

**THE TOWNSHIP OF WEST AMWELL
COUNTY OF HUNTERDON, NEW JERSEY**

ORDINANCE 09, 2021

AN ORDINANCE AMENDING THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF WEST AMWELL IN THE COUNTY OF HUNTERDON TO ADD CHAPTER 62 "CANNABIS LICENSING, REGISTRATION AND BUSINESS REGULATIONS"

WHEREAS, on February 22, 2021, Governor Murphy signed into law the "New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act" (P.L. 2021, c. 16) (the "NJCREAMMA"), 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;

WHEREAS, section 31a of NJCREAMMA authorizes municipalities by ordinance to adopt regulations governing the number of cannabis establishments (defined in section 3 of the Act as "a cannabis cultivator, a cannabis manufacturer, a cannabis wholesaler, or a cannabis retailer"), cannabis distributors or cannabis delivery services allowed to operate within their boundaries, as well as the location, manner and times of operation of such establishments, distributors or delivery services, and establishing civil penalties for the violation of any such regulations; and

WHEREAS, NJCREAMMA further strengthens municipal control over such uses and allows, at the discretion of the municipality, a tax to be imposed on: receipts from the sale of cannabis by a cannabis cultivator to another cannabis cultivator; receipts from the sale of cannabis items from one cannabis establishment to another cannabis establishment; receipts from the retail sales cannabis items by a cannabis retailer to retail consumers, with each municipality setting its own rate or rates, but in no case shall a rate exceed: two percent of the receipts from each sale by a cannabis cultivator; two percent of the receipts from each sale by a cannabis manufacturer; one percent of the receipts from each sale by a cannabis wholesaler; and two percent of the receipts from each sale by a cannabis retailer.; and

WHEREAS, the Township supports regulations guiding the safe and appropriate siting of cannabis related and supporting businesses within the Township, including medical and adult use cannabis dispensaries, cultivation centers, manufacturing facilities, and testing facilities; and

WHEREAS, on August 18, 2021, the Township adopted Ordinance 06, 2021 establishing Section 109, Part 10, Article XLIII to regulate Cannabis Related Businesses and Chapter 104 establishing a Cannabis Related Transfer Tax; and

WHEREAS, the Township wishes to establish Chapter 62 "Cannabis Business Licensing, Registration and Business Regulations; and

NOW, THEREFORE, BE IT ORDAINED, by the Committee of the Township of West Amwell, County of Hunterdon that the Code of the Township of West Amwell be amended as follows:

Section 1. Chapter 62, CANNABIS BUSINESSES

§130-1 License Required.

The regulations of this Ordinance 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, including

the Cannabis Regulatory Commission. If any provision of this Ordinance is inconsistent with state statutes and/or regulations, the state statutes and/or regulations shall prevail.

The purpose of this article is to enable the Township of West Amwell to take effective action to assure that all cannabis-related businesses advance the requirements of their licensure as regulated by the State of New Jersey, by ensuring the citizens of the Township of West Amwell are provided ample opportunity to participate within this new industry while advancing community development initiatives, including but not limited to; social justice related programming, job training, enhanced recreational opportunities, public health and drug prevention education, and/or support thereof.

§130-2 Definitions.

The terms used in this Chapter shall be as provided for under Chapter 109, Land Development.

§130-3 Permitted locations and limitations on Cannabis Business. Cannabis Businesses shall be prohibited in all other zoning districts within the Township except those specifically permitted in Chapter 109, Land Development. Limitations on cannabis businesses shall be in accordance with those limitations set forth in Chapter 109, Land Development.

§130-4 Local licensing authority. A Township Cannabis Advisory Committee (CAC) as appointed below will act as the body for local review for the Township for all cannabis establishments but the authority and responsibility to activate suspend and revoke such licenses remains with the Township Committee. 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 communicated through the Township Clerk's Office upon recommendation by the Township Cannabis Advisory Committee and authorized by the Township's Governing Body.

A. Members of said CAC shall include residents and business owners located within the Township. The appointees shall include at a minimum one member from the following categories:

- (1) Mayor or Designee
- (2) Township Committee member or Designee
- (3) West Amwell Township Office in Charge or Designee
- (4) Up to Two (2) Appointees by Township Committee of which one shall be a resident and one shall be a member of the Business community

B. The Committee shall be supported by the Township Attorney and Township Planning & Zoning Office. The Committee may request additional resources as necessary to effectuate the responsibilities of the Committee.

C. Of the members of the Committee, no member shall be affiliated with or related to a New Jersey Adult Use Cannabis Business or Medical Cannabis Establishment or prospective licensee, but all shall be resident or business owner of the Township within the past five (5) years.

D. Duties of the Committee will be to advise the Township Governing Body as to the issuance of Cannabis Business Permits within the Township of West Amwell. The CAC's review shall be based on the information contained in the

Request for Proposals issued by the Governing Body and shall be made consistent with the criteria outlined in this Chapter, in addition to the issuance of detailed application criteria made available prior to RFP release.

E. No member of the committee may hold interest in, or be related to an applicant.

F. All meetings of the Committee shall be subject to the Open Public Meetings Act, with minutes kept.

§130-5 Effectiveness. Under no circumstances shall a local permit for a cannabis establishment issued through the Clerk be effective until or unless the State has issued the requisite licenses to operate such a facility. It is the intent of this Chapter that no cannabis establishment may lawfully operate in the Township of West Amwell without the issuance of a State license and full regulatory oversight of the cannabis establishment by the Cannabis Regulatory Commission or other state licensing authority as well as the issuance of a Cannabis Business Permit by the Township.

§130-6 Application. Persons wishing to obtain any classification of cannabis license shall file a license application with the Committee, on a standardized form established by the Committee and available in the Clerk's office once the Township has issued a Request for Proposals (RFP). The Committee shall establish a reasonable application period and deadline for all applications and shall include sufficient notice of the application period opening. Such application period shall be held once annually. An application shall be deemed incomplete and shall not be processed by the Clerk and transmitted to the Committee, until all documents and application fees are submitted. To be deemed complete, all applications shall be accompanied by the following:

- A. The applicant shall submit:
 - 1. 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. 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. Information on the location proposed for licensing by the applicant which shall comply with all applicable municipal zoning laws and the location restrictions set forth in this Code with a Conditional Zoning Permit required.
 - 4. Proof of governance and financial capability, including but not limited to: governance documents, ownership interests, proof of good standing with the State of New Jersey, financial statements, business plan, tax returns, detailed long-term debt description, information on principals, directors and board members, as well as compensation plans. Standards for proof of financial capability shall be presented in strict confidence as determined by the requirements of the CRC.
 - 5. A narrative on the procedures for cultivation, storage and/or dispensing of cannabis, including any recording keeping or inventory control mechanisms, fee schedules and proposed hours of operation
- B. The applicant shall submit a fee for the application for a conditional permit in the amount of \$5,000. Micro-licenses shall submit a fee of \$1,000.
- C. Bi-annual Registration Fees (every 2 years). Upon obtaining a State license shall submit bi-annual registration fees of \$10,000. Micro-licenses shall submit a fee of \$2,000.

- D. Transfer Fees. Assuming authorized by the State, an applicant shall remit a transfer fee of 10% of sale of the license or \$10,000, whichever is greater in addition to assuming the terms agreed to in any Local Host Agreement in force at that time of transfer.
- E. The applicant and the application shall otherwise comply with any and all qualification standards set forth in the State and Township laws or regulations. Including copy of state license application including any supporting documents.

§130-7 Evaluation.

- A. The Committee shall evaluate all applicants and issue a recommendation of award after consideration and evaluation to the Township Governing Body. Presentation by an applicant before the Township Cannabis Committee is required. Any ties shall be broken by the Township Committee. Each application shall be reviewed within the confines of the license category being sought. (For example, a retailer should focus on customer service, marketing, branding and architectural presentation, and public access issues, while a cultivation, distribution, wholesale operation on security, job environment, truck access and loading, and security. Micro-licenses should focus on their business plan and tangentially related experiences and support structures.). Subjectivity in regard to personal tastes and aesthetic matters should be restrained in favor of the thoroughness and level of detail by which an applicant responds. Prior to issuing the request for applications §130-7 the Committee shall establish and publish final criteria and weight categories in accordance with any applicable laws and regulations, which shall be timestamped. Generally, the Committee shall utilize the following upon finalizing criteria for publication:
 - (1) Applicant's owners' or principals' qualifications and experience operating in highly regulated industries, including cannabis, but also healthcare, pharmaceutical manufacturing, retail pharmacies, or other relevant industries with preference to experience operating such businesses within the State of New Jersey.
 - (2) Applicant's brand and proposal for the physical presence of the business. Including but not limited to: the site's ability to meet all land use regulations (parking, landscaping, signage, etc.), handle future expansions if applicable, architectural treatments, customer experience (where applicable), etc.
 - (3) A summary of the applicant's operational plans; including, but not limited to: storage of products, currency and transport, physical security, video surveillance, security personnel, and visitor management.
 - (4) Applicant's orientation to research and development of Cannabis. Including but not limited to: its owners' experience conducting, supporting, and/or future plans to conduct institutional review board-approved research related to medical cannabis or substance abuse. Include whether the applicant has had any assurance accepted by the U.S. Department of Health & Human Services indicating the applicant's commitment to complying with 45 CFR Part 46 (human subjects); and whether the applicant has a research collaboration or partnership agreement in effect with an accredited U.S. school of medicine, or osteopathic medicine with experience conducting cannabis-related research, or other institutions of higher learning dedicated to cannabis research or occupational training
 - (5) Applicant's or its owners' demonstrated commitment or sufficient experience as responsible employers, defined as the applicant entity being a committed to a local program in collaboration with organizations committed to the well-being of residents, including, but not limited to the Township and surrounding service area. Provide evidence in letters of support and agreements. (Local workforce hiring and development plan, Community service, Collaborations with a university or

specialized training facility such as, but limited to Vo-Tech, and dedicated support to social justice initiatives.).

- (6) Summary of the applicant's environmental impact/mitigation, and sustainability plan; whether the applicant entity or its parent company has any recognitions from or registrations with federal or New Jersey state environmental regulators for innovation in sustainability; and whether the applicant entity or its parent company holds any certification under international standards demonstrating the applicant has an effective environmental management system or has a designated sustainability officer to conduct internal audits to assess the effective implementation of an environmental management system.
 - (7) Applicant's demonstrated commitment to the community and any ties to the host community demonstrated by at least one shareholder's proof of residency in the Township for five or more years in the past ten years, or at least one shareholder's continuous ownership of a business based in town for five or more years in the past ten years.
 - (8) Applicant's experience and/or commitment to community health related programs and associated charitable organizations, including but not limited to, particular attention toward prevention of drug and alcohol abuse including but limited to youth and vulnerable persons both locally and regionally.
 - (9) Diversity in its ownership composition and hiring practices; Including applicant's commitment to utilize local sources of labor and associated building materials.; Applicant's commitment to supporting and working with local micro-licensees, including but not limited to contracting with and/or training/mentorship; The applicant entity or its parent company holds any certifications as a NJ minority-owned, women-owned, or veteran-owned business.
- B. Annually, up to two (2) applicants for a Cannabis Retailer may be recommended to the Governing Body for their consideration in granting a conditional Township Cannabis Business Permit with all scores, application submittals and recommendations in a detailed report to be submitted to Committee for their consideration. Upon receipt of the Committee's recommendation, the Committee reserves the right ask for public presentations when and where appropriate as part of their review process.

§130-8 Award of Township Cannabis License

- A. Notwithstanding the foregoing competitive application process, a notification of award and conditional license shall entitle the recipient applicant to pursue a State license in the requisite classification for up to 12 months, which may be extended in the Township Committee's discretion for an additional 6 months for good cause. No business may operate until the applicant has received a State license and satisfied other prerequisites of municipal permit. If the recipient of a notice of award and conditional permit has not received a State permit or license within 12 months from issuance, unless extended for good cause, the Township Committee shall issue a new request for applications and evaluate all applicants for licensure under the above criteria.
- B. Term of License and License renewals.
- (1) Any local License issued pursuant to this Chapter that receives a State Cannabis License to operate shall be valid for a period of two (2) years from the date of state issuance and shall be renewed in accordance with the provisions of this Chapter. Upon licensure, the Adult Use Cannabis Business shall seek to obtain all land development approvals, construction permits and be open within one (1) year.

- (2) The Township Committee may, at its discretion, adjust the renewal date of the local license to correlate with an applicant's State licensing and renewal schedule.
 - (3) Renewal of any license shall be governed by any code amendments, additional restrictions or changes in regulations adopted since the previous license was issued or renewed in addition to any history of property maintenance and zoning code violations.
 - (4) Transfer of ownership of any local license or change of location of any license or modification to expand a licensed premise shall be subject to Township Committee review and Commercial property/tenant transfers and associated inspections. Such review shall be in accordance with 139-8 Evaluation (above).
 - (5) Except where the Committee has received a complete renewal application along with the requisite fees, and has issued a license renewal, it shall be unlawful for any person to manufacture, sell, distribute, transfer, transport, or otherwise remove cannabis or cannabis products from the premises of any license after the expiration date recorded on the face of the license.
- C. Award. In the event more than one application for a Cannabis Retailer or Medical Cannabis Dispensary is submitted to the Township which is too close in proximity to another application, the Township is not permitted to approve all of the applications because of the limitations set forth in this subsection. The Township Committee in consultation with the Committee's application evaluation shall make a determination if reasonable accommodations can be made to eliminate the conflict.
- D. The conditional Local Host Agreement with the Township shall be contingent upon State license approval. Upon receipt of a State License, the local host agreement shall be fully executed. No applicant shall commence operation in the Township without execution of an Agreement.

§130-9 Disciplinary Actions; Sanctions; Penalties

- A. Disciplinary actions. Procedures for investigation of permit violations and for suspension, revocation, or other permit sanctions as a result of any such violation shall be as follows:
- (1) First offense: Up to \$250 per violation per day;
 - (2) Second offense: Up to \$500 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 Permittee 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 temporary summary suspension order for the immediate suspension of the permit and notice to the Cannabis Regulatory Commission pending further investigation.
- (1) The temporary summary suspension order shall be in writing and shall state the reasons therefore.
 - (2) The Township shall convene a review panel from the Committee of at least 3 members. The hearing shall be scheduled within 30 days of the date of the temporary suspension order.
 - (3) The permittee shall be afforded an opportunity for a hearing as outlined herein.

(4) The review panel shall review the matter and recommend whether a full suspension of the license is warranted as well as whether any fine, condition, restriction, or combination thereof is authorized. In the absence of State specified penalties, the Township may issue fines up to, but not to exceed, \$2,500 per offense and/or suspension of permit for a period not to exceed 6 months. The Township Committee may affirm, amend or deny any recommended action.

- C. Inactive permits. Following the commencement of retail sales of cannabis or cannabis products, the Township Committee may suspend or revoke any permit if a permitted premises have been inactive or unoccupied by the permittee for at least 6 months.
- D. State license. The Township Committee may suspend or revoke any permit if the corresponding State license for the subject location is expired, surrendered, suspended, or revoked.

Section 4 Severability. Should any section, clause, sentence, phrase or provision of this article be declared unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the remaining portions of this article.

Section 5 Repealer. All prior ordinances or parts of same inconsistent with any provisions of this article are hereby repealed to the extent of such inconsistency.

Section 6 Effective Date. This ordinance shall take effect upon final adoption and publication in accordance with law.

This Ordinance shall be in full force and effect from and after its adoption and any publication as required by law.

ATTEST

By Order of the Township Committee

Maria Andrews, Township Clerk, RMC

James Cally, Deputy Mayor

Introduced: 8/18/21

Adopted: 9/15/21