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Township of Union, NJ / Part II: General Legislation

Chapter 252

Cannabis Business Permits

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[HISTORY: Adopted by the Township Committee of the Township of Union 7-28-2021 by Ord. No. 5706. Amendments noted where applicable.]

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§ 252-1 Purpose.

A. The regulations of this chapter 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 chapter is inconsistent with state statutes and/or regulations, the state statutes and/or regulations shall prevail.

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

§ 252-2 Definitions. Definitions as provided for under Chapter 170, Land Development.

§ 252-3 Limitation on cannabis businesses.

A. Buffering. [Amended 3-22-2022 by Ord. No. 5726] (1) Cannabis dispensaries are not permitted within a drug-free school zone. (2) Standalone cultivation centers and manufacturing facilities are not included within this prohibition if the secured facility does not contain a cannabis dispensary or have public access and is otherwise properly situated in accordance with this chapter.

B. The number of cannabis dispensaries located within the Township shall be limited as follows: set at a maximum of one per 12,000 residents for cannabis dispensaries. There are no limits on the other license classes. Micro licenses are included within this limitation. Standalone cultivation centers and manufacturing facilities are not included within this prohibition if the secured facility does not contain a cannabis dispensary or have public access and is otherwise properly situated in accordance with this chapter.

C. In the event more than one land use application for a cannabis dispensary, cultivation center or manufacturing facility of the same classification are submitted to the Township in close proximity to one another, and if the applications comply with all the requirements of this chapter and the Act, the Township is not permitted to approve all of the applications because of the limitations set forth in this section. The Township shall first review for approval the application that was first submitted and determined to be a complete and compliant application by the Township Planner or Zoning Officer.

§ 252-4 Permitted locations. Cannabis businesses shall be prohibited in all other zoning districts within the Township except those specifically permitted in Chapter 170, Land Development.

§ 252-5 Local licensing authority. A Township Cannabis Advisory Committee (CAC) appointed by the Township governing body will act as the body for local review 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 communicated through the Township Clerk's Office upon recommendation by the sign-off 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 Administrator or designee. (3) Economic Development Director. (4) Union Township Police Director or designee. (5) Township Planning Board Chair or Designee. (6) Township Planner and/or Zoning Official. (7) Corporation Counsel.

B. Duties of the Committee will be to advise the Township governing body as to the issuance of cannabis business permits within the Township of Union based on the issuance of request for proposals issued by the governing body and the establishment of the criteria presented herein.

§ 252-6 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 Union 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.

A. Classification of licenses. Consistent with the state classification of licenses, the Township, subject to local land use approval and/or zoning permit, and state licensure, may issue the following municipal permits to operate a cannabis establishment: (1) Class I: Cannabis Cultivator. (2) Class II: Cannabis Manufacturer. (3) Class II: Cannabis Wholesaler. (4) Class IV: Cannabis Distributor. (5) Class V: Cannabis Retailer - including microbusiness retailer. (6) Class VI: Cannabis Delivery.

B. Issuance of municipal permits. The Township Cannabis Committee shall set the number of local cannabis permits issued annually but may not exceed the total number of such permitted at any given time as set forth in this chapter. Notwithstanding, the maximum amount of application for state licensure that the Township shall consider endorsing for the first period (August 21, 2021 to December 31, 2022), regardless of the maximum number set forth in § 252-3, is set forth as follows: (1) Class I: Cannabis Cultivator: two. (2) Class II: Cannabis Manufacturer: two. (3) Class II: Cannabis Wholesaler: one. (4) Class IV: Cannabis Distributor: one. (5) Class V: Cannabis Retailer - including microbusiness retailers: two. (6) Class VI: Cannabis Delivery: one.

§ 252-7 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. 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 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.

B. The applicant shall submit an affidavit and documentary proof of compliance with all state and local laws regarding affirmative action, antidiscrimination 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.

C. The location proposed for licensing by the applicant shall comply with all applicable municipal zoning laws and the location restrictions set forth in this Code with a conditional zoning permit required.

D. The applicant shall submit, to the satisfaction of the Committee, proof of financial capability to open and operate the marijuana establishment for which the applicant is seeking a license. Standards for proof of financial capability shall be presented in strict confidence as determined by the requirements of the CRC.

E. 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.

F. Biannual registration fees. Upon obtaining a state license, shall submit biannual registration fees of \$10,000. Micro-licenses shall submit a fee of \$2,000.

G. Upon receipt of a conditional Union Township cannabis license, the cannabis business shall enter into a contribution agreement with the Township when, upon receipt of a state license, will ratify the proposal put forth in the application. Such an agreement will include any and all proposed community programs, public service proposals, security, and mitigation of any community impacts agreed upon.

H. The applicant and the application shall otherwise comply with any, and all qualification standards set forth in the state and Township laws or regulations.

§ 252-8 Evaluation.

A. The Committee shall evaluate all applicants and issue a recommendation of award

after consideration and evaluation of the following criteria to the Township governing body. Presentation by applicant before the Township Cannabis Committee is required. Each application should be reviewed within the confines of the license category being sought. For example, a retail dispensary 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 (200 points total): (1) Applicant's owners' or principals' qualifications and experience operating in highly regulated industries, including cannabis, health care, pharmaceutical manufacturing, and retail pharmacies, with preference to experience operating such businesses within the State of New Jersey. Total 20% (40 points), not to exceed 2,500 words; (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.), architectural treatments, customer experience (where applicable). Total 10% (20 points), not to exceed 1,000 words; (3) A summary of the applicant's operational plans, including, but not limited to, storage of products and currency, physical security, video surveillance, security personnel, and visitor management. Total 10% (20 points), not to exceed 2,500 words; (4) Applicant's orientation to research and development of cannabis. Including but not limited to its owners' experience conducting or supporting or plans to conduct institutional review board-approved research related to medical cannabis or substance abuse. Whether the applicant has had any assurance accepted by the U.S. Department of Health and Human Services indicating the applicant's commitment to complying with 45 CFR Part 46; 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. Total 5% (10 points), total not to exceed 2,500 words; (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. (Five percent for a local workforce hiring and development plan, 5% for community service, 5% for collaborations with a university or specialized training facility such as, but limited to, Vo-Tech, and dedicated support to social justice initiatives.) Total 15% (30 points), total not to exceed 2,500 words; (6) Summary of the applicant's environmental impact/mitigation, and sustainability plan (4%, not to exceed 500 words); whether the applicant entity or its parent company has any recognitions from or registrations with

B. Notwithstanding the foregoing competitive application process, a notification of award and conditional municipal permit 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 Committee's discretion for an additional six 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 Administrator shall issue a new request for applications and evaluate all applicants for licensure under the above criteria.

C. Term of permit and permit renewals. (1) Any local permit issued pursuant to this chapter that receives a State Cannabis License to operate shall be valid for a period of two years from the date of state issuance and shall be renewed in accordance with the provisions of this chapter. (2) The 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 Planning review and zoning approval. (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.

§ 252-9 Mobile delivery of cannabis products. Cannabis products may be transferred or delivered, consistent with the requirements of the Act. Mobile facilities shall not be permitted unless expressly authorized under the Act or permitted by the Permitting Authority, and approved by special permit by the Township.

§ 252-10 Operation of multiple cannabis businesses at single location. A person may vertically integrate a facility permitted by this chapter at a single location as long as it is in full compliance with the requirements of the Act and Chapter 170, Land Development. Further, if part of an academic research school, and/or cannabis training or mentorship program, multiple licenses may be permitted at a single location as long as it is in full compliance with the requirements of the Act and Chapter 170, Land Development.

§ 252-11 Requirements applicable to all cannabis businesses.

A. Samples of cannabis products offered for sale may be displayed on shelves, counters and display cases. All bulk cannabis products shall be locked within a separate vault or safe, with no other items in the safe, securely fastened to a wall or floor, as coordinated with the Union Township Police Department and allowable under Permitting Authority regulations and state legislation.

B. Dispensaries/retailers may sell "cannabis paraphernalia" as that term is defined in Chapter 170 to registered qualifying patients only and shall be exempt from the prohibitions contained in other sections of Chapter 170, Land Development.

C. Signage. (1) External signage, including window signage, must be limited to text identifying the business and the logo for the business, provided that said logo does not include a cannabis plant leaf and/or outward glorification of cannabis consumption, where applicable. (2) All other Township sign regulations must be complied with.

D. Must adhere to the provisions of Chapter 170, Land Development.

E. Security and reporting. (1) Surveillance system. (a) Cannabis establishments shall be monitored at all times by closed-circuit television surveillance system. Security cameras shall be in use 24 hours per day, seven days per week, and shall cover all cannabis dispensing areas, storage areas, all doors and windows with access into the cannabis establishment, parking areas, if applicable, and any other areas not mentioned if deemed necessary by the Chief of Police or his/her designee. The surveillance system must be capable of providing surveillance of both interior and exterior areas of the cannabis establishment and must be of adequate quality, color rendition and resolution to allow the ready identification of an individual on or adjacent to the site. (b) The security cameras must be internet protocol (IP) cameras capable of providing real time footage over the internet. Operators must provide the Union Township Police Department with access to this real-time camera footage in case of an emergency. (c) The recordings shall be maintained at the cannabis operation for a period of not less than 30 days and shall be provided to the Township Police Department within 24 hours of a written request from the Police Department for any recordings. (2) Outside areas of the premises and the perimeter shall be lit in accordance with Township regulations and all doors equipped with motion-sensored lights. (3) The Union Township Police Department shall be provided the name and phone number of a staff person to notify during suspicious activity during or after operating hours (4) Security staff is required on the premises during all hours of operation. (5) The premises must only be accessed by authorized personnel and free of loitering. (6) All cultivation of cannabis shall take place in an enclosed, locked facility. (7) Storage of currency. All currency over \$1,000 shall be stored within a separate vault or safe, not used for the storage of medical cannabis, securely fastened to a wall or floor, as approved by the Union Township Police Department. (8) Cannabis establishments shall comply with all security requirements as established by state law and regulations, as they may be updated from time to time, in addition to coordination with the Union Township Police Department.

F. No products to be visible from public places. Cannabis plants, products, accessories, and associated paraphernalia contained in any cannabis business shall not be visible from a public sidewalk, public street or right-of-way, or any other public place. On-site storage of usable cannabis shall comply with 21 CFR 1301.72.

G. No beer or alcohol on premises. No fermented malt beverages and no alcoholic beverages shall be kept, served or consumed on the premises of a cannabis business.

H. Storage of products. All products and accessories shall be stored completely indoors and on-site in accordance with the Act and the Permitting Authority regulations.

I. Cannabis consumption areas. No consumption or smoking of any cannabis products shall be allowed or permitted on the premises or adjacent grounds of a cannabis business unless specially permitted through a consumption area permit as part of a licensed dispensary. Cannabis consumption areas may be permitted in the future subject to amendments of the Chapter 170, Land Development, and the following conditions: (1) No cannabis dispensary shall be permitted to operate a consumption area within 200 feet of any residential zoning district of the Township or any single-family residential zoning district of any adjacent municipality. (2) If cannabis will be consumed by smoking or vaping, the cannabis dispensary must comply with the New Jersey Smoke-Free Air Act (N.J.S.A. 26:3D-55 et seq.) and associated regulations (N.J.A.C. 8:6-1.1 et seq.). (3) Only cannabis items purchased on-site at the cannabis dispensary shall be consumed within the consumption area. (4) The Consumption area shall be limited to medical patients ONLY and endorsed by the State Cannabis Regulatory Commission. (5) Each licensed cannabis dispensary may operate only one cannabis consumption area. (6) The cannabis consumption area shall comply with the definition set forth herein and be either: (a) An indoor, structurally enclosed area of the licensed cannabis dispensary that is separate from the area in which retail sales of cannabis items occur; or (b) An exterior structure on the same premises as the dispensary, either separate from or connected to the dispensary.

J. Prevention of emissions and disposal of materials. (1) Sufficient measures and means of preventing smoke, odors, debris, dust, fluids and other substances from exiting the cannabis business premises shall be provided at all times. In the event that any debris, dust, fluids or other substances shall exit the business premises, the property owner and operator shall be jointly and severally responsible for the full cleanup immediately. (2) Businesses shall properly dispose of all materials and other substances in a safe and sanitary manner in accordance with state regulations. (3) As applicable, cannabis businesses shall be equipped with ventilation systems with carbon filters sufficient in type and capacity to eliminate cannabis odors emanating from the interior to the exterior of the premises discernible by reasonable persons. The ventilation system must be inspected and approved by the Construction Official. (4) If carbon dioxide will be used in any cultivation area, sufficient physical barriers or a negative air pressure system shall be in place to prevent carbon dioxide from moving into the ambient air, into other units in the same building or into an adjacent building in a concentration that would be harmful to any person, including persons with respiratory disease and shall be inspected and approved by the Construction Official and the Fire Marshal. (5) All state regulations concerning ventilation systems shall be followed.

K. Compliance with other codes. Any cannabis business and the adjacent grounds of the cannabis business shall comply with all zoning, health, building, fire, and other codes and ordinances of the Township as shown by completed inspections and approvals by the Township Planner, Construction Division, Fire Safety Division, and the Township Health Department, if applicable.

L. No harm to public health, safety or welfare. The premises of a cannabis business, and any adjacent grounds thereto, shall be operated in a manner that does not cause any substantial harm to the public health, safety and welfare.

M. Additional requirements. At the time a site plan approval is granted, amended, or a major change to a cannabis business is approved, the Township may impose on the applicant any condition related to the proposed use that is reasonably necessary to protect the public health, safety or welfare, not inconsistent with the Permitting Authority requirements, including but not limited to the following: (1) Additional security requirements; (2) Limits and requirements on parking and traffic flows; (3) Requirements for walls, doors, windows, locks and fences on the premises and adjacent grounds; (4) Limits on cannabis products that may be sold; (5) Requirements and limits on ventilation and lighting; (6) Limits on noise inside the licensed premises or on the adjacent grounds; (7) Prohibitions on certain conduct in the cannabis business; (8) Limits on hours of operation.

N. Penalty for violation. Any violation of the provisions of this subsection or the conditions of the zoning permit granted, by a cannabis business shall be punishable by a civil fine of up to \$1,000. Each day that a violation is committed, exists or continues shall be deemed a separate and distinct offense. In addition, any violation of the provisions of this subsection, or any conditions imposed by the zoning permit, may result in the revocation of the zoning permit.

O. Relationship to any redevelopment plan, and the Township zoning and site plan standards.
To the extent any provisions of the Township redevelopment plans, zoning and site plan standards conflict with this section, the provisions and standards of this section shall control.

§ 252-12 Disciplinary actions; sanctions; violations and 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 Committee 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 Committee may enter a summary suspension order for the immediate suspension of the permit and notice to the Cannabis Regulatory Commission pending further investigation. (1) The summary suspension order shall be in writing and shall state the reasons therefor. The licensee shall be afforded an opportunity for a hearing as outlined herein. (2) The Committee shall convene a review panel. 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, suspensions, 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 to exceed, \$2,500 per offense and/or suspension of license for a period not to exceed six months.

C. Inactive licenses. Following the commencement of retail sales of cannabis or cannabis products, the Administrator may suspend or revoke any permit if a licensed premises have been inactive or unoccupied by the licensee for at least six months.

D. State license. The Committee may suspend or revoke any permit if the corresponding state license for the subject location is expired, surrendered, suspended, or revoked.