

CHAPTER 25

CANNABIS LICENSING, REGISTRATION, AND BUSINESS REGULATIONS

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ARTICLE 1 **CANNABIS ESTABLISHMENTS**

Sec. 25.1-1 **Definitions:**

For the purpose of this ordinance, the following terms, phrases, words and their derivations shall have the meanings stated herein unless their use in the text of this Chapter clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

Definitions as used herein:

- A. *Cannabis* shall have the meaning as defined in NJSA 24:61-31.
- B. *Cannabis Cultivator* shall have the meaning as defined in NJSA 24:61-31.
- C. *Cannabis Establishment* shall have the meaning as defined in NJSA 24:61-31.
- D. *Cannabis Items* shall have the meaning as defined in NJSA 24:61-31.
- E. *Cannabis Manufacturer* shall have the meaning as defined in NJSA 24:61-31.
- F. *Cannabis Retailer* shall have the meaning as defined in NJSA 24:61-31.
- G. *Cannabis Wholesaler* shall have the meaning as defined in NJSA 24:61-31.
- H. *Consumer* shall have the meaning as defined in NJSA 24:61-31.
- I. *Home Profession Occupation* shall have the following meaning: Any occupation or business use, full or part-time, conducted within a dwelling or an accessory structure, or both, by a resident of the property.
- J. *Home Office Use* shall have the following meaning: a space designated in a person's residence for official business purposes.
- K. *Premises* shall have the meaning as defined in NJSA 24:61-31.

Sec. 25.1-2 **Requirements**

Cannabis establishments shall be permitted, pursuant to this chapter, only if the following requirements are complied with:

- A. The regulations of this section are subject to the enabling authority of the State of New Jersey and are subject to compliance with all statutes and/or regulations adopted by the State of New Jersey or its Instrumentalities. If any provision of this section is inconsistent with the statutes and/or regulations shall prevail.

- B. Prior to the operation of any cannabis establishment, a permit or license must be obtained from the State of New Jersey and from the Township of Pennsville for the applicable type(s) of cannabis establishment. No cannabis establishment shall be permitted to operate without State and municipal permits or licenses.
- C. Permitted uses shall, at all times, comply with the terms and conditions of the licensee's cannabis establishment license for permits or licenses issued by the State of New Jersey and the Township of Pennsville.
- D. No cannabis establishment shall be allowed as a Home Professional Occupation or Home Office Use as defined by this Code.
- E. No cannabis establishment shall be housed in a vehicle or any movable or mobile structure.
- F. Smoking/vaping: No cannabis establishment shall permit the smoking or vaping of cannabis on premises, indoors or outdoors.
- G. Noise: Outside generators or 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.
- H. Security: All Cannabis establishments shall be secured in accordance with State of New Jersey statutes and regulations; shall have a round-the-clock video surveillance system, 365 days a year; and shall have trained security personnel onsite at all times during operating hours.
- I. Hours: No cannabis retailer may open to customers for business before 8:00 a.m. or remain open to customers for business after 10:00 p.m.

Sec. 25.1-3 Licensing

A. Local Licensing Authority

- 1. The Township Committee of the Township of Pennsville (hereinafter "Township") is hereby designated to act as the local licensing authority for the Township for all cannabis establishments. 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 and granting such approvals shall be exercised by the Township.

2. Under no circumstances shall a local license for a cannabis establishment issued by the Township be effective until or unless the State has issued the requisite permits or licenses to operate such a facility. It is the intent of this chapter that no cannabis establishment may lawfully operate in the Township of Pennsville without the issuance of a State permit or license and full regulatory oversight of the cannabis establishment by the Cannabis Regulatory Commission or other state licensing authority as well as oversight and issuance of a license by the Township.
- B. Classification of licenses: The Township, subject to land use approval and State Licensure, may issue the following municipal licenses to operate a cannabis establishment:
1. Class I Cannabis cultivator license
 2. Class II Cannabis manufacturer license
 3. Class III Cannabis wholesaler license
 4. Class IV Cannabis distributor license
 5. Class V Cannabis retailer license
 6. Class VI Cannabis delivery license
- C. Maximum number of licenses: The Township may issue a maximum of one Class I license, one Class II license, one Class III license, one Class IV license, one Class V license, and one Class VI license. Licensure in all classes may be, but are not required to be, held by the same entity or individual, but an entity may not hold more than one cannabis retailer license. One license may not be used for more than one physical location. Any license issued by the Township is contingent upon the entity's or individual's prior receipt of a State permit or license of the same class or type of regulated cannabis activity.
- D. Application: Persons wishing to obtain any classification of cannabis license shall file a license application with the Township Clerk, on a standardized form established by the Township and made available in the Clerk's Office. The Township shall process applications on a first-come first-served basis. An application shall be deemed incomplete, and shall not be processed by the Township until all documents and application fees are submitted. To be deemed complete, all applications shall be accompanied by the following:
1. The application 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, a 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 entrant contingent upon successful licensing.

2. The applicant shall submit an affidavit and documentary proof of compliance with all state and local laws regarding affirmative action, anti-discrimination and fair employment practices. The applicant shall also certify under oath that they will not and shall not discriminate based on race, color, religion (creed), gender, gender expression, age, national origin (ancestry), disability, marital status, sexual orientation, or military status, in any of its activities or operations.
3. The location proposed for licensing by the applicant shall comply with all applicable municipal zoning law and the location restrictions set forth in the Township Pennsville Code Book, which compliance shall be evidenced by a valid Zoning Permit issued by the Pennsville Township Zoning Officer.
4. The applicant shall submit all required nonrefundable fees for the application and license in accordance with the following fee schedule.
 - a. Class I Cannabis cultivator license: \$5,000.00
 - b. Class II Cannabis manufacturer license: \$1,000.00
 - c. Class III Cannabis wholesaler license: \$500.00
 - d. Class IV Cannabis distributor license: \$500.00
 - e. Class V Cannabis retailer license: \$500.00
 - f. Class VI Cannabis delivery license: \$100.00
5. The applicant shall submit all annual registration fees required in accordance with the following fee schedule, which shall be refundable in the event the applicant does not receive a license:
 - a. Class I Cannabis cultivator license: \$2,500.00 per year.
 - b. Class II Cannabis manufacturer license: \$500.00 per year.
 - c. Class III Cannabis wholesaler license: \$250.00 per year.
 - d. Class IV Cannabis distributor license: \$250.00 per year.
 - e. Class V Cannabis retailer license: \$250.00 per year.
 - f. Class VI Cannabis delivery license: \$100.00 per year.
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 an cannabis license or permit revoked for a violation affecting public safety in the State of New Jersey or a subdivision thereof within the preceding five year.
7. The applicant and the application shall otherwise comply with any and all qualification standards set forth in the State and Township laws or regulations.

- E. Sale and/or Transfer of License: In the event any local license issued by the Township to operate a cannabis establishment is sold, exchanged, auctioned, or otherwise transferred to a person or business entity (the “transferee”) by the person or business entity that is the current holder of said license (the “transferor”), the transferee must be in compliance with all the provisions set forth in this Chapter 25 before the transferee’s license shall be considered valid by the Township.

Sec. 25.1-4 Disciplinary Actions; Sanctions; Penalties

- A. Disciplinary actions – Procedures for investigation of license violations and for suspension revocation, or other licensing sanctions as a result of any such violation shall be as follows:
 - 1. First offense: Up to \$250.00 per violation per day;
 - 2. Second offense: Up to \$500.00 per violation per day;
 - 3. Third violation shall result in summary suspension.

- B. Summary suspension – Notwithstanding the foregoing section, when the Township 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 emergency action, the Township may enter a summary suspension order for the immediate suspension of such license pending further investigation.
 - 1. The summary suspension order shall be in writing and shall state the reasons therefore. The licensee shall be afforded an opportunity for a hearing as outlined herein.
 - 2. The Township shall convene a review panel consisting of the Township Administrator, a second administrative officer designated by the Mayor, and the Chief of Police. The hearing shall be scheduled within 30 days of the date of the order.
 - 3. The review panel is authorized to impose any fines, conditions, restrictions or combination thereof authorized by the State of New Jersey. In the absence of State specified penalties, the Township may issue fines up to, but not exceed \$2,500.00 per offense and/or suspension of license for a period not to exceed six months.

- C. Inactive Licenses – The Township may suspend or revoke any license if the licensed premises has remained inactive or unoccupied by the licensee for at least six months following the issuance of said license. Following the commencement of activity or occupation of the licensed premises by the licensee, the Township may suspend or revoke any license if the premises has been inactive or unoccupied by the licensee for at least six months.

- D. State License – The Township may suspend or revoke any municipal license issued by the Township if the corresponding State license or permit for the subject location is expired, surrendered, suspended or revoked.

ARTICLE 2 **CANNABIS TAXATION**

Sec. 25.2-1 **Purpose:**

It is the purpose of this Article to impose a transfer tax on the sale of cannabis or cannabis items by a cannabis establishment that is located within the Township.

Sec. 25.2-2 **Definitions:**

For the purpose of this ordinance, the following terms, phrases, words, and their derivations shall have the meanings stated herein unless their use in the text of this Chapter clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word “shall” is always mandatory and not merely directory.

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- F. *Cannabis Retailer* shall have the meaning as defined in NJSA 24:61-31.
- G. *Cannabis Wholesaler* shall have the meaning as defined in NJSA 24:61-31.
- H. *Consumer* shall have the meaning as defined in NJSA 24:61-31
- I. *Premises* shall have the meaning as defined in NJSA 24:61-31

Sec. 25.2-3 **Applicability**

The Transfer tax is applicable to:

- A. Receipts from the sale of cannabis and cannabis items by a cannabis cultivator to another cannabis cultivator.
- B. Receipts from the sale of cannabis items from one cannabis establishment to another cannabis establishment.
- C. Receipts from the retail sales of cannabis items by a cannabis retailer to retail customers who are 21 years of age or older and any combination of sales between any cannabis establishment, cultivator, cannabis retailer and/or cannabis consumer.

Sec. 25.2-4 Rates

The rates of the transfer tax shall be as follows:

- A. Two percent (2%) of the receipts from each sale by a cannabis cultivator.
- B. Two percent (2%) of the receipts from each sale by a cannabis manufacturer.
- C. One percent (1%) of the receipts from each sale by a cannabis wholesaler.
- D. Two percent (2%) of the receipts from each sale by a cannabis retailer.

Sec. 25.2-5 User Tax

A user tax is also hereby imposed, at the equivalent transfer tax rates, on any concurrent license holder, as permitted by NJSA 24:61-46 operating more than one cannabis establishment. The user tax shall be imposed on the value of each transfer or use of cannabis or cannabis items which are not otherwise subject to the transfer tax, from the license holder's establishment that is located in the municipality to any of the other license holder's establishments, whether located in the municipality or another municipality.

Sec. 25.2-6 Transfer and User Tax in addition to other Tax

The transfer tax and user tax imposed herein shall be in addition to any other tax imposed by law.

Sec. 25.2-7 Collection and Payment

The transfer tax or user tax shall be collected or paid, and remitted to the Township by the cannabis establishment from the cannabis establishment purchasing or receiving the cannabis or cannabis item, or from the consumer at the point of sale, on behalf of the municipality by the cannabis retailer selling the cannabis item to that consumer. 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.

Sec. 25.2-8 Liability to Collect Tax

Every cannabis establishment required to collect a transfer tax or user tax imposed by this article shall be personally liable for the transfer tax or user tax imposed, collected, or required to be collected under this section. Any cannabis establishment shall have the same right with respect to collecting the transfer tax or user tax from another cannabis establishment or the consumer as if the transfer tax or user tax was part of the sale and payable at the same time, or with respect to nonpayment of the transfer tax or user tax by the cannabis establishment or consumer, as if the transfer tax or user tax was a part of the purchase price of the cannabis or cannabis time, or equivalent value of the transfer of the cannabis or cannabis item, and payable at the same time; provided, however, that the Chief Financial Officer of the Township shall be joined as a part in any action of proceeding brought to collect the transfer tax or user tax.

Sec. 25.2-9 Charge and Refund of Tax

No cannabis establishment required to collect a transfer tax or user tax imposed by this article shall advertise or hold out to any person or to the public in general, in any manner, directly or indirectly, that the transfer tax or user tax will not be separately charged and stated to another cannabis establishment or the consumer, or that the transfer tax or user tax will be refunded to the cannabis establishment or the consumer.

Sec. 25.2-10 Remittance of Revenues

All revenues collected from the transfer tax imposed by this article shall be remitted to the Chief Financial Officer of the Township. The Township shall enforce the payment of delinquent taxes or transfer fees imposed by ordinance pursuant to this section in the same manner as provided for municipal real property taxes.

Sec. 25.2-11 Unpaid Tax to become Lien

In the event that the transfer tax or user tax imposed by this article is not paid as and when due by a cannabis establishment, the unpaid balance, and any interest accruing thereon, shall be a lien on the parcel of real property comprising the cannabis establishment's premises in the same manner as all other unpaid municipal taxes, fees, or other charges. The lien shall be superior and paramount to the interest in the parcel of any owner, lessee, tenant, mortgagee, or other person, except the lien of municipal taxes, and shall be on the parity with and deemed equal to the municipal lien on the parcel for unpaid property taxes due and owing in the same year.

Sec. 25.2-12 Enforcement of Lien

The Township shall file in the office of its Tax Collector a statement showing the amount and due date of the unpaid balance and identifying the lot and block number of the parcel of real property that comprises the delinquent cannabis establishment's premises. The lien shall be enforced as a municipal lien in the same manner as all other municipal liens are enforced.