

**AFFIDAVIT IN SUPPORT OF BUSINESS OWNER/TENANT’S REQUEST FOR  
ORDER VACATING IMMEDIATE ORDER OF CLOSURE**

\_\_\_\_\_  
*(print first and last name)*

swears under the penalties of perjury under the laws of New York, which may include a fine or imprisonment, that the following is true:

1. I submit this affidavit pursuant to Cannabis Law § 138-b(9), in support of my request for an Order vacating the Immediate Order of Closure (“sealing order”) issued against the business owner-tenant’s business (“business”) located at:

\_\_\_\_\_  
*(print street address and borough)*

Block # \_\_\_\_\_, Lot # \_\_\_\_\_,

(hereafter the “subject premises”).

**A. PROOF OF OWNERSHIP**

2. My relationship to the business that is the subject of the Immediate Order of Closure is as follows (check the applicable box):

**I am the sole owner of the business.** My business address or home address is as follows: \_\_\_\_\_  
\_\_\_\_\_.

**I am a co-owner of the business.** My business address or home address is as follows: \_\_\_\_\_.

The name(s) and business address(es) or home address(es) of the other co-owner(s) of the business are as follows:

\_\_\_\_\_  
\_\_\_\_\_.

**The sole owner of the business is a corporation, limited liability company, or other business entity.** The name of the business entity owner is \_\_\_\_\_ and the TIN, if applicable, is \_\_\_\_\_. The business address of the business entity owner is \_\_\_\_\_. I am an officer of the business, and I am authorized to seek vacatur of the sealing order on behalf of the above-named business, as illustrated by the attached documents. My business address or home address is as follows:\_\_\_\_\_.

**A co-owner of the business is a corporation, limited liability company, or other business entity.** The name of the business entity co-owner is \_\_\_\_\_ and the TIN, if applicable, is \_\_\_\_\_. The business address of the business entity co-owner is \_\_\_\_\_. I am an officer of the business entity co-owner, and I am authorized to seek vacatur of the sealing order on behalf of the above-named business entity co-owner, as illustrated by the attached documents. My business address or home address is \_\_\_\_\_ as follows:\_\_\_\_\_.

The name(s) and business address(es) or home address(es) of the other co-owner(s) of the business are as follows:

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3. I attach hereto copies of the following documents, which establish that I am the owner, one of the owners, or an officer of a business entity that is an owner or co-owner of the entity doing business at the subject premises [list documents that are attached for this purpose]:

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**B. AN AFFIDAVIT IS REQUIRED FROM EACH CO-OWNER**

4. I understand that if the business is owned by more than one owner, each co-owner must submit an affidavit, or cause an officer to submit an affidavit, for purposes of seeking an Order vacating the Immediate Order of Closure.

**C. THE PREMISES WILL NOT BE USED FOR THE UNLICENSED SALE OF CANNABIS OR ANY OTHER ACTIVITY IN VIOLATION OF THE LICENSING REQUIREMENTS OF THE CANNABIS LAW**

5. As owner or officer of the business at the subject premises, I will not knowingly use the subject premises for unlicensed or other unlawful cannabis activity.

6. I acknowledge that the owner of the subject premises may be subject to penalty and other legal action under Real Property Actions and Proceedings Law §§ 715 and 715-a, Administrative Code §§ 7-703 and 10-186, and Real Property Law § 231(2) and other provisions of law for further conduct in which the premises are used for the

unlicensed sale of cannabis. I acknowledge that the business may be subject to penalty or other legal action under Chapter 5-a of Title 7 of the Administrative Code for further conduct in which the business owner-tenant uses the premises for the unlicensed sale of cannabis.

**D. PROOF SUPPORTING THAT UNLICENSED OR OTHER UNLAWFUL CANNABIS ACTIVITY AT THE SUBJECT PREMISES HAS CEASED**

7. I attach hereto the following documents as proof that the unlicensed cannabis activity at the subject premises has been abated (all are required):

- a business plan detailing the business's intended use of the property following vacatur of the sealing order that includes: (i) documentation illustrating the actions that the business has taken in furtherance of implementing such business plan; and (ii) financial estimates of the revenue that will be generated through such business plan;
- a sworn statement setting forth the information specified in Appendix A;
- documentation indicating: (i) whether the business has the right to occupy the premises, as demonstrated by an affidavit or other representation from the property owner that the business lawfully occupies the premises or a detailed explanation regarding why the business is unable to obtain such affidavit or representation; and (ii) the term of the business owner-tenant's lease or right to occupy the property, as applicable. The preferred demonstration of this requirement is an affidavit from the landlord. Either the property owner's affidavit or other accompanying documentation must establish the ownership of the premises.
- documentation indicating that the business consents to reinspection at any time within one (1) year of the sealing order and will maintain or arrange for the maintenance of sufficient financial records on the premises or otherwise provide access to such financial records to the City Sheriff such that the City Sheriff can review the business activity in furtherance of such reinspection;
- documentation regarding any business activity relating to the sale of cannabis conducted by the affiant, the business, its owner or any co-owner or any person who owns 10 percent or more of the voting stock or shares of such business, at any other location; and
- documentation indicating that all signage and all other marketing materials indicating an intent to sell illicit cannabis, including but not limited to such physical signage and marketing materials located on the premises and marketing materials featured on internet webpages associated with the business, have been removed. This may be

demonstrated by any combination of photographs, video recordings, other documentary evidence, or a supplemental affidavit.

- Check this box if the business has not yet been able to abate signage and marketing materials on the premises due to lack of physical access but has complied with all other requirements in this vacatur request (including removal of marketing material featured on internet webpages). In that instance, if the Sheriff's Office determines that access is necessary for the limited purpose of such abatement or otherwise ensuring that the premises will not be used for illegal activity, the Sheriff's Office may, upon considering whether the material submitted with this vacatur request contains sufficient proof in other respects separate and apart from this particular requirement, grant access for seven (7) business days for abatement purposes, without authorization to operate the business, prior to a final decision on your vacatur request.

Note: By checking this box, the Sheriff's office will regard your vacatur request as also being an application for temporary access to meet this requirement. However, if your vacatur request lacks sufficient proof in other respects separate and apart from this particular requirement, the Sheriff may deny your application for temporary access.

8. Statement regarding representation (Check only one box):

- By checking this box, I am stating that I have been represented by counsel in connection with this affidavit.
- By checking the box, I state that I am not represented by counsel. I acknowledge and understand that counsel for the City does not represent me in this matter and that I have been advised of my right to consult with or obtain representation from an attorney in connection with the signing of this document.

Signature

\_\_\_\_\_

DATE: \_\_\_\_/\_\_\_\_/2024

State of New York        )  
                                  SS: )  
County of \_\_\_\_\_)

Subscribed to and sworn before me this \_\_\_\_\_ day of \_\_\_\_\_(month),  
\_\_\_\_\_ (year),

by \_\_\_\_\_ (name of signer)

\_\_\_\_\_ (signature of notary)

APPENDIX A TO  
AFFIDAVIT IN SUPPORT OF BUSINESS-TENANT’S REQUEST FOR ORDER  
VACATING IMMEDIATE ORDER OF CLOSURE

A business owner/tenant request for vacating an immediate order of closure must include a sworn statement setting forth the information required by Cannabis Law § 17(5), including:

(a) If the business owner is a natural person, the business-tenant's: (i) full legal name; (ii) date of birth; (iii) current home or business street address; and (iv) a unique identifying number from: (1) an unexpired passport; (2) an unexpired state driver's license; or (3) an unexpired identification card or document issued by a state or local government agency or tribal authority for the purpose of identification of that individual.

(b) If the business owner is a partnership, limited liability partnership, limited liability company, or other unincorporated association, including a for profit or not-for-profit membership organization or club, the information required pursuant to paragraph (a), above, for all of its partners or members, as well as the state or other jurisdiction of its formation.

(c) If the business owner is a corporation, its state or other jurisdiction of incorporation, principal place of business, and any state or other jurisdiction in which the business is incorporated.

(d) If the business owner is not an individual, in addition to any information provided pursuant to paragraphs (b) and (c), above, each beneficial owner of the business by: (i) full legal name; (ii) date of birth; (iii) current home or business street address; and (iv) a unique identifying number from: (1) an unexpired passport; (2) an unexpired state driver's license; or (3) an unexpired identification card or document issued by a state or local government agency or tribal authority for the purpose of identification of that individual.

For the purposes of this Appendix A, a “beneficial owner” means, with respect to an entity, an individual who, directly or indirectly, through any contract, arrangement, understanding, relationship, or otherwise (i) exercises substantial control over the entity; or (ii) owns or controls not less than 25 percent of the ownership interests of the entity, except that that a “beneficial owner” does not include:

- (i) a minor child;
- (ii) an individual acting as a nominee, intermediary, custodian, or agent on behalf of another individual;
- (iii) an individual acting solely as an employee of a corporation, limited liability company, or other similar entity and whose control over or economic benefits from such entity is derived solely from the employment status of the person; or
- (iv) an individual whose only interest in a corporation, limited liability company, or other similar entity is through a right of inheritance.