

**THE DISTRICT OF COLUMBIA
ALCOHOLIC BEVERAGE AND CANNABIS BOARD**

In the Matter of:)
)
UpnSmoke IV, LLC)
t/a TBD)
)
Applicant for a New)
Medical Cannabis Retailer License)
)
at premises)
3289 M Street, N.W.)
Washington, D.C. 20007)
_____)

Case No.: 24-PRO-00010
License No.: ABRA-126975
Order No.: 2024-096

BEFORE: Donovan Anderson, Chairperson
James Short, Member
Silas Grant, Jr., Member

ALSO PRESENT: UpnSmoke IV, LLC, t/a TBD, Applicant

Zack Learman, Counsel, on behalf of the Applicant

Gwendolyn Loshe, Chairperson, Advisory Neighborhood Commission
(ANC) 2E, Protestant

Martha Jenkins, General Counsel
Alcoholic Beverage and Cannabis Administration

**ORDER ON SETTLEMENT AGREEMENT AND WITHDRAWAL OF ANC 2E’S
PROTEST**

The official records of the Alcoholic Beverage and Cannabis Board (Board) reflect that UpnSmoke IV, LLC, t/a TBD, (Applicant), Applicant for a New Medical Cannabis Retailer License and Advisory Neighborhood Commission (ANC) 2E have entered into a Settlement Agreement (Agreement), dated February 27, 2024, that governs the operations of the Applicant’s establishment.

The Agreement has been reduced to writing and has been properly executed and filed with the Board. The Applicant and Commissioner Mimsy Lindner, on behalf of ANC 2E, are signatories to the Agreement.

This Agreement constitutes a withdrawal of the Protest filed by ANC 2E.

Accordingly, it is this 13th day of March 2024, **ORDERED** that:

1. The Application filed by UpnSmoke IV, LLC, t/a TBD, for a New Medical Cannabis Retailer's License, located at 3289 M Street, N.W., Washington, D.C. 20007, is **GRANTED**;
2. The Protest of ANC 2E in this matter is hereby **WITHDRAWN**;
3. The above-referenced Settlement Agreement submitted by the Parties to govern operations of the Applicant's establishment is **APPROVED** and **INCORPORATED** as part of this Order; and
4. Copies of this Order shall be sent to the Parties.

District of Columbia
Alcoholic Beverage and Cannabis Board

eSigned via SeamlessDocx.com
Donovan Anderson
Key: ac432b9b59d5f0e4d730693d1dccc8

Donovan Anderson, Chairperson

eSigned via SeamlessDocx.com
James Short
Key: 547ae373f820de6ac8e1b332d22948e

James Short, Member



Silas Grant, Jr., Member

Pursuant to 23 DCMR §9723.1 (2003) any party adversely affected may file a Motion for Reconsideration of this decision within ten (10) days of service of this Order with the Alcoholic Beverage and Cannabis Administration, 2000 14th Street, N.W., Suite 400S, Washington, DC 20009.

Also, pursuant to section II of the District of Columbia Administrative Procedure Act, Pub. L. 90-614, 82 Stat. 1209, D.C. Official Code §2-510 (2001), and Rule 15 of the District of Columbia Court of Appeals, any party adversely affected has the right to appeal this Order by filing a petition for review, within thirty (30) days of the date of service of this Order, with the District of Columbia Court of Appeals, 430 E Street, N.W., Washington, D.C. 20001; (202/879- 1010). However, the timely filing of a Motion for Reconsideration pursuant to 23 DCMR §1719.1 (2008) stays the time for filing a petition for review in the District of Columbia Court of Appeals until the Board rules on the motion. See D.C. App. Rule 15(b) (2004).

SETTLEMENT AGREEMENT

27/02/2024

This Settlement Agreement (the “Agreement”) is entered into on ~~the~~ 27/02/2024 day of _____, 2024 by and between UpNSmoke IV LLC t/a UpNSmoke (the “Applicant”) and Advisory Neighborhood Commission 2E (ANC 2E), collectively the “Parties”, pursuant to D.C. Code § 25-446.

RECITALS

WHEREAS, the Applicant applied for a medical cannabis retailer license (ABCA–126975) with a delivery endorsement at 3289 M Street NW, Washington DC (the “Premises). The Premises was placarded on December 15th, 2023.

WHEREAS, the Applicant and ANC 2E desire to enter into a voluntary Settlement Agreement which memorializes the terms and conditions under which ANC 2E has agreed to support Applicant’s licensure at the Premises.

WHEREAS, the terms and conditions contained herein, are intended to ensure that the Applicant operates in manner that promotes neighborhood peace, order and quiet, preserves, safety, security and sanitation around the Premises and protects residential parking; and

WHEREAS, all terms of this Agreement are in compliance with relevant sections of the District of Columbia Official Code (“D.C. Code”) and the District of Columbia Municipal Regulations (“D.C.M.R.”).

NOW, THEREFORE, in consideration of the recitals set forth above and the mutual covenants set forth below, the Parties agree as follows:

AGREEMENT

1. Nature of Business. The Applicant has applied for a medical cannabis retail license to provide medical cannabis products to qualifying patients and caregivers registered by the District of Columbia. The Applicant intends to operate subject to the terms and conditions of its license, permit or endorsement issued by the Board.

2. Hours of Operation.

- a. The Applicant’s hours of operation will be from 9 a.m. to 9 p.m. daily.
- b. The Applicant will be open for medical cannabis retail sales from 10 a.m. to

8 p.m. daily.

- c. The Applicant will maintain visible signage at the entrance to the Premises that clearly identifies the hours of operation for medical cannabis retail sales, and signage that states the age and ID requirements.

3. Noise. The Applicant will take reasonable steps to ensure that there are no sounds, music, noises, bass or vibrations emanating from the interior Premises that will be audible in the exterior of the Premises. There will be no speakers attached to the exterior of the building.

4. Outdoor Signage: The Applicant agrees to abstain from the use of neon, LED or novelty signage, blinking lights, or any other electric light-up signage in any form or location inside or out as part of its signage or internal design, ensuring such elements are neither incorporated into the signage nor visible from the exterior of the Premises. No signage will be used that has not received all necessary signage approvals and authorizations as required by the District of Columbia Department of Consumer and Regulatory Affairs, and any other applicable District of Columbia body. Signage such as sandwich boards or other sidewalk displays that are placed in public space anywhere in ANC 2E are strictly prohibited.

5. Deliveries. The Applicant will require all its vendors, including other medical cannabis licensees, to make all deliveries no earlier than 10 a.m. and no later than 8 p.m. daily. As stated in #15 of this agreement, the applicant will strongly encourage all contracted vendors and contractors to park in a legally designated parking or delivery space.

6. Notice and Enforcement of Ban on On-Premises or Outdoor Consumption of Cannabis. The Applicant will post signage at the front entrance to the Premises, which states: "Smoking, ingesting, or consuming medical cannabis on the premises is strictly prohibited." The Applicant will further advise qualifying patients and caregivers, either verbally or by written notice at the time of purchase, that medical cannabis can only be consumed in a residence or a safe use treatment facility and cannot be consumed on a street, sidewalk or in a public place. If the Applicant, its employees, or agents know that a person has consumed alcohol, cannabis, medical cannabis, or narcotics within 100 feet of the Premises on public space, the Applicant shall report the incident to the MPD.

7. Prevention of Illegal Cannabis Sales.

- a. The Applicant or its agents must request that all qualifying patients and caregivers seeking to purchase medical cannabis show valid identification before distributing medical cannabis to qualified patient or caregiver. If a qualifying patient or caregiver

fails to show valid identification, then the Applicant will be prohibited from distributing medical cannabis to the qualifying patient or caregiver.

- b. When the Applicant permits or allows caregivers or qualifying patients under the age of 21 into the Premises, at least one identification check shall occur at the time the qualifying patient or caregiver attempts to purchase or obtain medical cannabis. Once the Applicant or its agents confirm that the qualifying patient or caregiver is eligible or obtain medical cannabis, no additional identification checks are required under this subsection.
- c. The Applicant will report all attempts by unqualified persons to purchase medical cannabis illegally to ABCA and MPD.

8. Home Deliveries: This ANC would rather that NO Home Deliveries are processed in any Georgetown location. If Home Deliveries are implemented: The Applicant will institute and maintain a process, other than self-affirmation, to verify:

- a) The qualifying patient or caregiver recipient of a medical cannabis home delivery is physically present at the residence and is the same person who placed the order.
- b) Pursuant to ABCA regulations, Applicant shall maintain a delivery manifest to track delivery of cannabis to and document receipt of each delivery.
- c) For home deliveries to a patient or caregiver under 18 years old, the delivery of cannabis is handed directly to the patient's adult parent or guardian.

9. Maintenance of Public Space. The Parties acknowledge that various commercial businesses and residents are in close proximity to the Premises. The Applicant will ensure that the public sidewalk (up to and including the curb) in front of the entrance to the Premises are free of litter, bottles, cans, cigarette butts, trash and other debris in compliance with relevant D.C. Code and D.C.M.R. provisions at least twice daily during the hours of operation. To curtail nuisances related to cigarette smoke the Applicant agrees to post signage at the front entrance to the Premises, which states, "No Smoking within 25 feet of the Entrance." and that medical cannabis cannot be consumed in DC on a street, sidewalk or in a public place.

10. Managing Trash and Recycling. The Applicant will contract with a trash and recycling contractor to provide appropriate containers for trash and recycling designed to prevent rodent intrusion. The Applicant will require its trash and recycling contractors to pick up trash and recycling no earlier than 7 a.m. and no later than 7 p.m. daily. The Applicant will comply with all ABCA regulations regarding the disposal of medical cannabis waste.

11. Rodent and Vermin Control. The Applicant will contract with a professional, licensed rodent, pest and vermin control company to provide control, as necessary, for the interior and exterior of the Premises.

12. Cooperation in Stemming Illegal Activity in the Vicinity of the Premises. To the full extent permitted by law, the Applicant will discourage illegal activities, including the consumption of cannabis and alcohol, in the vicinity of the Premises. The Applicant will use its best efforts to prohibit illegal or disruptive activities in the vicinity of the Premises and will maintain contact with the MPD and ABCA as appropriate.

13. Responding to Incidents in the Vicinity of the Premises. The Applicant shall comply with all existing laws and regulations related to documenting and reporting violent/threatening incidents, medical emergencies, and fire safety emergencies which occur inside the Premises to ABCA, the MPD and other government agencies in accordance with any time period mandated by law if know. The Applicant will report criminal conduct committed by persons within 100 feet of the establishment to MPD and will refuse to sell medical cannabis to any person engaging in criminal conduct while inside the establishment. The reporting requirements contained in this Section shall be satisfied by using 311 or 911 to report the incident.

14. Behavior of Qualifying Patients and Caregivers. During the hours of operation, the Applicant will make commercially reasonable efforts to prevent qualifying patients and caregivers from causing noise or disturbances, in front of, or immediately adjacent to the Premises as they enter and exit the Premises. The Applicant will take reasonable measures to prevent a qualifying patient or caregiver that is behaving in an unruly or disruptive manner from entering the Premises; and will refuse to sell medical cannabis to any qualifying patient or caregiver that exhibits unruly or disruptive behavior while inside the Premises.

15. Parking and Traffic Mitigation.

- a. The Applicant will discourage its employees, vendors and qualifying patients from parking their vehicles illegally in areas with time limited or resident-only parking. The Applicant will encourage its employees to use public transportation, walk, electronic-cycle or bicycle to the Premises.
- b. The Applicant shall strongly encourage vendors and contractors to park legally and, as reasonably necessary, work with DDOT, DPW or the appropriate District agency to resolve issues related to illegal parking by its vendors and contractors.
- c. The Applicant will notify qualifying patients, on its website or through other

advertising or marketing, that parking in the vicinity of the Premises is extremely limited and will encourage qualifying patients to utilize public transportation, bicycle, electronic-cycle or walk to the Premises.

16. Availability of Settlement Agreement. The Applicant agrees to make copies of this Agreement available at Premises at all times and will ensure that its employees are familiar with the terms of this Agreement.

17 Security Plan. The Applicant shall comply with the terms of its Security Plan on file with the ABC Board.

18. Compliance with ABCA Regulations. The Applicant will abide by all D.C. Code provisions and ABCA regulations related to the ownership and operation of a medical cannabis licensee.

19. Community Engagement. The Applicant will make reasonable efforts to hire members of the community and participate in community events. The Applicant will also regularly engage with organizations that serve the community.

20. Binding Effect. This Agreement will be binding upon and enforceable against the successors or assigns of the Applicant.

21. Notice and Opportunity to Cure. If ANC 2E considers the Applicant to be in breach of this Agreement, and before ANC 2E seeks intervention by another D.C. government entity, ANC 2E agrees to give Applicant 10 calendar days' notice and opportunity to cure. If the Applicant fails to begin the cure during those 10 calendar days, such failure will constitute cause for ANC 2E to file a complaint with the Alcoholic Beverage and Cannabis Administration. Any notices required to be made under this Agreement will be made in writing and sent via email to the Parties' or their designated representatives at the addresses below:

If to the Applicant:

UpNSmoke IV LLC t/a UpNSmoke
Attn: Zack Learman
zlearman@mandijapllc.com

If to ANC 2E:

Advisory Neighborhood Commission 2E

2E@anc.dc.gov

Any party may change its notice address by written notice to the other. Failure to give notice shall not constitute a waiver of or acquiescence to the violation, but notice will be a prerequisite to the filing of a complaint with the ABC Board or any other enforcement action related to this Agreement.

21. Entire Agreement. This Agreement replaces, in full, any previous agreements between Applicant and ANC 2E.

22. Counterpart; Facsimile Signature. This Agreement may be executed in two or more counterparts which together shall constitute a single agreement. Execution of this Agreement may be made by any electronically transmitted signature, which shall constitute an original signature.

23. Modifications. This Agreement constitutes the only agreement between the Parties and may be modified only by the written agreement of the Parties.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

ADVISORY NEIGHBORHOOD COMMISSION ANC 2E

Mimsy Lindner

Mimsy Lindner (Feb 27, 2024 12:55 EST)

By: Mimsy Lindner

Title: Advisory Neighborhood Commissioner, 2E

THE APPLICANT

Ahmad Chami

Ahmad Chami (Feb 27, 2024 13:33 EST)

By: Ahmad Chami

Title: Member, on Behalf of UpnSmoke IV, LLC









UpnSmoke IV 3289 M Street NW, Settlement Agreement Final

Final Audit Report

2024-02-27

Created:	2024-02-27
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