

**TOWNSHIP OF UPPER
COUNTY OF CAPE MAY
O R D I N A N C E**

ORDINANCE NO. 002-2026

**RE: AN ORDINANCE AMENDING CHAPTER 4, GENERAL LICENSING, OF THE CODE OF
UPPER TOWNSHIP, IN ORDER TO ESTABLISH ANNUAL LICENSING AND REGISTRATION
FEES IN RELATION TO CANNABIS RETAIL AND DELIVERY BUSINESSES**

WHEREAS, pursuant to N.J.S.A. 40:52-1, *et seq.* the Township of Upper is provided with the power to license and regulate commercial activities within its jurisdiction; and

WHEREAS, pursuant to N.J.S.A. 40:52-2, the Township of Upper “may fix the fees for all such licenses, which may be imposed for revenue, and may prohibit all unlicensed persons and places and vehicles, businesses, and occupations from acting, being used, conducted, or carried on” within its jurisdiction; and

WHEREAS, on November 3, 2020, registered New Jersey voters approved, by a ratio of 67.08% voting in favor of legalizing cannabis and 32.92% against, Public Question No. 1, which amended the New Jersey Constitution to allow for the legalization of cannabis for adults at least twenty-one (21) years of age; and

WHEREAS, on February 22, 2021, New Jersey Governor Philip Murphy signed the ‘New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act’ (the “Act”), N.J.S.A. 24:6I-1, *et seq.*, into law, which effectively legalized cannabis throughout the state of New Jersey; and

WHEREAS, the Act legalized the recreational use of cannabis and established a comprehensive regulatory and licensing scheme for the creation of a commercial cannabis industry within the state of New Jersey and by creating six (6) distinct classes of commercial cannabis licenses related to growing, processing, distributing, wholesale, delivery, and retail uses; and

WHEREAS, in light of the overwhelming number of New Jersey voters, specifically voters residing in the Township of Upper, the Township Committee of the Township of Upper finds it appropriate to exclusively permit one (1) Class 5 Cannabis Retail License to operate within the Township of Upper and the Township Committee further finds that it is necessary to amend Chapter 4 of the Code of the Township of Upper pertaining to General Licensing in order to permit said cannabis retail license within the Township of Upper; and

WHEREAS, pursuant to the Act, specifically N.J.S.A. 24:6I-45(c)(2), “a municipality may impose a separate local licensing or endorsement requirement as a part of its restrictions on the number of cannabis establishments, distributors, or delivery services, or their location, manner, or times of operation;” and

WHEREAS, in light of the fact that the Township Committee of the Township of Upper has elected to permit one (1) Class 5 Cannabis Retail License to operate within the Township of Upper, the Township Committee finds it appropriate to promulgate and enact licensing requirements in order to regulate same.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Township Committee of the Township of Upper, County of Cape May, and State of New Jersey as follows:

SECTION 1. Chapter 4, Section 4-7, is hereby enacted to incorporate a new section titled “Cannabis Retail Licenses”, which shall read as follows:

Chapter 4-7.1 - Cannabis Retail Licenses. Businesses approved by the Township of Upper and the New Jersey Cannabis Regulatory Commission to be engaged in the sale of cannabis items within the Township of Upper shall pay an annual licensing fee as follows:

- (1) Class 5 Cannabis Retail Licenses: \$7,500.00.

Chapter 4-7.2 – Required License Renewal Date. Licensed cannabis retail businesses shall be required to renew their annual license on or before December 1st of each calendar year in which the license is active.

Chapter 4-7.3 – Cannabis License Application Procedure. The Township of Upper has determined that the issuance of any Class 5 Cannabis Retail License shall be subject to a successful applicant’s proposal that is submitted pursuant to a Request for Proposals (“RFP”) that contains evaluation criteria that is determined to be necessary and appropriate for the awarding of such Class 5 Cannabis Retail License by the Township of Upper, in its sole and absolute discretion. Such RFP evaluation criteria shall be publicly posted on the Township of Upper’s website and shall be made available to any interested member of the general public who requests same.

Chapter 4-7.4 – Cannabis License Application Fee. The Township of Upper has determined that an application fee in the amount of Ten Thousand (\$10,000.00) Dollars shall accompany any application submitted in response to an RFP for the issuance of a Class 5 Cannabis Retail License. The application fee shall be made up of a Five Thousand (\$5,000.00) Dollar non-refundable administrative fee and a Five Thousand (\$5,000.00) Dollar refundable escrow fee that will be returned to any applicants who are not selected for issuance of a Class 5 Cannabis License. Any successful applicant who receives a Class 5 Cannabis Retail License from the Township of Upper shall not be entitled to a return of the escrow fee.

SECTION 2. All other ordinances in conflict or inconsistent with this Ordinance are hereby repealed to the extent of such conflict or inconsistency.

SECTION 3. Should any section, paragraph, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid for any reason, the remaining portions of this Ordinance shall not be affected thereby and shall remain in full force and effect, and to this end the provision of this Ordinance are hereby declared to be severable.

SECTION 4. This Ordinance shall become effective twenty (20) days after final passage and publication according to law.

NOTICE IS HEREBY GIVEN THAT THE FOREGOING ORDINANCE WAS INTRODUCED FOR FIRST READING AT A MEETING OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER HELD ON THE 12TH DAY OF JANUARY, 2026 AT THE TOWNSHIP HALL, AND WILL BE TAKEN UP FOR CONSIDERATION AS TO FINAL ADOPTION AT A PUBLIC HEARING OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER TO BE HELD ON THE 23RD DAY OF FEBRUARY, 2026 AT 6:30 P.M. AT THE TOWNSHIP HALL, PETERSBURG, NEW JERSEY.

JOANNE R. HERRON, TOWNSHIP CLERK
TOWNSHIP OF UPPER