility if the use only occupies a portion of a building.

5. For any licensed cultivation, processing, manufacturing, or similar operation, the facility shall provide for noise mitigation features designed to minimize disturbance from machinery, processing and/or packaging operations, loading, and other noise generating equipment or machinery. All licensed facilities must operate within applicable State decibel limitations.

6. To the extent not already required by the entity's State license, all sites must be equipped with security cameras covering all exterior parking and loading areas, points of entry, and interior spaces which are either open to the public or used for the storage or processing of cannabis products. Footage must be maintained for the duration required under State law.

7. All licensed facilities must provide the Township Police Department with access to security footage immediately upon request by the Department.

8. To the extent not already required by the entity's State license, all licensed facilities must provide at least one security guard (or more if required by the State) during all times the facility is open to the public. At a minimum, the security guard shall be a State Certified Security Officer whose certification is in good standing.

9. For any licensed cultivation operation, the facility must mitigate lighting spillover into any residential neighborhoods, and must comply with all applicable State lighting limitations.

10. No Cannabis Establishment shall be located within the following distances from the specified land uses listed below:

a. 1,000 feet of property being used for a residential use or property in a residential zoning district;

b. 1,000 feet of a licensed childcare facility or residential childcare facility;

c. 1,000 feet of any elementary school, middle school, high school, college or university either public or private;

d. 500 feet of a halfway house or correctional facility; or

e. 500 feet of another cannabis business.

f. 1,000 feet of any public park or house of worship

10. Cannabis waste shall be stored, secured, and managed in accordance with applicable state laws.

11. Display of Cannabis and Related Paraphernalia: Cannabis plants, products, and paraphernalia shall be screened from view from any exterior windows.

f. On-Site Signage

1. No State licensed cannabis business shall display signage containing text and/or images intended to promote excessive consumption of legal cannabis products.

2. Signage shall otherwise comply with the requirements of the Township Land Use Regulations to the extent permissible by applicable State laws and regulations governing signage standards for licensed cannabis businesses.

3. No State licensed cannabis business shall place or cause to be placed any off-site advertising signage.

g. Inspections

The Health Department, the Zoning Official, the Police Department, and the Fire Department shall, from time to time, make an inspection of the Cannabis Establishment for the purpose of determining whether the provisions of this section are complied with. It shall be unlawful for any Cannabis Establishment to refuse to allow such inspection or to hinder such an inspection.

h. Penalties.

Any person violating any provision of this section shall, upon conviction be subject to the applicable disciplinary actions and penalties as established at § 1-5.1 of the Township Code (General Penalty).

**SECTION TWO: AMENDMENT TO GENERAL LICENSING AND BUSINESS REGULATIONS
SECTION**

Chapter 11 of the Township Code shall be amended as follows.

[Cannabis Establishment Licenses.]

The purpose of this section is to establish the requirements for a duly licensed Cannabis Establishment operating within the Township. The provisions 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 provisions of this Section are inconsistent with the statutes and/or regulations of the State of New Jersey, the State statute and/or regulation shall govern.

a. Definitions

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

“Cannabis Cultivator” means any licensed person or entity that grows, cultivates, or produces cannabis in this State, and sells, and may transport, this cannabis to other cannabis cultivators, or usable cannabis to cannabis manufacturers, cannabis wholesalers, or cannabis retailers, but not to consumers. This person or entity shall hold a Class 1 Cannabis Cultivator license.

“Cannabis Establishment” means a cannabis cultivator, a cannabis distributor, a cannabis manufacturer, a cannabis wholesaler, cannabis retailer, or a cannabis delivery service.

“Cannabis Manufacturer” means any licensed person or entity that processes cannabis items in this State by purchasing or otherwise obtaining usable cannabis, manufacturing, preparing, and packaging cannabis items, and selling, and optionally transporting, these items to other cannabis manufacturers, cannabis wholesalers, or cannabis retailers, but not to consumers. This person or entity shall hold a Class 2 Cannabis Manufacturer license.”

“Cannabis Retailer” means any licensed person or entity that purchases or otherwise obtains usable cannabis from cannabis cultivators and cannabis items from cannabis manufacturers or cannabis wholesalers, and sells these to consumers from a retail store, and may use a cannabis delivery service or a certified cannabis handler for the off-premises delivery of cannabis items and related supplies to consumers. cannabis retailer shall also accept consumer purchases to be fulfilled from its retail store that are presented by a cannabis delivery service which will be delivered by the cannabis delivery service to that consumer. This person or entity shall hold a Class 5 Cannabis Retailer license.

“Cannabis Wholesaler” means any licensed person or entity that purchases or otherwise obtains, stores, sells or otherwise transfers, and may transport, cannabis items for the purpose of resale or other transfer to either another cannabis wholesaler or to a cannabis retailer, but not to consumers. This person or entity shall hold a Class 3 Cannabis Wholesaler license.

b. Cannabis Establishment License Fees and Maximum Number of Licenses

The annual license fee for the Cannabis Establishments in the Township shall be as follows:

Class of License	Annual License Fee
Class 1 Cannabis Cultivator	\$15,000.00
Class 2 Cannabis Manufacturer	\$7,500.00
Class 3 Cannabis Wholesaler	\$7,500.00
Class 4 Cannabis Distributor	\$7,500.00
Class 5 Cannabis Retailer	\$10,000.00
Class 6 Cannabis Delivery	\$2,500.00

The aggregate amount of Cannabis Establishment licenses issued by the Township shall not exceed ten (10) licenses. Specifically, (i) a maximum of (3) Class 5 Cannabis Retailer licenses may be issued; and (ii) the remaining seven (7) licenses may be distributed among Class 1 Cannabis Cultivator, Class 2 Cannabis Manufacturer, Class 3 Cannabis Wholesaler, Class 4 Cannabis Distributor, and Class 6 Cannabis Delivery licenses, with not less than one (1) license allocated per class. Provided, however, that if within the first six (6) months that the Township allows applications, no applications for a particular class are submitted, then up to two (2) licenses shall be permitted for the remaining classes detailed in this Section [](b)(ii), until the aggregate amount of permitted Cannabis Establishment licenses is reached.

c. License Conditions. In order to be granted a business license for the operation of any Cannabis Establishment the following conditions must be satisfied:

1. Completion of all forms, checklists, and other submissions as may be required by the Township Clerk’s Office;
2. Payment of all applicable local fees, including inspection and licensing fees;
3. Demonstration that all applicable State licenses have been obtained;
4. Passage of all applicable State and local inspections required to be completed prior to the beginning of operations and/or renewal of any State and/or local license;
5. Emergency contact information to be utilized by police, fire, and EMT personnel in the event of an on-site emergency;

6. Submission of a full copy of the Application for State Licensure, via hard copy or digitally, with pages prominently marked “CONFIDENTIAL” as appropriate for purposes of compliance with New Jersey’s Open Public Records Act (NOTE: pages not marked as confidential will be disclosed in response to an applicable OPRA request); and

7. Submission of application fee of Two Thousand Five Hundred Dollars (\$2,500.00).

d. Cannabis Establishment Sales Tax

1. A tax is hereby imposed upon all persons engaged in the business of selling cannabis as a Cannabis Cultivator, Cannabis Manufacturer, or Cannabis Retailer in the Township, at the rate of two percent (2%) of the gross receipts from such sales made in the course of that business. Retailers may reimburse themselves for their tax liability hereunder by separately stating the tax as an additional charge, which charge may be stated in combination, in a single amount, with any State tax that retailers are required to collect.

2. A tax is hereby imposed upon all persons engaged in the business of selling cannabis as a Cannabis Wholesaler in the Township, at the rate of one percent (1%) of the gross receipts from such sales made in the course of that business. Retailers may reimburse themselves for their tax liability hereunder by separately stating the tax as an additional charge, which charge may be stated in combination, in a single amount, with any State tax that retailers are required to collect. Each person required to collect the tax herein imposed shall be personally liable for the tax imposed, collected, or required to be collected hereunder.

3. The imposition of the tax imposed by this Section is in accordance with the provisions of State law and is in addition to any and all other taxes and charges.

4. The tax imposed by this Section, and all civil penalties that may be assessed as an incident thereto, shall be remitted to, collected by and enforced by the Township Tax Collector, who shall have the full power to administer and enforce the provisions of this Section.

5. The failure to timely collect or remit all taxes due pursuant to this Section is a violation of this Code, and may be subject to the penalties hereunder.

d. Penalties.

Any person violating any provision of this section shall, upon conviction be subject to the applicable disciplinary actions and penalties as established at § 1-5.1 of the Township Code (General Penalty).

SECTION THREE: All ordinances, or parts of ordinances, in conflict with the provisions of this Ordinance, to the extent of such conflict, are repealed.

SECTION FOUR: 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.

SECTION FIVE: This Ordinance shall take effect upon final passage and publication as provided by law.

