

July 27, 2021

Regular meeting of the Mayor and Council of the Borough of Victory Gardens held on July 27, 2021.

Mayor Holeman called the meeting to order and declared a quorum present.

Pledge of Allegiance to the Flag of Our Country.
Please remain standing for a moment of silence for our military.

This meeting has been advertised in one newspaper, The Daily Record, in compliance with the New Jersey Open Public Meeting Act.

ATTENDANCE: Councilwoman Cheatham, Councilman Glass, Councilwoman Hedgepath, Councilwoman Garcia Montes.

ABSENT: Councilwoman White and Councilman Lorenzo.

** Attorney Feintuch was also present at this meeting.

Motion to accept the minutes of July 13, 2021 as received by Councilwoman Montes, seconded by Councilwoman Cheatham and approved on verbal vote. None opposed.

CORRESPONDENCE:

VICTORY HIGHLANDS CONDO ASSOCIATION - I received something from one of the Board members at the condos. They are asking if Council would let them take down the pine trees that are located by their mailboxes. They want to take all of them down. One is totally dead and the others have some dead branches on them.

Leon tells me that these trees are on Borough property. The condos say they are on their property. I don't ever recall that the Borough planted those trees up there. I think they were put there as a buffer when the condos were built.

The Condo Board said they are rotting away and I told them I would ask Council to see if it was okay for them to remove at their expense.

Councilwoman Montes asked if all the trees were dying? The Clerk said she looked at them. One you can tell is surely dead. The other ones look like they have dead branches in them. They did have a tree company go up and look at the trees and they were told that they have to come down.

Mayor Holeman said to let them know if they take the trees down they will have to replant something and have them maintain them. The Attorney said they should do it at the next planting season.

Councilwoman Montes made a motion to let the condos take them down as long as they pay for everything and let them know that they have to plant something else there to take the place of the trees coming down. Motion was seconded by Councilwoman Hedgepath and approved on roll call:

Councilwoman Cheatham	Yes
Councilman Glass	Yes
Councilwoman Hedgepath	Yes
Councilwoman Garcia Montes	Yes

BOARD OF EDUCATION - Back in April I received a form from the Board of Education. The form is called an AF4. I think that is the name. They wanted me to sign the form and I was told by the Attorney not to sign it because we were discussing at that time with the Council about the fees that we were being charged by the Board.

Since I have not signed the paper, we do not have a tax rate from the Town of Dover. If I sign the paper, then we are agreeing to the figures they gave us.

Karen our Tax Collector asked me to ask you if you want her to do estimated tax bills. There will be no money coming in if you do not do them.

The Attorney said he had a conference with the Judge that is handling this case. The Attorney for the other side said they were so screwed up there that they don't know what they are doing. They keep changing people and then the new person has to start all over again. There is another conference scheduled in about 3 weeks.

The Attorney agrees that we should have the Tax Collector send out estimated bills. The Attorney said that the Clerk was right, if she signed those papers we would have been liable for paying what they were asking. They have no clue on the numbers and no one knows how they arrived at them.

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Councilwoman Montes asked if we send the estimated bills out what happens if the people overpaid? Most likely it will be put onto the next payment.

Motion to have Karen send out estimated tax bills by Councilwoman Montes, seconded by Councilwoman Hedgepath and approved on roll call:

Councilwoman Cheatham	Yes
Councilman Glass	Yes
Councilwoman Hedgepath	Yes
Councilwoman Garcia Montes	Yes

QUESTION FROM RESIDENT - A resident came in abd said she was thinking about doing something for seniors in here. She is now retired and would like to have something for seniors. She is thinking maybe playing games, doing exercises, etc.. She didn't go into much detail but she asked me to ask the Council.

The Mayor asked about insurance? We don't want to be liable. Councilwoman Montes said she is all for it but we have to consider the insurance.

Councilwoman Hedgepath said that she would reach out to the resident.

Motion to accept the correspondence as received by Councilwoman Montes, seconded by Councilwoman Hedgepath and approved on verbal vote. None opposed.

DEPARTMENT REPORTS:

Building Department - 2 permits issued. Total value of construction \$51,385.

Property Maintenance - Everyone has a copy of the report.

Tax Collector - Total Tax Receipts Month To Date: 68,574.76
" " " Year " " \$1,069,219.76

Registrar - There was 1 marriage license issued in July.

COMMITTEE REPORTS:

Councilwoman Cheatham - Nothing

Councilman Glass - We are trying to get our trucks ready for winter. We have to get new lights for the plow so we will be taking that up to get that fixed. We also have to get wiring done on one of the salters.

Councilwoman Hedgepath - Nothing.

Councilwoman Garcia Montes - Nothing.

Motion to accept all reports and put on file by Councilwoman Montes, seconded by Councilwoman Cheatham and approved on verbal vote. None opposed.

NEW BUSINESS:

RESOLUTION FOR REFUND ON SEWER CHARGES - See Resolution Next Page

BOROUGH OF VICTORY GARDENS
RESOLUTION FOR REFUND OF
OVERPAID SEWER CHARGE

WHEREAS, an overpayment was received for Block 16 Lot 10 and applied to 2nd quarter 2021 sewer charge; and

WHEREAS, the property owner has requested a refund of the overpayment to be returned as a refund;

NOW, THEREFORE BE IT RESOLVED, by the Mayor and Council of the Borough of Victory Gardens, in the County of Morris, and State of New Jersey as follows:

Refund of \$10.00 be issued to the property owner Frank Childs 29 Adams Ave, Victory Gardens.

Karen L. Ferrone, Tax Collector

David L. Holeman, Jr.
David L. Holeman, Jr. Mayor

I, Deborah Evans, Clerk of the Borough of Victory Gardens, County of Morris, State of New Jersey, do hereby certify that this is a true and exact copy of a Resolution adopted by the Mayor and Council at a meeting held on 7-27-2021.

Deborah Evans
Deborah Evans, Borough Clerk

Motion to approve the resolution for refund of sewer fees in the amount of \$10.00. Motion made by Councilwoman Montes, seconded by Councilwoman Hedgepath and approved on roll call:

- | | |
|----------------------------|-----|
| Councilwoman Cheatham | Yes |
| Councilman Glass | Yes |
| Councilwoman Hedgepath | Yes |
| Councilwoman Garcia Montes | Yes |

VOUCHERS:

The Mayor asked if there wer any questions on the vouchers? Hearing none he asked for a motion to pay the bills.

Motion to approve the vouchers for payment by Councilman Glass, seconded by Councilwoman Montes and approved on roll call:

- | | |
|----------------------------|-----|
| Councilwoman Cheatham | Yes |
| Councilman Glass | Yes |
| Councilwoman Hedgepath | Yes |
| Councilwoman Garcia Montes | Yes |

(See Vouchers Next Page)

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VOUCHER REPORTS

Date of Council Meeting:

July 27, 2021

Voucher #	Payable to:	Type of Service	Amount
7/23/2021	Amsterdam Printing & Litho	Clerk OE	53.06
7/24/2021	Anderson & Denzler Assoc. Inc.	Gen. Eng., Sewer Eng. Nourish & Home Sunshine Esr	3,270.60
7/25/2021	AT&T	Utilities - Long Distance service	43.62
7/26/2021	County of Morris - Dept. of Finance	Open Space Tax	1,584.18
7/27/2021	County of Morris - Dept. of Finance	County Taxes	53,311.87
7/28/2021	Feintuch, Porwich & Feintuch, ESQ	Legal Services - Monthly	2,150.46
7/29/2021	Feintuch, Porwich & Feintuch, ESQ	Legal Services - Bids for paving	1,075.00
7/30/2021	Frank Childs - 29 Adams Ave	Tax Collector - Refnd. sewer overpymt	10.00
7/31/2021	Gannett New Jersey Newspapers	Clerk OE - Paving project that A&D advertised	117.56
7/32/2021	Groff Tractor Mid Atlantic	Streets & Roads - 4 tires for CAT	780.00
7/33/2021	Interstate Waste Services	Trash Removal - July services	10,933.33
7/34/2021	JCP&L - #1 - Fire	Fire OE	179.44
7/35/2021	JCP&L - #2 - Main	Utilities	442.38
7/36/2021	JCP&L - #3 - Street Lighting	Street Lighting	621.44
7/37/2021	JLM Computers	Clerk OE - June	95.00
7/38/2021	Kathy Pollison	Clerk OE - L. Bly Surrogates Office	25.00
7/39/2021	MGL Printing Solutions	Clerk OE - Tax bills	341.00
7/40/2021	Morris County MUA	Streets & Roads - June shade tree	735.75
7/41/2021	NJNG - #2 - Borough Hall	Utilities	759.00
7/42/2021	NJ State League of Municipalities	Clerk OE - NJ Muni. Magazine	25.00
7/43/2021	Office Concepts Group	Clerk OE - Notary stamps for Clerk	51.60
7/44/2021	R&L DataCenters, Inc.	Finance-Payroll	250.00
7/45/2021	RVRSA	RVRSA Share	10,608.00
7/46/2021	Service Tire Truck Centers	Streets & Roads - 2 tires 2018 truck	753.32
7/47/2021	Sheaffer Supply, Inc.	Streets & Roads - Misc DPW items	71.48
7/48/2021	Verizon - #1 - 973-361-8121	Utilities	73.99
7/49/2021	Verizon - #2 - 973-366-5312	Utilities	260.27
7/50/2021	WEX Bank - Shell Gas	Streets & Roads	560.90
		TOTAL	89,183.25

OLD BUSINESS:

DISCUSSION ON CANNABIS DISPENSARY - The Attorney said he sent the final draft to the Clerk and everyone has a copy. I am ready to answer any questions that you may have.

Councilman Glass page 5 number 5 will that be the Administrator or the Borough Council? It will be the Council.

Councilwoman Cheatham said page 7 section G is that may or shall. It is shall. Also on page 6B-9 it says the City of Bayonne instead of Victory Gardens.

The Mayor said in the same paragraph where it says administrator again it shall be the Borough Council.

Mayor Holeman asked if there are fines who is responsible for handing out those fines? The fines will be issued by the State. It would be similar to the liquor licenses. We should probably be able to set our own fines. The State has not adopted their rules yet.

The Clerk said she doesn't understand why the towns have to adopt before the State sets the guidelines. That is stupid.

The Mayor asked then who gets the fines? If it is in our Ordinance then we would get the fine money. If it is something from the State code then they would get money. The attorney asked the Clerk if when our liquor license holders were fined who got the money? The state. We get nothing from the fines. Fines would have to be stipulated in our Ordinance.

The Attorney asked if there were any more questions? The Clerk said she has some if the Council is done. I have been calling around to different towns and have been reading information in the paper. Parsippany is a no, Randolph is a no and Dover has not made up their minds yet. Councilwoman Montes said at the last meeting we were told that those towns approved. Well, they did not. There are stipulations with the Town of Newton. They are doing retail sales but there are strong stipulations on location and operations. Some of their restrictions are there will be no signs in the windows saying there is marijuana for sale, they must have a limit on the number of people in the place at any given time, no lines in the parking lot - they must sit in their cars and wait their turn to get in, and the store must have a system to notify the customers outside when it is their time to come in.

The Attorney said this will be going to Planning Board also. Well the Clerk said that the Planning Board already said no to this. They voted when all discussion on this started. That is why it came to the Council.

The Clerk asked what is covered under retail? Can they sell whatever they want? The Attorney said they can sell marijuana related products. If I want to open a bakery and sell goods with pot in them can I do it? No. Well, the Attorney said let him look. We can put in there that it is limited to cannabis products.

Councilman Glass asked about the delivery license. Where are they delivering from? the retail store. I've talked to many different people and they said it is not a good thing.

The Mayor said any of these items would have to be prepackaged, right? They aren't going to be baked on premise are they? Councilwoman Cheatham asked if they will have a sign in the window for an age allowed to go in? The attorney said he has no answer. A lot of your questions should be addressed in the State law when it comes out. We can amend at a later date. The Clerk said she thought that once we adopted nothing could be changed for 5 years. The Attorney said licenses can't be changed but there are certain other things that can be changed. The Clerk said that Planning Board would have to approve any signage.

The Clerk said page 7 sales tax - If we are charging 2% on retail sales tax why can't we charge on each stage so that delivery has to pay also? We can add that the Attorney said. Will there be anything to say no consumption on the premise? The Mayor asked if we can put that in our Ordinance? Why would you want to? You can't smoke in any store, or a restaurant why would you let people smoke on these premises? You can buy liquor and drink it in the store. I guess it depends on where they go in. If they go into the mini mall across the street, then I am sure those people that are in the attached stores don't want to be smelling that. The Attorney said they have to have purifying systems. Even if there is a ventilation system you will still have some odor. I wouldn't want to see long standing owners that have been here for years, we forced to move out because of the smell.

The Attorney said we made some changes. Let me go over those with you.

OLD BUSINESS:

DISCUSSION ON CANNABIS DISPENSARY CONTINUED - Changes -

1. We are putting down that the retail operations would be limited to cannabis related items and supplies. They can not sell anything but that.
2. Fines levied by the Borough should be kept by the Borough.
3. We changed on page 5 Administrator to Borough Council.
4. Slaes tax will be on the retail and delivery of 2%.
5. Taking out City of Bayonne and putting in Victory Gardens.

Those are the changes the Atorney has. The Clerk said based onthe changes can they adopt tonight with those changes? I need a clean copy of the Ordinance so I can get it to the paper.

A motion was made to introduce the cannabis ordinance as printed and as amended by changes that were made tonight. Motion made by Councilwoman Montes, seconded by Councilwoman Hedgepath and approved on roll call:

Councilwoman Cheatham	Yes
Councilman Glass	No
Councilwoman Hedgepath	Yes
Councilwoman Garcia Montes	Yes

Motion to open the meeting to the public by Councilwoman Montes, seconded by Councilman Glass and approved on verbalvote. None opposed.

Jenny Ruiz 15 Bennet Avenue Randolph - I wanted to add some clarity to that you were discussing on the cannabis. You can have the State come out to talk with you regarding the questions you were asking. Fines are assessed by the state and they would be paid to the state by the owner of the business. You are correct that Victory Gardens can also put fines in for violation of the ordinance and you will receive payment on those fines.

Retail is someone that sells marijuana products. Pipes, edibles, papers, they can sell donuts and edibles but not like a regular store would sell. Regarding consumption they can not eat in the place they bought it. You would need a consumption license if you are eating and drinking in the store. You can not do that. If you have a retail shop, you can buy the stuff but you can not consume on the property. This is in alot of the guidelines by the State. Places like we are talking about are best in stand alone buildings. You are also required to have an armed guard on your premise. You are required to show ID when you come into the building. You do have to have a ventilation system. All packaging must be opaque you can not see through it. Labeling is very restrictive you have to have certain information on the labels.

Councilwoman Montes asked Ms. Ruiz if she is the person that was here at the last meeting and told us that Randolph, Dover and Parsippany already approved the facilities? No.

Jim Janone - I don't know why you don't approve all types of licenses. Delivery services you can't stop. The trees at the condos I believe that the landscape up there was part of their site plan. The Clerk said that is what she said. I don't recall the trees being there until the condos went in. Morris County Shade Tree we can speak to them about getting trees to replace the ones we took down. Yes, we can but they only give you small little trees. I am thinking of bigger trees that don't get very tall and maybe flowering the Clerk said. About the seniors you can have them sign a waiver. This way you aren't held responsible. June 15th Dover signed a contract for transportation which I think was \$360,000. That turns out to be about 35% of our tuition to Dover. We have not received any information from Dover.The Clerk said she is curious as to why we have buses in here now. Kids are going to summer school but we never had buses take them. It was up to the parents to do. How come we don't have anyone from Council go to the Dover Board of Ed meetings? Someone should be there to listen to what is going on.

Motion to close the meeting to the public by Councilwoman Montes, seconded by Councilwoman Cheatham and approved on verbal vote. None opposed.

Councilwoman Montes said she has a question. Can we get better signs for the Borough. Ours are faded and we need to have some flowers put around town. People take them. I planted myself, maybe 8 years ago I put azaleas out on Frnaklin Road. the next morning they were gone.

Councilman Glass said as you come out of Victory Gardens from Monroe onto Franklin if you make a left hand turn you have trouble seeing because there are overgrown trees. Can we have Eddie cut them back? I believe they belong to the homeowner. We will reach out to them. See if we can get them to trim them.

Motion to adjourn the meeting by Councilwoman Montes, seconded by Councilwoman Hedgepath and approved on verbla vote. None oppsoed.

Submitted By:

Deborah Evans

Deborah Evans
Borough Clerk

*** The Clerk is awaiting the amended ordinance form the Attorney. Once that is received it will be added into the minutes.

Amended Ordinance for cannabis as seen in the attached paperwork.

July 27, 2021

Ordinance following on Cannabis retail
and delivery.

**AN ORDINANCE ESTABLISHING AND REGULATING
THE SALE AND DISTRIBUTION OF CANNABIS IN
BOROUGH OF VICTORY GARDENS**

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

WHEREAS, the Act authorizes municipalities by ordinance to prohibit the operation of any one or more classes of cannabis establishments, distributors, or delivery services anywhere in the municipality, which the governing body chooses not to do; and

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

WHEREAS, the Act establishes six marketplace classes of licensed businesses, including,

Class 1 Cannabis Cultivator license, for facilities involved in growing and cultivating cannabis;

Class 2 Cannabis Manufacturer license, for facilities involved in the manufacturing, preparation and packaging of cannabis;

Class 3 Cannabis Wholesaler license, for facilities involved in obtaining and selling cannabis items for later resale by other licensees;

Class 4 Cannabis Distributer license, for businesses involved in transporting cannabis plants in bulk from on licensed cultivator to another licensed cultivator, or cannabis items in bulk from any type of licensed cannabis business;

Class 5 Cannabis Retailer license for locations at which cannabis items and related supplies are sold to consumers; and

Class 6 Cannabis Delivery license, for businesses providing courier services for consumer purchases that are fulfilled by a licensed cannabis retailer in order to make deliveries of the purchased items to a consumer, and which service would include the

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ability of a consumer to make a purchase directly through the cannabis delivery service which would be presented by the deliver service for delivery which would be presented by the delivery service for fulfillment by a retailer and the delivered to a customer; and

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

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

- a. The regulations of this Section are subject to the enabling authority of the State of New Jersey and are subject to compliance with all statutes and/or regulations adopted by the State of New Jersey or its instrumentalities. If any provision of this Section is inconsistent with the statutes and /or regulations of the State of New Jersey, the State statutes and/or regulations shall prevail.
- b. Prior to the operation of any cannabis establishment, a permit or license must be obtained from the State of New Jersey and from the Borough of Victory Gardens for the applicable types of cannabis establishment. No cannabis establishment shall be permitted to operate without State and Borough permits or licenses.
- c. Permitted uses shall, at all times, comply with the terms and conditions of the licensee's cannabis establishment license for permits or licenses issued by the State of New Jersey and the Borough.
- d. No cannabis establishment shall be allowed in any District except in District "B" as set forth in the Borough Code.
- e. No cannabis establishment under Class 5 shall be housed in a vehicle or any movable or mobile structure.
- f. Odor. Cannabis establishments shall have equipment to mitigate odor. The facility shall be equipped with a ventilation system with carbon filters sufficient in type and capacity to mitigate cannabis odors emanating from the interior of the premises.
- g. Noise. Outside generators and other mechanical equipment used for any

kind of power supply, cooling, or ventilation shall be enclosed and have appropriate baffles, mufflers, and/or other noise reduction systems to mitigate noise pollution.

- h. Security. All cannabis establishments shall be secure in accordance with State of New Jersey statutes and regulations; further shall have a round-the-clock video surveillance system, 365 days a year; and shall have trained security personnel onsite at all time during operating hours.
- I. Hours. No cannabis retailer may open to customers for business before 8:00 am or remain open to customers for business after 10:00 pm.

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

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

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

6B.2 DEFINITIONS:

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

CLASS 6 CANNABIS DELIVERY LICENSE: for businesses providing courier services for consumer purchases that are fulfilled by a licensed cannabis retailer licensed by the Borough in order to make deliveries of the purchased items to a consumer, and which service would include the ability of a consumer to make a purchase directly through the cannabis delivery service which would be presented by the delivery service for delivery which would be presented by the delivery service for fulfillment by a retailer and then delivered to a customer.

6B-3 LICENSING

a. Local licensing authority.

1. The Borough Council is hereby designated to act as the local licensing authority for the Borough for all cannabis establishments. Under all circumstances in which State Law requires communication to the Borough by the Cannabis Regulatory Commission or any other State agency with regard to the licensing of cannabis establishments by the State, or in which State law requires any review or approval by the Borough of any action taken by the State licensing authority, the exclusive authority for receiving such communications and granting such approvals shall be exercised by the Borough Council.

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

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

- Class 5: Cannabis Retailer license
- Class 6: Cannabis Delivery license

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

d. Application. Applicant for a license shall provide the Borough Clerk with a duplicate copy of the application filed with the appropriate State instrumentality.

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

Class 5: \$10,000.00 Cannabis Retailer license

Class 6: \$10,000.00 Cannabis Delivery license

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

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

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

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

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

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

a. Term of license and license renewals.

1. Any local license issued pursuant to this Chapter shall be valid for a period of five (5) years from the date of issuance and shall be renewed in accordance with the provisions of this Chapter.

2. The Borough Council may, at their discretion, adjust the renewal date of the local license to correlate with an applicant's State licensing and renewal schedule.

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3. Renewal of any license shall be governed by any code amendments, additional restrictions or changes in regulations adopted since the previous license was issued or renewed.

4. Transfer of ownership of any local license or change of location of any license or modification to expand a licensed premise shall be subject to Borough Planning review and zoning approval.

5. Except where the Borough Council has received a complete renewal application along with the requisite fees, and has issued a license renewal, it shall be unlawful for any person to manufacture, sell, distribute, transfer, transport, or otherwise remove cannabis or cannabis products from the premises of any license after the expiration date recorded on the face of the license.

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

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

offenses of this Ordinance shall be paid into the general accounts of the Borough.

- e. Any action taken by the council, with the with the Mayor, for the purposes of this Ordinance, Mayor having a vote, shall be in addition to any other penalty which may be imposed for a violation of this chapter.
- f. Inactive licenses. Following the commencement of retail sales of cannabis or cannabis products, may suspend or revoke any license if the licensed premises have been inactive or unoccupied by the licensee for at least 6 months.
- g. State license. The Borough Council, with the Mayor, for the purposes of this Ordinance, Administrator may shall suspend or revoke any license if the corresponding State license or permit for the subject location is expired, surrendered, suspended, or revoked.

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

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

6-7. CANNABIS ESTABLISHMENT SALES TAX

- a. A tax is hereby established upon all persons engaged in the business of selling cannabis in the Borough or delivered in the Borough, having been purchased in the Borough, at the rate of two percent (2%) of the gross receipts from such sales or delivery made in the course of that business. Retailers and Delivery Services may reimburse themselves for their tax liability hereunder by separately stating the taxes as an additional charge, which charge may be stated in combination, in a single amount, with any tax

that retailers are required to collect.

- b. The imposition of the tax imposed by this ordinance is in accordance with the provisions of State law and is in addition to any and all other taxes and charges.
- c. The tax imposed by this ordinance, and all civil penalties that may be assessed as an incident thereto, shall be remitted to, collected and enforced by the Borough tax collector, who shall have full power to administer and enforce the provisions of this ordinance.
- d. The failure to timely collect or remit all taxes due pursuant to this section is a violation of this ordinance and may be subject to the penalties hereunder.

6B-8. This Ordinance shall take effect upon passage and publication as provided by law.

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

NOW THEREFORE, BE IT RESOLVED by the Mayor and convened Council of the Borough of Victory Gardens that the Ordinance establishing and regulating the sale and distribution of cannabis in the Borough of Victory Gardens be Adopted on this Day of _____, 2021.

BOROUGH OF VICTORY GARDENS

ADOPTED:

DAVID HOLEMAN, Mayor

DEBORAH EVANS, Borough Clerk

Introduced: July 27, 2021
Adopted :

