

§ 213-129. Permitted uses. [Amended 7-7-1970; 6-7-1977]

In an E Business District, no building or premises shall be used and no building shall be hereafter erected or altered unless otherwise provided in this chapter, except for one or more of the following uses:

- A. Shops and stores for the sale of retail or consumer merchandise and services.
- B. Personal service shops such as barbershops, beauty parlors and like services.
- C. Banks, theaters and offices. **[Amended 10-7-1980]**
- D. Undertaking establishments.
- E. Minor garages.
- F. The following uses, when allowed as special exceptions by the Board of Appeals, subject to conditions, restrictions and safeguards as may be imposed by the Board of Appeals: **[Amended 5-3-1983]**
 - (1) Hospitals and clinics, convalescent homes and nursing homes, assisted living facilities, and an institutional dispenser of medical marihuana as defined by the Public Health Law, all duly authorized and licensed by the State of New York, and day nurseries. **[Amended 4-8-2014 by L.L. No. 3-2014; 2-27-2019 by L.L. No. 2-2019]**
 - (2) Veterinarians, kennels and pet shops, animal hospitals and cemeteries.
 - (3) Broadcasting stations, golf courses, private, country and yacht clubs and marinas.
 - (4) Shops and stores for the sale of merchandise and services at wholesale.
 - (5) Public garages.
 - (6) Places of amusement, recreation and assembly halls.
 - (7) Sales, storage, display and service of new and used automotive equipment, including automobiles and gasoline-driven cycles and carts, trucks and agricultural and garden equipment.
 - (8) Commercial video game centers. **[Added 9-7-1983]**
 - (9) Car washes. **[Added 3-6-2007 by L.L. No. 1-2007]**
- G. On-premises food and beverage consumption establishments, when permitted by special exception by the Planning Board pursuant to Article XXVI of this chapter, subject to such conditions, restrictions and safeguards as may be imposed by the Planning Board. **[Amended 10-7-1980; 8-11-2000 by L.L. No. 17-2000]**

§ 213-129.1. Puppy stores. [Added 11-17-2011 by L.L. No. 21-2011]

- 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:

ANIMAL RESCUE ORGANIZATION — Any not-for-profit organization which is dedicated to pet adoption and takes unwanted, abandoned, abused or stray animals with the intent to find the animal a suitable new permanent home. Animal rescue organizations are not required to have a dedicated shelter for rescued animals, but may have volunteers which take animals in the care of the

organization into their residences temporarily.

ANIMAL SHELTER — Any public or privately owned organization in Suffolk County which maintains property, buildings or structures for the purpose of harboring animals which may be stray, unwanted, lost, abandoned or abused and seeks to find appropriate permanent homes for such animals. For the purpose of this law, the term "animal shelter" shall not apply to a facility commonly known as a "boarding kennel," where the ownership of the animal is not transferred; a facility commonly known as a "pet store," where animals are offered for sale as all or part of a business; an animal hospital owned, operated or supervised by a licensed veterinarian; or a facility where the owner or operator is licensed by the New York State Department of Environmental Conservation as a nuisance wildlife control agent or wildlife rehabilitator.

BREEDER — Any person who breeds nine or more dogs per year.

DOG — An animal of the Canidae family of the order Carnivora.

PUPPY — Any dog that is less than one year old.

PUPPY STORE — A business establishment or individual(s) who obtain puppies with the intent to sell the animals in the retail market, but shall not include animal shelters or other animal rescue organizations and which have on premises more than six (6) puppies at any one time.

PUPPY STORE OPERATOR — A person who owns, operates, manages or is in control of or is working in a puppy store, or both.

B. Nonpermitted use. In an E Business District, no building or premises shall be used and no building shall be hereafter erected or altered unless otherwise provided in this chapter for use as a puppy store, except by special exception by the Zoning Board of Appeals subject to the following conditions, restrictions and safeguards:

- (1) There is a minimum of 25 square feet per puppy of space where the puppies are kept on display, bedded, fed or maintained.
- (2) There shall be one puppy permitted to be kept, housed, maintained, stored or offered for sale on the premises for every 100 square feet of retail puppy store space.
- (3) There is a valid certificate of occupancy for said premises.
- (4) The owner/operator of the puppy store shall provide a certified list of breeders from whom said puppies shall be obtained. Said list shall be updated if the owner/operator desires to purchase puppies from any additional breeders not on the original list.
- (5) All breeders shall be properly licensed by the United States Department of Agriculture.
- (6) The owner/operator of the puppy store shall provide an affidavit that they have investigated each breeder on said list and that none of the breeders, the breeders' employees, agents or owners or the owner, employee of agent of the applicant puppy store have been ever convicted of animal cruelty or under investigation for animal cruelty.
- (7) The premises shall comply with the current New York State Fire Prevention Code and shall have sprinklers and be alarmed as if said premises was a public assembly.
- (8) A \$500,000.00 bond is posted and maintained during the operation of said puppy store. Said bond shall be forfeited for any violation of this section.

C. Penalties for offenses. Any person who shall violate this section shall be guilty of a misdemeanor

and, upon conviction thereof, shall be punished by a fine of not less than \$5,000 and not more than \$10,000 or imprisonment for a period not to exceed one year, or both. In addition to the aforementioned criminal penalties, any person who knowingly violates the provisions of this section shall be subject to a civil penalty of \$1,000 per puppy on said premises, per day.

- D. Severability. If any clause, sentence, paragraph, subdivision, section, or part of this section or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this section, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

§ 213-129.2. Smoke shops, vape shops, hookah lounges and vape lounges. [Added 4-25-2018 by L.L. No. 8-2018; amended 2-27-2019 by L.L. No. 2-2019]

- 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:

HOOKAH PIPE — A single or multistemmed instrument used by one or more persons to smoke tobacco or another substance, which hookah pipe is also commonly referred to as a "hookah," "water pipe," "shisha" or "narghile."

HOOKAH LOUNGE AND VAPE LOUNGE — Any facility or location whose business operation, and its principal use, include the on-site indoor smoking of electronic cigarettes, vape pens, vapors, e-liquids, or other like substances. Smoking is the inhalation of the smoke/liquid nicotine/vapors/water pipe tobacco and other substances encased in electronic cigarettes, vape pens, and pipes commonly known as "hookah," "water pipe," "shisha," and "narghile" or any similar device.

INSTITUTIONAL DISPENSER — A facility approved and certified by the State of New York Department of Health as authorized to obtain controlled substances by distribution and to dispense and administer such substances pursuant to the order of a practitioner.

MEDICAL MARIHUANA — Marihuana which is intended for a certified medical use, as determined by the Commissioner of Health of the State of New York ("Commissioner") in his or her sole discretion. Any form of medical marihuana not approved by the Commissioner is expressly prohibited.

SMOKE SHOP AND VAPE SHOP — Any establishment which offers for sale or consideration cigarettes, electronic cigarettes, pipes, vape pens, vapors, e-liquids, or other like substances, as a substantial or significant portion of its business, merchandise and/or stock-in-trade.

SUBSTANTIAL OR SIGNIFICANT PORTION —

- (1) Substantial or significant portion shall be determined using the following considerations:
- (a) Amount of floor area and basement space accessible to customers and allotted to the sale or consideration of cigarettes, electronic cigarettes, pipes, vape pens, vapors, e-liquids, or other like substances of any type, generally, or as compared to the total floor area and basement space accessible to customers; and/or
 - (b) Amount of cigarettes, electronic cigarettes, pipes, vape pens, vapors, e-liquids, derivatives or other like substances stock-in-trade of any type accessible to customers, generally, or as compared to total stock accessible to customers; and/or

- (c) Revenues derived from cigarettes, electronic cigarettes, pipes, vape pens, vapors, e-liquids, or other like substances of any type, generally, or as compared to total revenues; and/or
 - (d) Advertising devoted to cigarettes, electronic cigarettes, pipes, vape pens, vapors, e-liquids, or other like substances of any type, generally, or as compared to total advertising; and/or
 - (e) Use of the establishment for cigarettes, electronic cigarettes, pipes, vape pens, vapors, e-liquids, or other like substances of any type, generally, or as compared to total use thereof.
- (2) However, notwithstanding the above considerations, the following shall be conclusive in determining substantial or significant portion:
- (a) Forty percent or more of floor area and basement space accessible to customers allotted to cigarettes, electronic cigarettes, pipes, vape pens, vapors, e-liquids, or other like substances of any type; and/or
 - (b) Forty percent or more of its stock-in-trade in cigarettes, electronic cigarettes, pipes, vape pens, vapors, e-liquids, or other like substances of any type; and/or
 - (c) Forty percent or more of its gross income derived from cigarettes, electronic cigarettes, pipes, vape pens, vapors, e-liquids, or other like substances; and/or
 - (d) Forty percent or more of its advertising devoted to cigarettes, electronic cigarettes, pipes, vape pens, vapors, e-liquids, or other like substances.

B. In an E Business District, no building or premises shall be used and no building shall be hereafter erected or altered unless otherwise provided in this chapter for use as a hookah lounge and/or vape lounge, whether as its primary use or as an accessory or ancillary use, including the smoking of tobacco or other substances through one or more hookah pipes. This prohibition shall include but not be limited to facilities or establishments commonly known by such various terms as "hookah bars," "hookah lounges," or "hookah cafes." All such facilities or establishments lawfully and actually operating, and open to the public or a segment thereof or a club membership as of the date of adoption of this § 213-129.2, shall be permitted to continue as legal nonconforming uses, and all others are hereby declared unlawful and prohibited, effective immediately in accordance with law.

C. In an E Business District, no building or premises shall be used and no building shall be hereafter erected or altered unless otherwise provided in this chapter for use as a smoke shop or vape shop, as substantial or significant portion of its business, merchandise and/or stock-in-trade, as defined in § 213-129.2A above. All such facilities or establishments lawfully and actually operating, and open to the public or a segment thereof as of the date of adoption of this § 213-129.2, shall be permitted to continue as legal nonconforming uses, and all others are hereby declared unlawful and prohibited, effective immediately in accordance with law.

D. In an E Business District, no building or premises shall be used and no building shall be hereafter erected or altered to allow an institutional dispenser of medical marihuana, without a special exception permit issued by the Board of Appeals, subject to conditions, restrictions and safeguards as may be imposed by the Board of Appeals and subject to the following conditions regarding location as set forth in Town Code Section 213-166.2A through D.

§ 213-129.3. Regulation of cannabis and other products. [Added 10-12-2022 by L.L. No. 18-2022

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 — The phytocannabinoids found in hemp and does not include synthetic cannabinoids as that term is defined in Subdivision (g) of Schedule I of § 3306 of the New York State Public Health Law.

CANNABINOID HEMP — 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 0.3 of a percent delta-9 tetrahydrocannabinol.

CANNABIS — 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.

HEMP — 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 0.3 of a percent on a dry weight basis. It shall not include "medical cannabis" as defined in this section.

HEMP EXTRACT — 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.

MEDICAL CANNABIS — 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.

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

RETAIL DISPENSARY — 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 licenses 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 — 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 § 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 § 213-129.3A, 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 § 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.