

**TOWNSHIP OF FAIRFIELD
ORDINANCE #2021-17**

**AN ORDINANCE ADDING 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.

NOW, THEREFORE, BE IT ORDAINED by the Township Committee 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 added to read as follows:

4-24 CANNABIS ESTABLISHMENTS.

4-24.1 Definitions.

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

CANNABIS

Introduced: 09-27-21
Adopted: 10-25-21

Shall mean all parts of the plant *Cannabis sativa* L., whether growing or not, the seeds thereof, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds, except those containing resin extracted from the plant, which are cultivated and, when applicable, manufactured in accordance with P.L. 2016, c. 16 for use in cannabis products as set forth in this act, but shall not include the weight of any other ingredient combined with cannabis to prepare topical or oral administrations, food, drink, or other product. "Cannabis" does not include: medical cannabis dispensed to registered qualifying patients pursuant to the "Jake Honig Compassionate Use Medical Cannabis Act," P.L.2009, c.307 (C.24:6I-1 et al.) and P.L.2015, c.158 (C.18A:40-12.22 et al.); marijuana as defined in N.J.S.2C:35-2 and applied to any offense set forth in chapters 35, 35A, and 36 of Title 2C of the New Jersey Statutes, or P.L.2001, c.114 (C.2C:35B-1 et seq.), or marihuana as defined in section 2 of P.L.1970, c.226 (C.24:21-2) and applied to any offense set forth in the "New Jersey Controlled Dangerous Substances Act," P.L.1970, c.226 (C.24:21-1 et al.); or hemp or a hemp product cultivated, handled, processed, transported, or sold pursuant to the "New Jersey Hemp Farming Act," P.L.2019, c.238 (C.4:28-6 et al.).

CANNABIS CULTIVATOR

Shall mean any licensed person or entity that grows, cultivates, or produces cannabis in this State, and sells, and may transport, this cannabis to other cannabis cultivators, or usable cannabis to cannabis manufacturers, cannabis wholesalers, or cannabis retailers, but not to consumers.

CANNABIS DISTRIBUTOR

Shall mean any licensed person or entity that transports cannabis in bulk intrastate from one licensed cannabis cultivator to another licensed cannabis cultivator, or transports cannabis items in bulk intrastate from any one class of licensed cannabis establishment to another class of licensed cannabis establishment, and may engage in the temporary storage of cannabis or cannabis items as necessary to carry out transportation activities.

CANNABIS ESTABLISHMENT

Shall mean a cannabis cultivator, a cannabis manufacturer, a cannabis wholesaler, or a cannabis retailer.

CANNABIS MANUFACTURER

Shall mean any licensed person or entity that processes cannabis items in this State by purchasing or otherwise obtaining usable cannabis, manufacturing, preparing, and packaging

cannabis items, and selling, and optionally transporting, these items to other cannabis manufacturers, cannabis wholesalers, or cannabis retailers, but not to consumers.

CANNABIS RETAILER

Shall mean any licensed person or entity that purchases or otherwise obtains usable cannabis from cannabis cultivators and cannabis items from cannabis manufacturers or cannabis wholesalers, and sells these to consumers from a retail store, and may use a cannabis delivery service or a certified cannabis handler for the off-premises delivery of cannabis items and related supplies to consumers. A cannabis retailer shall also accept consumer purchases to be fulfilled from its retail store that are presented by a cannabis delivery service which will be delivered by the cannabis delivery service to that consumer.

CANNABIS WHOLESALER

Shall mean any licensed person or entity that purchases or otherwise obtains, stores, sells or otherwise transfers, and may transport, cannabis items for the purpose of resale or other transfer to either another cannabis wholesaler or to a cannabis retailer, but not to consumers.

4-24.2 License Required.

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. 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.

4-24.3 Application for and Issuance of License.

- a. Any person or entity seeking to operate as a Cannabis Distributor, Cannabis Manufacturer, or Cannabis Wholesaler under the provisions of this section shall submit an application to the Township accompanied by the required fee. The application shall be on a form provided by the Township 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.

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.

4-24.4 License Fee.

The fee for a Cannabis Distributor, Cannabis Manufacturer, or Cannabis Wholesaler license shall be five hundred dollars (\$500.00). The annual renewal fee for a Cannabis Distributor, Cannabis Manufacturer, or Cannabis Wholesaler license shall be five hundred dollars (\$500.00).

4-24.5 Appeals.

a. Any person aggrieved by a decision of the Township denying or revoking a license or a person requesting relief pursuant to section 4-24.4 may appeal to the Township Council. A written notice of appeal setting forth the reasons for the appeal shall be filed within 10 days of said decision.

b. The Township Council shall set the matter down for a hearing within 30 days of the filing of the notice of appeal. The decision of the Township shall be in the form of a resolution at the first regularly scheduled public meeting, after the hearing of the appeal. The appellant may agree in writing to a later date for the decision.

4-24.6 Display of License; Inspections.

The approved license or a true copy thereof shall be maintained on the licensed premises. The applicant shall permit the Police Department, the Fire Marshal or other Township inspectors to inspect the site and equipment to be used.

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.

4-24.8 Local Cannabis Transfer Tax and User Tax.

a. Pursuant to N.J.S.A. 40:48I-1, a transfer tax on the sale of cannabis or cannabis items by a licensed Cannabis Distributor, Cannabis Manufacturer, or Cannabis Wholesaler is hereby established in the Township of Fairfield. The transfer tax rate shall be two percent (2%) of the receipts from each sale by a Cannabis Manufacturer, and one percent (1%) of the receipts from each sale by a Cannabis Wholesaler. The transfer tax shall apply to any receipts from the sale of cannabis items from one Cannabis Establishment to any other Cannabis Establishment.

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.

c. The transfer tax and user tax imposed pursuant to this Section shall be in addition to any other tax imposed by law. The transfer tax or user tax shall be stated, charged, and shown separately on any sales slip, invoice, receipt, or other statement or memorandum of the price paid or payable, or equivalent value of the transfer, for the cannabis or cannabis item.

d. The transfer tax and user tax shall be remitted to the Township's Chief Financial Officer quarterly, on February 1st, May 1st, August 1st, and November 1st. The Chief Financial Officer shall allow a ten (10) day grace period for such payments, after which time interest shall be charged at a rate of 8% per annum on the first \$1,500 of the delinquency and 18% per annum on any amount in excess of \$1,500, to be calculated from the date the tax was payable until the date that actual payment to the Chief Financial Officer is made. Any transfer tax or user tax not paid within that time, along with any interest accruing thereon, shall be a lien on the parcel of real property comprising the licensed Cannabis Establishment's premises in the same manner as all other unpaid municipal taxes, fees, or other charges. The lien shall be enforced as a municipal lien in the same manner as all other municipal liens are enforced.

4-24.9 Violations and Penalties.

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.

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

SECTION 3. If any section, paragraph, subdivision, clause of 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.

Introduced: 09-27-21
Adopted: 10-25-21

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



JAMES GASPARINI
Mayor

ATTEST:



DENISE D. CAFONE
Municipal Clerk

Introduced: 09-27-21
Adopted: 10-25-21

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 September 27, 2021 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 October 25, 2021 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: 09-27-21
Adopted: 10-25-21

INTRODUCTION OF ORDINANCE

ORDINANCE #2021-17, AN ORDINANCE ADDING CHAPTER 4, SECTION 24, ENTITLED "CANNABIS ESTABLISHMENTS" OF THE CODE OF THE TOWNSHIP OF FAIRFIELD.

INTRODUCED BY: Council President Galese
SECONDED BY: Councilman Cifelli
PUBLISHED: October 7, 2021

ROLL CALL VOTE

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

2ND READING AND PUBLIC HEARING: October 25, 2021

INTRODUCED BY: Councilman Cifelli
SECONDED BY: Councilman McGlynn
PUBLISHED: November 4, 2021

ROLL CALL VOTE

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