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## AGENDA

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### **BOROUGH OF WASHINGTON, WARREN COUNTY, NJ**

**July 20, 2021 SPECIAL**

**7:00 PM**

**\*REVISED**

#### **STATEMENT OF ADEQUATE NOTICE**

The requirements of the Open Public Meetings Law, P.L. 1975, Chapter 231 have been satisfied in that adequate notice of this meeting has been published in the Express-Times (Warren County Edition) and posted on the Boroughs website stating the time, place and purpose of the meeting as required by law.

**ROLL CALL** Conry, Cox, Duchemin, Heinrich, Noone, Norris, Higgins.

#### **AUDIENCE/COUNCIL APPEARANCE**

Remarks, petitions, statements and testimony from guests

- Approve Warren Hills Regional School District contract for use of Municipal Pool

#### **ORDINANCE-1<sup>st</sup> READING**

ORDINANCE 2021-07

AN ORDINANCE OF THE BOROUGH OF WASHINGTON  
TO AMEND THE BOROUGH CODE TO PERMIT CANNABIS ESTABLISHMENTS IN  
CERTAIN ZONES AND TO IMPOSE A CANNABIS TRANSFER TAX

**ADJOURNMENT** \_\_\_\_\_ P.M.

**\*BOROUGH OF WASHINGTON  
COUNTY OF WARREN, NEW JERSEY**

**ORDINANCE 2021-07**

**AN ORDINANCE OF THE BOROUGH OF WASHINGTON  
TO AMEND THE BOROUGH CODE CODE TO PERMIT CANNABIS  
ESTABLISHMENTS IN CERTAIN ZONES AND TO IMPOSE A CANNABIS  
TRANSFER TAX**

**WHEREAS**, the Jake Honig Compassionate Use Medical Cannabis Act, N.J.S.A. 24:6I-2, et seq. (the “CUMA”), which permits the authorized medical use of cannabis, was amended on July 2, 2019, further clarifying the Borough’s ability to control the proposed location of medical cannabis dispensaries, cultivation centers and manufacturing facilities, and permitting the Borough to impose a transfer tax at a uniform percentage rate not to exceed 2% on the purchase price of any medical cannabis dispensed by a medical cannabis dispensary located in the Borough; and

**WHEREAS**, in 2020 the voters of the State of New Jersey approved Public Question No. 1, which endorsed the legalization of cannabis for adults at least 21 years of age; and

**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 “CREAMMA”), 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**, CREAMMA establishes six marketplace classes of licensed businesses, including:

- Class 1 Cannabis Cultivator license, for facilities involved in growing and cultivating cannabis;
- Class 2 Cannabis Manufacturer license, for facilities involved in the manufacturing, preparation, and packaging of cannabis items;
- Class 3 Cannabis Wholesaler license, for facilities involved in obtaining and selling cannabis items for later resale by other licensees;
- Class 4 Cannabis Distributer license, for businesses involved in transporting cannabis plants in bulk from on licensed cultivator to another licensed cultivator, or cannabis items in bulk from any type of licensed cannabis business to another;

- Class 5 Cannabis Retailer license for locations at which cannabis items and related supplies are sold to consumers; and
- Class 6 Cannabis Delivery license for businesses providing courier services for consumer purchases that are fulfilled by a licensed cannabis retailer in order to make deliveries of the purchased items to a consumer, and which service would include the ability of a consumer to make a purchase directly through the cannabis delivery service which would be presented by the delivery service for fulfillment by a retailer and then delivered to a consumer.

**WHEREAS**, Section 31a of CREAMMA 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**, Section 31b of the Act authorizes municipalities by ordinance to prohibit the operation of any one or more classes of cannabis establishments, distributors, or delivery services anywhere in the municipality; and

**WHEREAS**, Section 31b of the Act also stipulates, however, that any municipal regulation or prohibition must be adopted within 180 days of the effective date of the Act (*i.e.*, by August 22, 2021); and

**WHEREAS**, pursuant to Section 31b of the Act, the failure to do so shall mean that for a period of five years thereafter, the growing, cultivating, manufacturing, selling and reselling of cannabis and cannabis items shall be permitted uses in all industrial zones, and the retail selling of cannabis items to consumers shall be a conditional use in all commercial and retail zones; and

**WHEREAS**, NJCREAMMA 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 Borough supports safe and appropriate siting of cannabis related and supporting businesses within the Borough, including medical and adult use cannabis dispensaries delivery services; and

**WHEREAS**, the Borough wishes to amend its zoning ordinances to permit cannabis dispensaries as a conditional use and delivery services as an accessory use in the B-1 and B-2 Districts; and

**WHEREAS**, the Borough Council has determined that the retail sale of cannabis items to consumers is encompassed within the general meaning of “retail trade store”, which is a permitted use in the B-1 and B-2 Districts; and

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**WHEREAS**, the Borough Council has determined that cannabis cultivators, wholesalers, manufacturers, and distributors are “industrial and manufacturing uses,” which are permitted in the Industrial District; and

**WHEREAS**, the Borough Council finds it necessary pursuant to the Act to set forth conditions governing said uses in the afore-mentioned zoning districts; and

**WHEREAS**, cannabis uses shall be prohibited in any district where not specifically permitted;

**WHEREAS**, this ordinance shall not be construed to prohibit home growing of cannabis products in the event such is permitted by the New Jersey Legislature in the future.

**WHEREAS**, the Borough wishes to further amend its zoning ordinances to impose a cannabis transfer tax; and

**NOW, THEREFORE, BE IT ORDAINED**, by the Mayor and Council of the Borough of Washington County of Warren that the Code of the Borough of Washington be amended as follows:

**Section 1.** Section 94-5 of the Borough Code entitled “Definitions” is amended to add the following definitions:

## **ACT**

Collectively refers to CUMA and CREAMMA.

## **ALTERNATIVE TREATMENT CENTER**

An organization issued a permit pursuant to the “Jake Honig Compassionate Use Medical Cannabis Act,” P.L.2009, c.307 (C.24:6I-1 et al) to operate as a medical cannabis cultivator, medical cannabis manufacturer, medical cannabis dispensary, or clinical registrant, as well as any alternative treatment center deemed pursuant to section 7 of that act (C.24:6I-7) to concurrently hold a medical cannabis cultivator permit, a medical cannabis manufacturer permit, and a medical cannabis dispensary permit. This definition shall be consistent with CUMA and all amendments thereto.

## **CUMA**

The New Jersey Jake Honig Compassionate Use Medical Cannabis Act, P.L. 2009, c. 307 (approved January 18, 2010), amended by P.L. 2019, c. 153 (approved July 2, 2019), codified at N.J.S.A. 24:6I-1 et seq.

## **CREAMMA**

The New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (P.L. 2021, c. 16); legalizes personal use cannabis for certain adults, subject to State regulation; decriminalizes small amount marijuana and hashish possession; removes marijuana as a Schedule I drug.

## **CANNABIS**

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All parts of the plant *Cannabis sativa* L whether growing or not, the seeds thereof, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds, except those containing resin extracted from the plant, which are cultivated and, when applicable, manufactured for use in cannabis products as set forth in the NJCREMMA, but shall not include the weight of any other ingredient combined with cannabis to prepare topical or oral administrations, food, drink, or other product. “Cannabis” does not include: medical cannabis dispensed to registered qualifying patients pursuant to the “Jake Honig Compassionate Use Medical Cannabis Act,” P.L.2009, c.307 (C.24:6I-1 et al.) and P.L.2015, 47 c.158 (C.18A:40-12.22 et al.); marijuana as defined in N.J.S.2C:35-2 and applied to any offense set forth in chapters 35, 35A, and 36 of Title 2C of the New Jersey Statutes, or P.L.2001, c.114 (C.2C:35B-1 et seq.), or marihuana as defined in section 2 of P.L.1970, c.226 (C.24:21-2) and applied to any offense set forth in the “New Jersey Controlled Dangerous Substances Act,” P.L.1970, c.226 (C.24:21-1 et al.); or hemp or a hemp product cultivated, handled, processed, transported, or sold pursuant to the “New Jersey Hemp Farming Act,” P.L.2019, c.238 (C.4:28-6 et al.) as long as said hemp does not contain more than the State and/or Federal allowable limits of Delta-8-Tetrahydrocannabinol or Delta-9-Tetrahydrocannabinol, the compound commonly known as THC. This definition shall be consistent with the CREAMMA and all amendments thereto.

## **CANNABIS CONSUMPTION AREA**

A designated location operated by a licensed cannabis retailer or permit holder for dispensing medical cannabis, for which both a State and local endorsement has been obtained, that is either: (1) an indoor, structurally enclosed area of the cannabis retailer or permit holder that is separate from the area in which retail sales of cannabis items or the dispensing of medical cannabis occurs; or (2) an exterior structure on the same premises as the cannabis retailer or permit holder, either separate from or connected to the cannabis retailer or permit holder, at which cannabis items or medical cannabis obtained from the retailer or permit holder may be consumed. This definition shall be consistent with the CREAMMA and all amendments thereto.

## **CANNABIS CULTIVATOR**

Any licensed person or entity that grows, cultivates or produces cannabis in this State, and sells, and may transport, this cannabis to other cannabis cultivators, or usable cannabis to cannabis manufacturers, cannabis wholesalers, or cannabis retailers, but not to consumers. This person or entity shall hold a Class 1 Cannabis Cultivator license. This definition shall be consistent with the CREAMMA and all amendments thereto.

## **CANNABIS DELIVERY SERVICE**

Any licensed person or entity that provides courier services for consumer purchases of cannabis items and related supplies fulfilled by a cannabis retailer in order to make deliveries of the cannabis items and related supplies to that consumer, and which services include the ability of a consumer to purchase the cannabis items directly through the cannabis delivery service, which after presenting the purchase order to the cannabis retailer for fulfillment, is delivered to that consumer. This person or entity shall hold a Class 6 Cannabis Delivery license. This definition shall be consistent with the CREAMMA and all amendments thereto.

## **CANNABIS DISTRIBUTOR**

Any licensed person or entity that transports cannabis in bulk intrastate from one licensed cannabis cultivator to another licensed cannabis cultivator, or transports cannabis items in bulk intrastate from any one class of licensed cannabis establishment to another class of licensed cannabis establishment and may engage in the temporary storage of cannabis or cannabis items as necessary to carry out transportation activities. This person or entity shall hold a Class 4 Cannabis Distributor license. This definition shall be consistent with the CREAMMA and all amendments thereto.

## **CANNABIS ESTABLISHMENT**

A cannabis cultivator, cannabis manufacturer, cannabis wholesaler, or cannabis retailer as defined herein and in the CREAMMA.

## **CANNABIS RETAILER**

Any licensed person or entity that purchases or otherwise obtains usable cannabis from cannabis growers and cannabis items from cannabis manufacturers or cannabis wholesalers and sells these to consumers from a retail store. Cannabis retailers shall hold a Class 5 Cannabis Retailer License pursuant to the CREAMMA. This definition shall be consistent with the CREAMMA and all amendments thereto.

## **CANNABIS MANUFACTURER**

Any licensed person or entity that processes cannabis items in this State by purchasing or otherwise obtaining usable cannabis, manufacturing, preparing, and packaging cannabis items, and selling, and optionally transporting, these items to other cannabis manufacturers, cannabis wholesalers, or cannabis retailers, but not to consumers. This person or entity shall hold a Class 2 Cannabis Manufacturer license. This definition shall be consistent with the CREAMMA and all amendments thereto.

## **CANNABIS PARAPHERNALIA**

Any equipment, products, or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, composting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, vaporizing, or containing cannabis, or for ingesting, inhaling, or otherwise introducing a cannabis item into the human body. "Cannabis paraphernalia" does not include drug paraphernalia as defined in N.J.S.2C:36-1 and which is used or intended for use to commit a violation of chapter 35 or 36 of Title 3 2C of the New Jersey Statutes.

## **CANNABIS WHOLESALER**

Any licensed person or entity that purchases or otherwise obtains, stores, sells or otherwise transfers and may transport, cannabis items for the purpose of resale or other transfer to either another cannabis wholesaler or to a cannabis retailer, but not to consumers. This

person or entity shall hold a Class 3 Cannabis Wholesaler license. This definition shall be consistent with the CREAMMA.

## **CAREGIVER**

An Institutional or Designated Caregiver, as defined in the Act, who is authorized to assist with a registered qualifying patient's medical use of cannabis.

## **CLINICAL REGISTRANT**

An entity that has a written contractual relationship with an academic medical center in the region in which it has its principal place of business, which includes provisions whereby the parties will engage in clinical research related to the use of medical cannabis and the academic medical center or its affiliate will provide advice to the entity regarding patient health and safety, medical applications, and dispensing and managing controlled dangerous substances, among other areas.

## **MEDICAL CANNABIS DISPENSARY**

An organization issued a permit by the commission that authorizes the organization to: purchase or obtain medical cannabis and related supplies from medical cannabis cultivators; purchase or obtain medical cannabis products and related supplies from medical cannabis manufacturers; purchase or obtain medical cannabis, medical cannabis products, and related supplies and paraphernalia from other medical cannabis dispensaries and from clinical registrants; deliver, transfer, transport, distribute, supply, and sell medical cannabis and medical cannabis products to other medical cannabis dispensaries; furnish medical cannabis, including medical cannabis products, to a medical cannabis handler for delivery to a registered qualifying patient, designated caregiver, or institutional caregiver consistent with the requirements of subsection i. of section 27 of P.L.2019, c.153 (C.24:6I-20); and possess, display, deliver, transfer, transport, distribute, supply, sell, and dispense medical cannabis, medical cannabis products, paraphernalia, and related supplies to qualifying patients, designated caregivers, and institutional caregivers. A medical cannabis dispensary permit shall not authorize the permit holder to cultivate medical cannabis, to produce, manufacture, or otherwise create medical cannabis products.

## **MEDICAL USE OF CANNABIS**

The acquisition, possession, transport or use of cannabis or paraphernalia by a registered qualifying patient as authorized by the CUMA.

## **PERMITTING AUTHORITY**

The entity responsible for the regulation and enforcement of activities associated with the production and/or sale of cannabis. This shall include the New Jersey Department of Health and the Cannabis Regulatory Commission, established pursuant to section 31 of P.L.2019, c. 153 (C.24:6I-24), which shall assume all powers, duties, and responsibilities with regard to the regulation and oversight of activities authorized pursuant to P.L.2009, c. 307 (C.24:6I-1 et al.) from the Department of Health for the further development, expansion, regulation, and enforcement of activities associated with the medical use of cannabis pursuant to P.L.2009, c. 307 (C.24:6I-1 et al.). This shall also include any Borough Cannabis Committee or entity set up for the review and local licensing of Cannabis

Businesses.

## **QUALIFYING PATIENT OR PATIENT**

A resident of the State of New Jersey who has been authorized for medical use of cannabis by a health care practitioner, and who has been registered by the Permitting Authority as a registered qualifying patient.

## **USABLE CANNABIS**

The dried leaves, flowers, stems, stalks of a Cannabis Sativa plant, including any mixture manufactured as a tincture, ointment, salve, or products prepared for oral digestion, but does not include the seed or roots of the plant.

**SECTION 2.** Section 94-80 of the Borough Code entitled “B-1 Highway Business District shall be amended by adding subsection (C) entitled “Conditional Uses” and subsection (D) entitled “Accessory Uses” as follows:

### **C. Conditional Uses**

- (1) **Cannabis Retailers.** Cannabis Retailers are permitted as a conditional use, provided that the applicable conditions set forth in Section 94-86.3 are met.
- (2) **Alternative Treatment Centers and Medical Cannabis Dispensaries.** Alternative Treatment Centers and Medical Cannabis Dispensaries are permitted as conditional uses, provided that the applicable conditions set forth in Section 94-86.3 are met.

### **D. Accessory Uses**

- (1) **Cannabis Delivery Services.** Cannabis Delivery Services shall be permitted as an accessory use to Cannabis Retailers, Alternative Treatment Centers and Medical Cannabis Dispensaries in the B-1 District. Nothing herein shall be interpreted to restrict the transportation or deliveries of cannabis items to consumers within the Borough in compliance with the CREAMMA.

**SECTION 3.** Section 94-81 of the Borough Code entitled “B-2 Central Business District shall be amended by adding subsection (C) entitled “Conditional Uses” and subsection (D) entitled “Accessory Uses” as follows:

### **C. Conditional Uses**

- (1) **Cannabis Retailers.** Cannabis Retailers are permitted as a conditional use, provided that the applicable conditions set forth in Section 94-86.3 are met.
- (2) **Alternative Treatment Centers and Medical Cannabis Dispensaries.** Alternative Treatment Centers and Medical Cannabis Dispensaries are permitted as conditional uses, provided that the applicable conditions set forth in Section 94-86.3 are met.

### **D. Accessory Uses**

- (1) **Cannabis Delivery Services.** Cannabis Delivery Services shall be permitted as an accessory use to Cannabis Retailers, Alternative Treatment Centers, and Medical



Cannabis Dispensaries in the B-2 District. Nothing herein shall be interpreted to restrict the transportation or deliveries of cannabis items to consumers within the Borough in compliance with the CREAMMA.

**SECTION 4.** Section 94-8 of the Borough Code entitled, “Industrial District” is hereby amended by adding subsection (C) entitled “Conditional Uses” as follows:

C. Conditional Uses.

- (1) **Cannabis Cultivators.** Cannabis Cultivators are permitted as a conditional use, provided that the conditions set forth in Section 94-86.3(B) are met.
- (2) **Cannabis Manufacturers.** Cannabis manufacturers are permitted as a conditional use, provided that the conditions set forth in Section 94-86.3(C) are met.
- (3) **Cannabis Wholesalers.** Cannabis Wholesalers are permitted as a conditional use, provided that the applicable conditions set forth in Section 94-86.3(D) are met.
- (4) **Cannabis Distributors.** Cannabis Distributors are permitted as a conditional use, provided that the applicable conditions set forth in Section 94-86.3(E) are met.

**SECTION 5.** Section 94-86.3 of the Borough Code entitled “Conditional Uses, Cannabis Establishments” shall be added as follows:

A. **Cannabis Establishments as Conditional Uses.** Cannabis Establishments shall be prohibited in all zoning districts within the Borough unless specifically permitted herein. Cannabis Establishments as set forth below shall be permitted as conditional uses in certain zones. The purpose of this section is to set forth the requirements and procedures applicable to permitting certain Cannabis Establishments as conditional uses, in accordance with N.J.S.A. 40:55D-67. Such uses may be permitted when authorized as a conditional use by the Land Use Board, including site plan approval and (if necessary) a conditional use variance approval pursuant to N.J.S.A. 40:55D-70(d)(3). Cannabis Establishments shall comply with additional requirements set forth in Section 94-86.3(H). Nothing herein shall prohibit the Borough from adopting a redevelopment plan permitting any type of Cannabis Establishment in a designated redevelopment area.

B. **Cannabis Cultivators.** Cannabis Cultivators are permitted in the Industrial Districts subject to the following conditions.

- (1) All conditions applicable to Cannabis Manufacturers set forth in subsection (C) below.
- (2) The cultivation of cannabis must be conducted indoors and shall not be permitted on exterior portions of a lot, unless under Special Permit for the Cultivation of Hemp that is in conformance with Federal Agriculture Improvement Act of 2018 (2018 Farm Bill). The cultivation of cannabis within a building or unit must not be perceptible from the exterior of the building or unit from a street or residential use.

C. **Cannabis Manufacturers.**

- (1) Proof that the operator maintains all valid State of New Jersey licenses and approvals, and that all such licenses and/or approvals remain in good standing pursuant to the CREAMMA.
- (2) Compliance with the height, setback and other applicable requirements of the zone district in which they are located.
- (3) Site Plan Approval and Conditional Use Approval by the Land Use Board, with notice of any public hearing provided in accordance with N.J.S.A. 40:55D-12. The application for site plan approval shall include a traffic impact assessment prepared by a New Jersey licensed professional engineer having appropriate experience and education. The traffic impact assessment shall provide a description of the impact and effect of the proposed Cannabis Manufacturer upon all roads which are adjacent to or immediately affected by traffic and shall specifically address the following items:
  - (a) Existing conditions in the vicinity of the proposed project including: the roadway network, representative traffic counts, not during holiday or summer periods (or with appropriate statistical adjustments for counts during the summer months), traffic accident statistics, availability of public transportation, level of service of adjacent roadways.
  - (b) Traffic generated by the proposed development including trip generation, trip distribution, modal split, level of service under proposed conditions.
  - (c) Traffic impacts caused by the proposed development.
  - (d) Recommendations for alleviating or diminishing any possible congestion or disruption to the established traffic pattern.
  - (e) Any other information requested by the Planning Board or Zoning Board reasonably required to make an informed assessment of potential traffic impacts.
- (4) In compliance with Section 37(b) of the NJ CREAMMA, Manufacturing Facilities are not permitted on land that is valued, assessed or taxed as an agricultural or horticultural use pursuant to the "Farmland 6 Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.).
- (5) Location of Cannabis Manufacturers.
  - (a) Cannabis Manufacturer shall not be located within a Drug-Free School Zone (i.e. within 1,000 feet of school property used for school purposes which is owned by or leased to any elementary or secondary school or school board), which shall be generally measured from the subject property line to property line.
  - (b) Cannabis Manufacturers shall not be located within 1,000 feet of property used for residential purposes at the time of application or property zoned primarily for single family residential use (i.e. the R-1, R-2, R-3, R-4, R-6, and AR-7 Districts).

- (c) Cannabis Manufacturers shall not be located within 1,000 feet of a church or house of worship.
- (6) **Security.** Secured in accordance with all applicable provisions as defined in the Act and outlined in Section 94-86.3(H)(3).
- (7) **Storage of Product.** The storage or possession of cannabis or cannabis paraphernalia within a building or unit must not be perceptible from the exterior of the building or unit from a street or residential use. Cannabis plants, products, accessories, and associated paraphernalia contained in any Cannabis Establishment shall not be visible from a public sidewalk, public street or right-of-way, or any other public place. All products and accessories shall be stored completely indoors and on-site in accordance with the Act and the Permitting Authority regulations.
- (8) **Signage.** No signage other than directional or discrete building identification shall be permitted. Signage shall remain innocuous and part of the general directional signage typically found in industrial facilities. Facade signs will be limited to those at the point of entry to the facility and may not be more than six square feet. Except as modified herein, all other Borough sign regulations must be complied with.
- (9) **Parking.** Off-street parking shall be provided consistent with the zone in which the Cannabis Manufacturer is located and Section 94-53 of the Borough Code. Parking for Cannabis Manufacturers shall be provided for as industrial uses.
- (10) **Noise, Odors, and Light.**
- (a) unusual odors, smells, fragrance or other olfactory stimulants shall be prohibited. Odor mitigation filtration systems must be installed and maintained in perfect working order.
  - (b) light pollution, glare or brightness resulting from glow lamps must be 0.5 candle or less at the property line.
  - (c) noise beyond the decibel level permitted by Borough noise ordinances shall be prohibited.
- D. **Cannabis Wholesalers.** Cannabis Wholesalers are permitted in Industrial Districts subject to the same conditions as Cannabis Manufacturers set forth in subsection (C) above.
- E. **Cannabis Distributors.** Cannabis Distributors are permitted in the Industrial Districts subject to the same conditions as Cannabis Manufacturers set forth in subsection (C) above.
- F. **Cannabis Retailers.** Cannabis Retailers are permitted in the B-1 and B-2 Districts, subject to the following conditions.
- (1) Proof that the operator maintains all valid State of New Jersey licenses and approvals, and that all such licenses and/or approvals remain in good standing pursuant to the CREAMMA.

- (2) Compliance with the height, setback and other applicable requirements of the zone district in which they are located.
- (3) **Issuance of zoning permit and site plan approval by the Land Use Board.** The application for site plan approval shall include a traffic impact assessment prepared by a New Jersey licensed professional engineer having appropriate experience and education. The traffic impact assessment shall provide a description of the impact and effect of the proposed Cannabis Retailer upon all roads which are adjacent to or immediately affected by traffic and shall specifically address the following items:
  - (a) Existing conditions in the vicinity of the proposed project including: the roadway network, representative traffic counts, not during holiday or summer periods (or with appropriate statistical adjustments for counts during the summer months), traffic accident statistics, availability of public transportation, level of service of adjacent roadways.
  - (b) Traffic generated by the proposed development including, trip generation, trip distribution, modal split, level of service under proposed conditions.
  - (c) Traffic impacts caused by the proposed development.
  - (d) Recommendations for alleviating or diminishing any possible congestion or disruption to the established traffic pattern.
  - (e) Any other information requested by the Land Use Board reasonably required to make an informed assessment of potential traffic impacts.
- (4) **Limitation of Number of Cannabis Retailers within the Borough.**
  - (a) A maximum of two (2) Cannabis Retailers shall be permitted within the Borough. This limitation is inclusive of Medical Cannabis Dispensaries and Alternative Treatment Centers.
  - (b) In the event multiple land use applications for Cannabis Retailers are submitted to the Borough in close proximity to one another, and if the applications comply with all the requirements of this chapter and the Act, the Borough is not permitted to approve all of the applications because of the limitations set forth in this subsection. The Borough shall first review for approval the application that was first submitted and determined to be a complete and compliant application by the Borough Planner or Zoning Officer.
- (5) **Location of Cannabis Retailers.**
  - (a) No Cannabis Retailer shall be located within 1,500 feet from any other Cannabis Retailer, excluding Alternative Treatment Centers and Medical Cannabis Dispensaries only selling Medical Cannabis, which shall be generally measured from the subject property line to property line.
  - (b) Cannabis Retailers shall not be located within a Drug-Free School Zone (i.e. within 1,000 feet of school property used for school purposes which is owned

by or leased to any elementary or secondary school or school board).

- (c) Cannabis Retailers shall not be located within 500 feet of property used for residential purposes at the time of application or property zoned primarily for single family residential use (i.e. the R-1, R-2, R-3, R-4, R-6, and AR-7 Districts).
  - (d) Cannabis Retailers shall not be located within 1,000 feet of a church or house of worship.
  - (e) In the event land use applications for Cannabis Retailers that are within 1,500 feet of one another are submitted to the Borough in close proximity to one another, and if the applications comply with all the requirements of this chapter and the Act, the Borough is not permitted to approve all of the applications because of the limitations set forth in this subsection. The Borough shall first review for approval the application that was first submitted and determined to be a complete and compliant application by the Borough Planner or Zoning Officer.
- (6) **Hours of Operation.** Limit their hours of operation from 9:00 a.m. to 9:00 p.m., Monday to Sunday, or as otherwise provided for within a special use permit.
  - (7) **Security.** Secured in accordance with all applicable provisions as defined in the Act and outlined in Section 94-86.3(H)(3).
  - (8) **Storage of Product.** The storage or possession of cannabis or cannabis paraphernalia within a building or unit must not be perceptible from the exterior of the building or unit from a street or residential use. Cannabis plants, products, accessories, and associated paraphernalia contained in any Cannabis Establishment shall not be visible from a public sidewalk, public street or right-of-way, or any other public place. All products and accessories shall be stored completely indoors and on-site in accordance with the Act and the Permitting Authority regulations.
  - (9) **Signage.** 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, cannabis paraphernalia, and / or outward glorification of cannabis consumption. All other Borough sign regulations must be complied with.
  - (10) **Cannabis Consumption Areas.** Use or consumption of marijuana or cannabis in any manner shall not be permitted within the Cannabis Retailer's facility, whether in the building or on its grounds or parking lots. Cannabis Consumption Areas are not permitted.
  - (11) Drive thru facilities are not permitted.
  - (12) **Parking.** Off-street parking shall be provided consistent with the zone in which the Cannabis Retailer is located and Borough Code Section 94-53. Parking for Cannabis Retailers shall be provided for as retail stores. Parking spaces may be reserved for the exclusive use of delivery vehicles.

Dispensaries and Alternative Treatment Centers are permitted in the B-1 and B-2 Districts subject to the same conditions as Cannabis Retailers set forth in subsection (F) above.

#### H. **Additional Requirements for Cannabis Establishments.**

##### (1) **Sale of Product.**

- (a) Cannabis Retailers may only sell useable cannabis products to persons over 21 years of age.
- (b) Cannabis Retailers may sell "cannabis paraphernalia" as that term is defined in the Borough Code and the CREAMMA to persons over 21 years of age and registered qualifying patients only.

(2) 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 Washington Township Police Department and allowable under Permitting Authority regulations and state legislation.

##### (3) **Security and Reporting.**

###### (a) Surveillance System.

- (i) 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.
- (ii) The security cameras must be Internet Protocol (IP) cameras capable of providing real time footage over the internet. Operators must provide the Washington Township Police Department with access to this real-time camera footage in case of an emergency.

(b) The recordings shall be maintained at the Cannabis Establishment for a period of not less than thirty (30) days and shall be provided to the Township Police Department within twenty-four (24) hours of a written request from the Police Department for any recordings.

(c) **Lighting.** Outside areas of the premises and the perimeter shall be well lit with dark-sky compliant lighting (i.e., downcast and full cutoff so as to not cause glare or light pollution of the night sky). All doors shall be equipped with motion-sensor lights.

- (d) The Washington 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.
  - (e) Security staff is required on the premises during all hours of operation.
  - (f) The premises must only be accessed by authorized personnel and free of loitering.
  - (g) **Storage of currency.** All currency over \$1,000 shall be stored within a separate vault or safe, not used for the storage of cannabis, securely fastened to a wall or floor, as approved by the Washington Township Police Department.
  - (h) Cannabis Establishments shall comply with all security requirements as established by state law and regulations, as they may be updated from time to time.
- (4) **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 Establishment.
- (5) **No harm to public health, safety or welfare.** The premises of a Cannabis Establishment, 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.
- (6) **Compliance with other codes.** Any cannabis establishment and the adjacent grounds of the cannabis establishment shall comply with all zoning, health, building, fire, and other codes and ordinances of the Borough as shown by completed inspections and approvals by the Borough Planner, Construction Division, Fire Safety Division, and the Borough Health Department, if applicable.
- (7) In the event of a conflict between the Borough bulk standards and the Act or the Permitting Authority's regulations, the Borough shall consider the pertinent statute or regulation as justification of any variance and/or design waiver.
- (8) **Additional requirements.** At the time a site plan approval granted, amended, or a major change to a Cannabis Establishment is approved, the Borough 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:
- (a) Additional security requirements;
  - (b) Limits and requirements on parking and traffic flows;
  - (c) Requirements for walls, doors, windows, locks and fences on the premises and adjacent grounds;
  - (d) Limits on cannabis products that may be sold;
  - (e) Requirements and limits on ventilation and lighting;

- (f) Limits on noise inside the licensed premises or on the adjacent grounds;
- (g) Prohibitions on certain conduct in the cannabis business;
- (h) Limits on hours of operation.

- I. **Penalty for violation.** Any violation of the provisions of this subsection or the conditions of the zoning permit granted, by a Cannabis establishment 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.

**SECTION 6.** Chapter 79, entitled “Taxation,” is hereby amended by adding Article II, entitled “Cannabis Transfer Tax” as follows:

**§ 79-18 Purpose.**

It is the purpose of this article to implement the provisions of the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act, P.L. 2021, (approved February 22, 2021) and The Jake Honig Compassionate Use Medical Marijuana Cannabis Act, P.L. 2009, c. 307 (approved January 18, 2010), amended by P.L. 2019, c. 153 (approved July 2, 2019), codified at N.J.S.A. 24:6I-1 et seq., which authorizes the governing body of a municipality to adopt an ordinance imposing a transfer tax on cannabis products, which shall be in addition to any other tax or fee imposed pursuant to statute or local ordinance or resolution by any governmental entity upon the dispensary.

**§ 79-19 Definitions.**

The definitions set forth in the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (P.L. 2021, c. 16) and the Jake Honig Compassionate Use Medical Marijuana Cannabis Act (N.J.S.A. 24:6I-1 et seq.) are incorporated herein and shall have the same meaning.

**§ 79-20 Medical Cannabis Transfer Tax.**

There is hereby established a medical cannabis transfer tax in the Borough of Washington, which shall be fixed at a uniform percentage rate of 2% on the purchase price of any medical cannabis dispensed by a medical cannabis dispensary in the Borough, including medical cannabis that is furnished by the dispensary to a medical cannabis handler for delivery to a registered qualifying patient or the patient’s caregiver, and which shall be in addition to any other tax or fee imposed pursuant to statute or local ordinance or resolution by any governmental entity upon the dispensary.

**§ 79-21 Adult Use Cannabis Transfer Tax.**

- A. There is hereby established a transfer tax at a uniform percentage rate not to exceed two percent (2%) of the receipts from each sale by a cannabis cultivator; two percent (2%) of the receipts from each sale by a cannabis manufacturer; one percent (1%) of the receipts from each sale by a cannabis wholesaler; and two percent (2%) of the receipts from each sale by a cannabis retailer located in the Borough, which shall be in addition

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to any other tax or fee imposed pursuant to statute or local ordinance or resolution by any governmental entity upon the dispensary.

- B. There is hereby established a user tax at the equivalent transfer tax rates on any concurrent license holder, as permitted by section 33 of P.L. 2021 , c. 16, 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 not otherwise subject to the transfer tax imposed pursuant to paragraph (1) of this subsection, from the license holder's establishment that is located in the Borough to any of the other license holder's establishments, whether located in the Borough or another municipality.

**§ 79-22 Administration of Cannabis Transfer Tax**

- A. The transfer tax or user tax set forth in Sections 79-20 and 79-21 shall be paid to the Borough no later than February 1<sup>st</sup> of each year with a report certified as true and accurate by the Chief Financial Officer, Comptroller, or other similarly situated person showing the gross revenues for the Cannabis Establishment for each month of the preceding year. The Borough may require that the Cannabis Establishment obtain a financial report from an independent accountant certifying as to the annual revenues for the preceding year.
- B. Every Cannabis Establishment required to collect a transfer tax or user tax imposed pursuant to this section shall be personally liable for the transfer tax or user tax imposed, collected, or required to be collected under this section.
- C. The Borough shall enforce the payment of delinquent transfer or user taxes imposed pursuant to this section in the same manner as provided for municipal real property taxes, including the accrual of interest. In the event that the transfer tax or user tax imposed pursuant to this section 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 a parity with and deemed equal to the municipal lien on the parcel for unpaid property taxes due and owing in the same year. The Borough 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.

**SECTION 7.** All Ordinances or parts of Ordinances inconsistent herewith are repealed as to such inconsistencies.

**SECTION 8.** If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

**SECTION 9.** The Borough is hereby directed, upon adoption of this ordinance after public hearing, to publish notice of the passage thereof and to file a copy of this ordinance with the Warren County Planning Board as required by N.J.S.A. 40:55D-16.

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**SECTION 10.** This Ordinance shall take effect upon final passage, publication, and filing with the Warren County Planning Board, all in accordance with the law.

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