

**NOTICE OF PUBLIC HEARING  
TOWN OF BABYLON**

PLEASE TAKE NOTICE that the Town Board of the Town of Babylon will hold a public hearing at Babylon Town Hall, 200 East Sunrise Highway, NY 11757, on the 21st day of September, 2022 at 7:00 p.m., prevailing time, in reference to amending Chapter 213, Article XII (E Business District), an abstract of which is as follows:

**Exhibit "A"**

**AMEND** as follows:

CHAPTER 213, ARTICLE XII  
E BUSINESS DISTRICT

Adding § 213-129.3 **Regulation of Cannabis and other products.**

ARTICLE XIV  
G INDUSTRIAL DISTRICT

Adding § 213-129.3 **Regulation of Cannabis and other products.**

Amending § 213-166 **Permitted uses; exclusions.**

Adding § 213-166.3 **Restriction on location of Cannabis establishments.**

Adding § 213-166.4 **Permitted Styles.**

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**Section 1.**

**Proposed Code Change: Adding the following section:**

§ 213-129.3 **Regulation of Cannabis and other products.**

A. Definitions and word usage. Whenever used in this section, words in the singular include the plural and vice versa. As used in this section, the following terms shall have the meanings indicated:

**CANNABINOID**

Means the phytocannabinoids found in hemp and does not include synthetic cannabinoids as that term is defined in subdivision (g) of schedule I of section thirty-three hundred six of the New York State public health law.

**CANNABINOID HEMP**

Means any hemp and any product processed or derived from hemp, that is used for human consumption provided that when such product is packaged or offered for retail sale to a consumer, it shall not have a concentration of more than three tenths of a percent delta-9 tetrahydrocannabinol.

**CANNABIS**

Means all parts of the plant of the genus Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture salt, derivative, mixture, or preparation of the plant, its seeds or resin.

**CANNABIS PRODUCT**

Otherwise known as adult-use cannabis product means cannabis, concentrated cannabis, and cannabis-infused products for use by a cannabis consumer.

**MEDICAL CANNABIS**

Means the acquisition, cultivation, manufacture, delivery, harvest, possession, preparation, transfer, transportation, or use of medical cannabis for a certified patient, or the acquisition, administration, cultivation, manufacture, delivery, harvest, possession, preparation, transfer, or transportation of medical cannabis by a designated caregiver or designated caregiver facility, or paraphernalia relating to the administration of cannabis, including

whole cannabis flower, to treat or alleviate a certified patient's medical condition or symptoms associated with the patient's medical condition.

### HEMP

Means the plant *Cannabis sativa* L. and any part of such plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration (THC) of not more than three-tenths of a percent on a dry weight basis. It shall not include "medical cannabis" as defined in this section.

### HEMP EXTRACT

Means all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers derived from hemp, used or intended for human consumption, for its cannabinoid content, with a delta-9 tetrahydrocannabinol concentration of not more than an amount determined by the office in regulation. For the purpose of this article, hemp extract excludes (a) any food, food ingredient or food additive that is generally recognized as safe pursuant to federal law; or (b) any hemp extract that is not used for human consumption. Such excluded substances shall not be regulated pursuant to the provisions of this article but are subject to other provisions of applicable state law, rules, and regulations.

### MICROBUSINESS

Means a licensee that may act as a cannabis producer for the cultivation of cannabis, a cannabis processor, a cannabis distributor and a cannabis retailer under this article; provided such licensee complies with all requirements imposed by this article on licensed producers, processors, distributors and retailers to the extent the licensee engages in such activities.

### ON-SITE CONSUMPTION SITES

Means the consumption of cannabis in an area licensed as provided in the New York State Marijuana Regulation and Tax Act, as amended.

### RETAIL DISPENSARY

Means any facility or person who sells at retail any cannabis product, the sale of which a license is required under the provisions of the New York State Marijuana Regulation and Tax Act. Any facility or person who receives an order for, to keep or expose for sale, and to keep with intent to sell, made by any licensee's person, whether principal, proprietor, agent or employee, of any cannabis, cannabis product, cannabinoid hemp or hemp extract product to a cannabis consumer for any purpose other than resale.

### SUBSTANTIAL OR SIGNIFICANT PORTION

- A. The sale of any cannabis, cannabinoid, cannabinoid hemp, medical cannabis, hemp, hemp extract or cigarettes, electronic cigarettes, pipes, vape pens, vapors, e-liquids or other substances of any type as defined in Section 213-129.3 of this Code shall automatically designate a building or premise as substantially or significantly engaged in the sale and therefore subject to the provisions of this Code.
  
- B. In an E Business District, no building or premises shall be used and no building shall be hereafter erected or altered for use as a microbusiness, on-site consumption, or retail dispensary, unless otherwise provided in this chapter, whether as its primary use or as an accessory or ancillary use. The lawful use of a building in the E Business District for dispensing medical marijuana, as defined in 213-129.3 (A), existing on the effective date of this chapter may be continued although such use does not conform to the provisions of this chapter, and such use may be extended throughout the building lawfully acquired previous to said date. A nonconforming use may be changed to a use of the same or higher classification. Whenever a nonconforming use of a building has been discontinued or changed to a higher classification or to a conforming use, such use shall not thereafter be

changed to a use of a lower classification. No building which has been damaged by fire or other causes to the extent of more than 75% of its value shall be repaired or rebuilt except in conformity with the regulations of Section 213-166. If any nonconforming use ceases for a continuous period of one year or more or is changed to or replaced by a conforming use, the land and building theretofore devoted to such nonconforming use shall thereupon be subject to all of the regulations as to use for the district in which such land and building are located as if such nonconforming use had never existed. All such facilities or establishments actually operating, and open to the public or a segment thereof or a club membership as of the date of adoption of this subsection as microbusinesses, on-site consumption, or retail dispensary are hereby declared unlawful and prohibited, effective immediately in accordance with law.

**Proposed Code Change: Adding the following section:**

**§ 213-166 Permitted uses; exclusions.**

J. The use of G Zone Property for microbusiness, on-site consumption site, or retail dispensary for the sale of cannabis, cannabinoid, cannabinoid hemp, medical cannabis, hemp, hemp extract or cigarettes, electronic cigarettes, pipes, vape pens, vapors, e-liquids or other substances of any type as defined in Section 213-129.3 of this Code shall be allowed as a special exception by the Zoning Board of Appeals subject to such conditions, restrictions and safeguards as may be imposed by the Zoning Board of Appeals.

K. The use of G Zone Property for businesses holding the following licenses pursuant and as defined by the New York State Marijuana Regulation and Tax Act Sections: sixty-eight; sixty-eight a; sixty-eight b; sixty-nine, seventy, seventy-one; seventy-four; seventy-five shall be allowed as a special exception by the Zoning Board of Appeals subject to such conditions, restrictions and safeguards as may be imposed by the Zoning Board of Appeals.

**Proposed Code Change: Adding the following section:**

**§ 213-166.3 Restriction on location of Cannabis establishments.**

All microbusiness, on-site consumption site, or retail dispensary for the sale of cannabis, cannabinoid, cannabinoid hemp, medical cannabis, hemp, hemp extract or cigarettes, electronic cigarettes, pipes, vape pens, vapors, e-liquids or other substances of any type as defined in Section 213-129.3 of this Code are to be restricted as to location in the following manner in addition to any other requirements of this Code:

A. All microbusiness, on-site consumption site or retail dispensary uses shall be permitted only in industrial zoned districts and subject to the regulations set forth in this Article.

B. The lot line of any property whereupon exists a microbusiness, on-site consumption site, or retail dispensary shall not be located within a 1,000-foot radius of a residential area.

C. The lot line of any property whereupon exists a microbusiness, on-site consumption site, or retail dispensary shall not be located within a 200-foot radius of all religious properties.

D. The lot line of any property whereupon exists a microbusiness, on-site consumption site, or retail dispensary shall not be located within a 500-foot radius of all education facilities meaning K-12 pursuant to the New York State Education Law and libraries.

E. The lot line of any property whereupon exists a microbusiness, on-site consumption site or retail dispensary shall not be located within a 500-foot radius of parks and playgrounds.

F. The lot line of any property whereupon exists a microbusiness, on-site consumption site, or retail dispensary shall not be located within a 500-foot radius of childcare centers and youth organizations.

G. The lot line of any property whereupon exists a microbusiness, on-site consumption site, or retail dispensary shall not be located within a 500-foot radius of any dance studios, batting cages, and gymnasiums or similar venues where minors congregate.

H. The lot line of any property whereupon exists a microbusiness, on-site consumption site, or retail dispensary shall not be located within a five-hundred-foot radius of the lot line of another such microbusiness, on-site consumption site or retail dispensary.

**Proposed Code Change: Adding the following section:**

**§ 213-166.4 Permitted Styles.**

From time to time the Commissioner of Planning and Development may promulgate style guidelines for such permitted uses, and should be styles appropriate for such use and in conformity with previously and similarly approved permits.

Dated: August 31, 2022, Town of Babylon

BY ORDER OF THE TOWN BOARD, TOWN OF BABYLON  
GERALDINE COMPITELLO, TOWN CLERK