

Introduced: 01-22-2024

Adopted: 02-12-2024

**TOWNSHIP OF FAIRFIELD
ORDINANCE #2024-05**

**AN ORDINANCE AMENDING CHAPTER 4, SECTION 24, ENTITLED
“CANNABIS ESTABLISHMENTS” OF THE CODE OF THE TOWNSHIP
OF FAIRFIELD**

WHEREAS, on February 22, 2021, Governor Murphy signed into law P.L. 2021, c. 16, known as the “New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act” (the “Act”), which legalizes the recreational use of marijuana by adults 21 years of age or older, and establishes a comprehensive regulatory and licensing scheme for commercial recreational (adult use) cannabis operations, use and possession; and

WHEREAS, the Act provides, in relevant part, that a municipality may enact ordinances, not in conflict with the provisions of P.L.2021, c.16, governing the number of cannabis establishments, as well as the location, manner, and times of operation of cannabis establishments, and may establish civil penalties for violation of such an ordinance; and

WHEREAS, the Act further provides, in relevant part, that a municipality may adopt an ordinance imposing a local cannabis transfer tax and user tax on the sale of cannabis or cannabis items by a cannabis establishment that is located in the municipality; and

WHEREAS, the Township of Fairfield wishes to amend its ordinances to provide for the licensing of cannabis establishments in accordance with the Act and said changes are to be retroactive to June 10, 2021.

NOW, THEREFORE, BE IT ORDAINED by the Governing Body of the Township of Fairfield, County of Essex, and State of New Jersey as follows:

SECTION 1. Chapter 4, Section 24, of the Township Code of the Township of Fairfield entitled “Cannabis Establishments” shall be amended to read as follows (additions are shown with underlines, deletions are shown as ~~strikethroughs~~, sections that remain unchanged are omitted below):

4-24 CANNABIS ESTABLISHMENTS.

4-24.1 Definitions.

As used in this section, the following terms shall have the meanings indicated:

ADULT USE CANNABINOIDS means:

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1. Any tetrahydrocannabinols, artificially-derived cannabinoid, or hemp product or that is not subject to regulation pursuant to the Jake Honig Compassionate Use Medical Cannabis Act, New Jersey Compassionate Use Medical Marijuana Act, and/or Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act, or otherwise regulated by State law, and that is reasonably determined to have an intoxicating effect when ingested, smoked, or otherwise consumed;
2. Tetrahydrocannabinolic acids that are artificially or naturally derived;
3. Delta-8 THC;
4. optical isomers of delta-8-tetrahydrocannabinol or delta-9-tetrahydrocannabinol

ADULT USE CANNABINOID ITEMS means any products containing 0.5 milligrams or more of any combination of THC or adult use cannabinoids as defined herein, including delta-8 THC or delta-8-tetrahydrocannabinol, delta-10 THC, Tetrahydrocannabivarin ("THC-V"), THC-O-Acetate ("THC-O"), hexahydrocannabinol ("HHC"), or any other cannabinoids advertised by the manufacturer or seller as having an intoxicating effect.

CANNABIS DELIVERY

Shall mean the transportation of cannabis items and related supplies to a consumer. "Cannabis 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.

CANNABIS DELIVERY SERVICE

Shall mean any person or entity holding a Class 6 cannabis delivery license issued by the State of New Jersey 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.

CANNABIS ESTABLISHMENT

Shall mean a cannabis cultivator, a cannabis manufacturer, a cannabis wholesaler, a cannabis retailer, a cannabis distributor and a cannabis delivery service.

CANNABIS ITEM

Shall mean any usable cannabis, cannabis product, cannabis extract, and any other cannabis resin. "Cannabis item" does not include: any form of medical cannabis

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dispensed to registered qualifying patients pursuant to the Honig Act and N.J.S.A. 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" N.J.S.A. 4:28-6, et al.

MICROBUSINESS

Shall have the same meaning as defined in N.J.S.A. 24:6I-33 and operated in accordance with N.J.A.C. 17:30-6.7. Per statute, it means a person or entity licensed by the State as a cannabis cultivator, cannabis manufacturer, cannabis wholesaler, cannabis distributor, cannabis retailer, or cannabis delivery service that may only, with respect to its business operations and capacity and quantity of product: employ no more than 10 employees; operate a cannabis establishment occupying an area of no more than 2,500 square feet, and in the case of a cannabis cultivator, grow cannabis on an area no more than 2,500 square feet measured on a horizontal plane and grow about that plane not higher than 24 feet; possess no more than 1,000 cannabis plants each month, except that a cannabis distributor's possession of cannabis plants for transportation shall not be subject to this limit; acquire each month, in the case of a cannabis manufacturer, no more than 1,000 pounds of usable cannabis; acquire for resale each month, in the case of a cannabis wholesaler, no more than 1,000 pounds of usable cannabis, or the equivalent amount in any form of manufactured cannabis product or cannabis resin, or any combination thereof; and acquire for retail sale each month, in the case of a cannabis retailer, no more than 1,000 pounds of usable cannabis, or the equivalent amount in any form of manufactured cannabis product or cannabis resin, or any combination thereof. The application fee and license fee for a microbusiness shall be 50% of the standard application and standard license fee.

PUBLIC PLACE or QUASI-PUBLIC PLACE

Shall mean any place to which the public has access that is not privately owned; or any place to which the public has access where alcohol consumption is not allowed, including but not limited to, a public street, road, thoroughfare, school, sidewalk, bridge, alley, plaza, park, playground, swimming pool, shopping area, public transportation facility, vehicle used for public transportation, parking lot, public library or any other public building, structure or area.

All other terms as defined in the Act are hereby incorporated herein by reference and shall have the meanings set forth in the Act, as may be amended or superseded.

In addition, the following terms shall have the meanings indicated:

GIFTING

Shall mean the sale of any object containing cannabis or a cannabis product wherein the cannabis itself is assigned no or a below market price sales price.

4-24.2 License Required and Retroactivity.

No person or entity shall operate directly or indirectly as a Cannabis Distributor, Cannabis Manufacturer, or Cannabis Wholesaler without first applying for and receiving a license from the

Township Administrator of the Township of Fairfield. Consequently, the Township may or may not establish locations for the use and operation of the three types of cannabis business licenses and operations as set forth in the Act. Should the Township establish more than one type of cannabis license, nothing herein shall prohibit a single owner from owning more than one such license, provided such ownership is not prohibited by State statute or rule. The issuance of a license under this section is in addition to, and not in derogation of, any law of the State of New Jersey or ordinance of the Township regulating the business so licensed. The changes and amendments made herein to prior ordinances are retroactive to June 10, 2021.

4-24.3 Application for and Issuance of License.

a. The Township permits Cannabis Distributor, Cannabis Manufacturer, or Cannabis Wholesaler cannabis businesses. Any person or entity seeking to operate as a Cannabis Distributor, Cannabis Manufacturer, or Cannabis Wholesaler under the provisions of this section shall (1) submit a request to the zoning official for a zoning determination letter accompanied by the required fee; (2) submit an application to the Municipal Clerk accompanied by the required fee; (3) the application shall be reviewed by the Cannabis Advisory Committee; (4) the Cannabis Advisory Committee will advise the Governing Body to issue or not to issue a resolution of support. The applicant has the option to apply to the Planning Board at this time or later in the process. However, no cannabis license shall be issued without Planning Board approval. The application shall be on a form provided by the Municipal Clerk.

b. The applicant shall provide sufficient documentation as necessary to confirm compliance with the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act as well as any applicable regulations promulgated by the New Jersey Cannabis Regulatory Commission.

c. Licenses shall be issued by the Township Administrator after review and in consultation with the Cannabis Advisory Committee. To be deemed complete, all applications shall be accompanied by the following:

(1) Every applicant shall specify the location where the cannabis facility will operate. Name, address of owner, applicant, property location, including address and lot and block on the official tax map and zone identification. A separate application shall be required for each location at which a cannabis facility operates. The Township shall permit the co-location of cannabis businesses at the same location subject to State statute and regulations. All other requirements and fees apply.

(2) The applicant shall submit proof that the applicant has or will have lawful possession of the premises proposed for the cannabis establishment, which proof may consist of a deed, lease, a real estate contract contingent upon successful licensing, or a binding letter of intent by the owner of the premises indicating an intent to lease the premises to the applicant contingent upon applicant's receipt of a license from the State of New Jersey.

(3) The location proposed for licensing by the applicant shall comply with all applicable municipal zoning laws and the location restrictions set forth in the land development portion of the Township of Fairfield Municipal Code. A letter from the appropriate zoning official indicating that the location proposed for licensing by the applicant complies with all applicable

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Township zoning laws and the location restrictions set forth herein. The fee for the letter from the zoning official is \$100 and is non-refundable.

(4) The applicant, owner and its principals, as may be applicable, shall submit, to the satisfaction of the Cannabis Advisory Committee, proof of financial capability to open and operate a cannabis establishment for which the applicant is seeking a license. Standards of proof of financial capability shall be determined by the Township. Completed applications shall include a business plan outlining the proposed operations of the cannabis business.

(5) The applicant shall submit all required nonrefundable fees for the application and license in accordance with the fee schedule.

(6) In addition to complying with any state requirement related to good character and criminal background, any person proposed to have an ownership interest in the license shall not have had any cannabis license or permit revoked for a violation affecting public safety in any state.

~~d. The applicant shall provide a certification that the applicant's business will not violate the zoning ordinances of the Township or alternatively provide either a certification of compliance or resolution of approval from the Planning Board allowing for the proposed use as a Cannabis Distributor, Cannabis Manufacturer, or Cannabis Wholesaler.~~

d. Under no circumstances shall a local license for a cannabis business issued by the Township be effective until or unless the State has issued the requisite licenses to operate such a facility. It is the intent of this article that no cannabis business may lawfully operate in the Township without the issuance of a State license and full regulatory oversight of the cannabis business by the Cannabis Regulatory Commission or other state licensing authority as required by law as well as a resolution of approval from the appropriate land use board and finally oversight and issuance of a license by the Township.

e. Resolutions of support shall be issued by the Governing Body. A resolution of support issued by the Governing Body pursuant to N.J.A.C. 17:30-5.1(g)1 to a cannabis business shall expire within eighteen (18) months unless the business has secured at least one of the annual State issued cannabis licenses for operation of a Cannabis Distributor, Cannabis Manufacturer, or Cannabis Wholesaler within the Township. The Governing Body may extend the resolution of support at its discretion for an additional period of six (6) months for good cause, including but not limited to delays in the processing of approvals required from State, county or other local agencies. There shall be a fee of \$2,500 for each extension request. This provision is retroactive and resolutions of support eighteen (18) months or older from the date of issuance are hereby expired.

4-24.7 Transfer of License.

A Cannabis Distributor, Cannabis Manufacturer, or Cannabis Wholesaler license may not be transferred without application to and express written permission of the Township Administrator. Transfer of ownership of any local license or change of location of any license or modification to expand a licensed premises shall also be subject to joint Governing Body and Land Use Board review and approval as well as a new license application and the payment of new application fees.

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4-24.8 Local Cannabis Transfer Tax and User Tax.

b. Pursuant to N.J.S.A. 40:48I-1, a user tax is hereby established on any concurrent license holder, as permitted by section 33 of P.L. 2021, c. 16, operating more than one cannabis establishment. The user tax rate shall be equivalent to the transfer tax rates provided in subsection (a), above, on the value of each transfer or use of cannabis or cannabis items not otherwise subject to the transfer tax imposed pursuant to subsection (a), above, from the license holder's establishment that is located in the Township of Fairfield to any of the license holder's other establishments, whether located in the municipality or another municipality. The value of each transfer or use of cannabis or cannabis items for user tax computation shall equal the statewide average retail price of an ounce of usable cannabis for consumer purchase, as determined by the Cannabis Regulatory Commission, less ten percent (10%) or the third-party dispensary wholesale price, whichever is less.

e. Administration of Transfer and User Taxes. Unless otherwise determined by the Governing Body, the chief financial officer is charged with the administration and enforcement of the provisions of this chapter, and is empowered to prescribe, adopt, promulgate and enforce rules and regulations relating to any matter pertaining to the administration and enforcement of this chapter, including provisions for the reexamination and corrections of declarations and statements, and of payments alleged or found to be incorrect, or as to which an overpayment is claimed or found to have occurred, and to prescribe forms necessary for the administration of this chapter. The Governing Body may determine at any time, in its sole discretion, to retain an outside third-party consultant (the "outside consultant") to exercise all of duties and responsibilities of the chief financial officer as set forth above, with the exception of the power of enforcement, levying of fines and penalties and entering into agreements with the State of New Jersey. In the event that the Governing Body retains such an outside consultant, the fee schedule for the outside consultant shall be presented, for informational purposes only, to the cannabis business before such audit and other work is undertaken. The cannabis business shall be responsible for reimbursement to the Township of the fees incurred by the Township to the outside consultant for services rendered in its examination of the business's accounts for the determination of tax to be paid. A copy of the invoice shall be sent to the cannabis business by the municipality after the municipality is billed for the outside consultant's work. The cannabis business shall reimburse the municipality for the outside consultant's fees and expenses within sixty (60) days thereafter. Failure to timely reimburse the municipality shall invoke §4-24.9c(3) of the Township Code. Should a cannabis business fail or refuse to provide adequate information to the chief financial officer or the outside consultant to determine the amount of tax due, the chief financial officer or the outside consultant may use information provided from other sources (i.e., the NJ Cannabis Regulatory Commission or NJ Department of Treasury) to determine the amount of tax liability, and the licensee shall be subject to the penalties set forth in §4-24.9c(3)(suspension section) of the Township Code.

f. The chief financial officer or the outside consultant, as applicable, is hereby authorized to examine the books, papers and records of any taxpayer to verify the accuracy of any declaration or financial statement, or if no declaration or financial statement was filed, to ascertain the tax due. Every taxpayer is hereby directed and required to give to the chief financial officer, or to the outside consultant, as applicable, the means, facilities and opportunity for such examinations and investigations, as are hereby authorized or otherwise permitted by law.

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g. Returns and records filed by a licensee, and the records and files of the chief financial officer or the outside consultant, as applicable, respecting the administration of the Transfer and User Tax, shall be considered confidential and privileged and neither the chief financial officer nor any employee or outside consultant engaged in the administration thereof or charged with the custody of any such records or files, nor any former officer or employee, nor any person who may have secured information therefrom shall divulge, disclose, use for their own personal advantage, or examine for any reason other than a reason necessitated by the performance of official duties any information obtained from the said returns, records or files or from any examination or inspection of the premises or property of any person, or to an officer of a public entity for a reason authorized by N.J.S.A. 54:50-9. Neither the chief financial officer nor any employee or outside consultant engaged in such administration or charged with the custody of any such returns, records or files shall be required to produce any of them for the inspection of any person or for use in any action or proceeding except when the records or files or the facts shown thereby are directly involved in an action or proceeding to collect or challenge the assessment of Transfer or User Taxes hereunder, or where the determination of the action or proceeding will affect the validity or amount of the claim of the Township hereunder, or in any lawful proceeding for the investigation and prosecution of any violation of this Article or of the criminal provisions of the State Uniform Tax Procedure Law or of any State tax law, or where production is required pursuant to the New Jersey Open Public Records Act (N.J.S.A. 47:1A-1, et seq.) or the Common Law, or the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (P.L. 2021, c.16) or other applicable law.

h. Recordkeeping, Tax Payments and Financial Statements. Requirement to Keep Records. Taxpayers liable for the transfer and/or user tax are required to keep such records as will enable the filing of true and accurate financial statements of the tax and such records shall be preserved for a period of not less than three (3) years from the filing date or due date, whichever is later, in order to enable the chief financial officer or any agent designated by him to verify the correctness of the declarations or financial statements filed. If records are not available in the Township to support the financial statements which were filed or which should have been filed, the taxpayer will be required to make them available to the chief financial officer either by producing them at a location in the municipality or by paying for the expenses incurred by the chief financial officer or his agent in traveling to the place where the records are regularly kept.

i. Tax Payments and Financial Statements. All cannabis establishments operating in the Township shall be required to file a transfer and/or user tax statement with the chief financial officer to report their sales during each calendar quarter and the amount of tax in accordance with the provisions of this chapter. Financial statements shall be filed and payments of tax imposed for the preceding calendar quarter shall be made on or before the last day of April, July, October, and January, respectively. A taxpayer who has overpaid the transfer tax, or who believes it is not liable for the tax, may file a written request on an amended financial statement with the chief financial officer for a refund or a credit of the tax.

4-24.9 Violations, Penalties and Enforcement.

~~Any person violating this section or these rules and regulations, upon conviction thereof, shall be punished by a fine not exceeding \$1,000 per day or by imprisonment in the county jail for a term not exceeding 90 days, or both. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.~~

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A. This ordinance shall be enforced by the Code Enforcement Officer and/or their designee.

B. Jurisdiction. Violations of this ordinance shall be adjudicated in the Fairfield Municipal Court. This ordinance shall not affect the judicial proceedings of any other aspect of cannabis use in the Township of Fairfield.

C. Penalties. Convictions shall result in the following penalties:

(1) First offense and subsequent offenses: A mandatory fine shall be imposed in an amount of \$5,000.00 per day per violation. In addition to the mandatory fine, the following penalties may be imposed in the discretion of the Municipal Court Judge:

(a) Imprisonment in the Essex County Jail for any term not exceeding 90 days; or

(b) Imposition of a period of community service for a period not exceeding 90 days.

(2) Each and every day of the violation shall be construed as a single and separate offense.

(3) Summary suspension. Notwithstanding the foregoing, when the Township Administrator has been notified of a third conviction by a licensee, has reasonable grounds to believe that a licensee has engaged in deliberate and willful violation of any applicable law or regulation, or that the public health, safety, and/or general welfare has been jeopardized and requires immediate action, or in circumstances where the licensee has failed to reimburse the municipality for outside third party consultant fees in a timely manner as set forth herein or if the corresponding State license for the subject location is expired, surrendered, suspended, or revoked, the Township Administrator in consultation with the Cannabis Advisory Committee may enter a summary suspension order which immediately suspends the licensee's license to operate and schedule a hearing as follows:

(a) The summary suspension order shall be in writing, shall state the reasons therefor, and shall schedule a hearing not less than ten (10) nor more than thirty (30) days from the date of the order. The order shall be served upon the licensee immediately.

(b) The Township Administrator in consultation with the Cannabis Advisory Committee shall convene the Committee to conduct the hearing. The licensee shall be permitted to appear at the hearing, along with counsel, if so desired. The licensee must notify the Township Administrator at least five (5) days prior to the hearing if the licensee plans to bring counsel to the hearing. At the conclusion of the hearing, the Cannabis Advisory Committee may lift the suspension order and reinstate the license in cases where the licensee has taken sufficient immediate actions to rectify the violation(s) which were the cause of the summary suspension order. Alternatively, the Cannabis Advisory Committee may impose any fines, conditions, restrictions, suspensions, revocations or combination thereof as warranted.

(c) Inactive licenses. Following the commencement of operations by a cannabis business, the Township Administrator may suspend or revoke any license if the licensed premises has been inactive or unoccupied by the licensee for at least six (6) months.

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(4) State license. The Township Administrator may suspend or revoke any locally-issued license if the corresponding State license for the subject location is expired, surrendered, suspended, or revoked.

4-24.10. Sale of adult use cannabinoid items to minors is prohibited.

A. It shall be unlawful and a violation of this article to sell, or offer for sale, or distribute any adult use cannabinoid item to an individual under the age of 21 years.

B. Any person who sells any adult use cannabinoid items and who has reasonable cause to believe that a person who attempts to purchase the product is under 21 years of age shall require that the purchaser present identification that indicates his or her age.

C. A person may only sell adult use cannabinoid items products in a direct, face-to-face exchange between the retailer and the consumer. Self-service displays, vending machines, and delivery of adult use cannabinoid items are prohibited.

D. In addition to the authority and powers conferred herein, the health officer is authorized to suspend or revoke any license issued to a license holder in violation of any of the provisions of this section. No suspension or revocation shall take place prior to the license holder having an opportunity to be heard upon at least ten days' notice.

4-24.11 Additional licensing regulations.

(1) Hours of operation.

(a) The hours of operation of vehicles on the premises of a cannabis business with a gross vehicle weight rating of 25,000 lbs. or greater for Classes 2 through 4 licensees shall be limited from 7:00 am to 7:00 pm, inclusive, unless, as part of a site plan application and for good cause shown and mitigation of noise, appropriate access and site layout, an extended period, not to exceed 14 hours total in any day, is approved by the Planning Board.

(b) Such hours shall be construed to mean Eastern Standard Time or Eastern Daylight Savings Time; whichever time shall be in effect within the Township of Fairfield.

(2) Prohibited consumption. The consumption of cannabis items through smoking, vaping, aerosolizing or other means (e.g., edibles) is prohibited within or on the grounds of any licensed cannabis establishments within the Township of Fairfield.

(3) Security. All structures shall be designed, using safety and security barriers, to prevent the unlawful and unauthorized entry into the structures as prescribed by State law.

(a) There shall be controlled access to the site, with 24/7 on-site video monitoring of the exterior and interior of the facility. Video records shall be retained and stored for the period prescribed by State law, but in no case shall such video be retained and stored for less than 30 days.

(b) Any site plans, construction plan, reports and similar documents depicting or describing access and security details information concerning the facility shall be deemed and protected as confidential security documents and exempt from disclosure as public records.

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(4) Emergency power. All licensed cannabis establishments services shall have a backup generator, capable of maintaining, at a minimum, all electronic security systems and odor control systems in the event of a power failure for a period of at least forty-eight (48) hours. 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.

(5) Enclosed building. All cannabis establishments, as may be permitted within the Township, shall take place within an enclosed building. Any facility that is not the sole occupant of its building shall have no internal doorways, windows, or utility chases in common with other spaces in the building and shall have a separate HVAC system (which incorporates odor control) solely for the cannabis business.

(6) Pollen and seed control. Any cannabis business shall implement measures to prevent cross-pollination and to prevent cannabis pollen and seeds from leaving the premises, which may include, but not limited to, use of pollen screens, ultraviolet light and other methods to ensure that employees, customers, vendors and other persons on site do not leave the premises while carrying any cannabis pollen or seeds knowingly or unknowingly.

(7) Fencing. All fencing or walls, if required, installed for security purposes shall be at least six (6) feet in height. Such security structure may be extended in height as approved on a site plan by the Planning Board.

(8) Site management. Any cannabis business shall properly store and dispose of all waste generated on the site, including chemical and organic waste, in accordance with all applicable laws and regulations. No cannabis business shall dispose of cannabis or cannabis products unless they have been made unusable and unrecognizable.

(9) Noise. All cannabis business facilities shall operate in compliance with state, county, and local noise laws and regulations, except in emergency situations requiring the use of a backup generator.

(10) Odor. All cannabis business facilities shall utilize available technology to filter and recirculate air, so that odors are not discernable by a reasonable person beyond the property line. Such determination shall be supported by such exhibits, submissions and expert testimony in a development application before the Planning Board for site plan approval to which the approving authority may attach reasonable conditions. The Planning Board may engage such experts as needed to evaluate the submissions made by the applicant in accordance with the procedures set forth in N.J.S.A. 40:55D-1, et seq.

(11) Site Plan and other necessary land use approvals. All applicants for a license to operate a cannabis business within the Township shall be required to apply for and obtain site plan approval and any other necessary land use approvals from the Planning Board.

(12) Host community agreement. Any applicant for a license to operate a cannabis business within the Township shall be required to enter into a host community agreement with the Township after obtaining all approvals to (i) address on- or off-site impacts reasonably anticipated because of the nature of the business and/or the property on which such business is

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proposed to be located as a condition of local land use approval, and (ii) memorialize an applicant's commitment to the community and the township.

(13) No outdoor storage of cannabis shall be permitted.

(14) No pictures, photographs, or drawings of cannabis or cannabis paraphernalia shall appear on the outside of any licensed premises nor be visible outside of the licensed premises on the licensed property. The word "marijuana," and any other words used or intended to convey the presence or availability of marijuana, shall not appear on the outside of the licensed premises nor be visible outside of the licensed premises on the licensed property. Any signage must first be approved by the Building Department or Planning Board, as applicable.

4-24.12 Cannabis Advisory Committee.

A Township Cannabis Advisory Committee (CAC or Committee) as appointed below will function as the body for local review for the Township for all cannabis establishments but the authority and responsibility to adopt a resolution of support remains with the Governing Body. The Township Administrator shall engage with an applicant granted a resolution of support and after all other approvals for a host community benefits agreement which must be approved by the Governing Body. Under all circumstances in which State law requires communication to the Township 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 Township of any action taken by the State licensing authority, the exclusive authority for receiving such communications shall be communicated through the Township Administrator's Office upon recommendation by the Township's Cannabis Advisory Committee and authorized by the Township's Governing Body.

a. Members of said CAC shall include the following individuals:

- (1) The Township Administrator
- (2) The Municipal Clerk
- (3) Special Cannabis Counsel
- (4) CFO

b. To the extent necessary and in their sole discretion, the Committee shall be supported by other legal and planning professionals. The Committee may request additional resources as necessary to effectuate the responsibilities of the Committee. The applicants shall deposit and fund an escrow in the amount of \$2,500 for the costs of said professionals. If the Township must hire one or more consultants to evaluate a first-time or renewal application for a license, the applicant will be responsible for the review fees of the Township's hired consultant(s). To the extent that the escrow is exhausted, the applicant shall provide any replenishment amount required by the Committee within ten (10) days of a replenishment request by the Committee.

c. Duties of the Committee will be to advise the Governing Body as to the issuance of a Resolution of Support and local cannabis license within the Township. The committee's work shall be made consistent with the criteria outlined in this Chapter but has discretion to deviate from same. All applications shall be evaluated by the Cannabis Advisory Committee. The Committee shall evaluate all applications and issue to the Governing Body a recommendation as to the issuance of a resolution of support or a rejection of the application. The Cannabis Advisory Committee pursuant to this subsection shall prepare a memorandum addressed to the Mayor and

Council recommending whether to grant or deny each completed application. The recommendation shall be made after consideration and evaluation of the following criteria:

- (a) The applicant's owners' or principals' qualifications and experience operating in highly regulated industries, including but not limited to, cannabis, pharmaceutical manufacturing, or secured transportation with preference to experience operating such businesses within the State of New Jersey and where the value of the owners' experience shall outweigh the experience of non-owner principals.
- (b) The applicant's qualifications and experience related to public safety and security, including any of the applicant's owners' or principals' experience in securing controlled substances or valuable items. Applicant shall submit a summary of the applicant's plans for storage of products and currency, physical security, video surveillance, security personnel, and visitor management as well as training plans.
- (c) The status of the applicant's control over the premises at the proposed location, and specifically whether the applicant owns or has executed an agreement to lease or purchase the site.
- (d) The extent of the applicant's ties to the community as measured by residency in Fairfield by employees, managers and/or shareholders, historical operation of a local business, historical ties to Fairfield or area civic organizations and/or charities.
- (e) Summary of the applicant's environmental impact and sustainability plan
- (f) Any other information that the applicant may wish to highlight and bring to the Township's attention regarding the proposed cannabis business operation and/or the owners, principals or employees of the business.

4-24.13 Public Nuisance Declared.

Operation of any prohibited or unpermitted cannabis business operation within the municipality in violation of the provisions of this Chapter is hereby declared a public nuisance and shall be abated pursuant to all available remedies.

4-24.14 Prohibition of Gifting Cannabis.

A. No person shall gift cannabis in the Township of Fairfield as part of a sale of another item or items and shall be abated pursuant to all available remedies. Gifting is the knowing circumvention of the state's cannabis laws by "gifting" cannabis in exchange for non-cannabis-related purchases such as overpriced cookies, brownies, jars, stickers and any other items.


SECTION 2. All ordinances and parts of ordinances inconsistent herewith are hereby repealed.

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SECTION 3. If any section, paragraph, subdivision, clause or provision of this ordinance shall be adjudged invalid, such adjudication shall apply only to that section, paragraph, subdivision, clause or provision so adjudged, and the remainder of this ordinance shall be deemed to be valid and effective.

SECTION 4. This ordinance shall take effect immediately after final passage, approval and publication as required by law.



WILLIAM GALESE
Mayor


ATTEST:



DENISE D. CAFONE
Municipal Clerk

NOTICE

Notice is hereby given that the foregoing Ordinance was submitted in writing at a meeting of the Mayor and Council of the Township of Fairfield, County of Essex, State of New Jersey, held on January 22, 2024 introduced and read by title and passed first reading and that said Governing Body will further consider the same for second reading and final passage thereof at a meeting that is to be held on February 12, 2024 at 7:00 p.m.; at the Municipal Building, 230 Fairfield Road, Fairfield, New Jersey, at which time and place a public hearing will be held thereon by the Governing Body and all persons and citizens of interest shall have an opportunity to be heard concerning same.



DENISE D. CAFONE
Municipal Clerk

Introduced: 01-22-2024

Adopted: 02-12-2024

INTRODUCTION OF ORDINANCE ~ ORDINANCE #2024-05 AN ORDINANCE AMENDING CHAPTER 4, SECTION 24, ENTITLED "CANNABIS ESTABLISHMENTS" OF THE CODE OF THE TOWNSHIP OF FAIRFIELD

INTRODUCED BY: Council President Cifelli

SECONDED BY: Councilman Campisi

PUBLISHED: January 25, 2024

ROLL CALL VOTE

GOVERNING BODY	AYES	NAYS	ABSTAIN	ABSENT	NOT VOTING
COUNCIL PRESIDENT JOSEPH CIFELLI	X				
COUNCILMAN PETER CAMPISI	X				
COUNCILMAN JOHN LAFORGIA				X	
COUNCILMAN MICHAEL B. MCGLYNN				X	
MAYOR WILLIAM GALESE	X				

2ND READING AND PUBLIC HEARING: February 12, 2024

ADOPTED BY: Councilman Campisi

SECONDED BY: Councilman McGlynn

PUBLISHED: February 15, 2024

ROLL CALL VOTE

GOVERNING BODY	AYES	NAYS	ABSTAIN	ABSENT	NOT VOTING
COUNCIL PRESIDENT JOSEPH CIFELLI	X				
COUNCILMAN PETER CAMPISI	X				
COUNCILMAN JOHN LAFORGIA	X				
COUNCILMAN MICHAEL B. MCGLYNN	X				
MAYOR WILLIAM GALESE	X				