

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

ORDINANCE 12, 2023

AN ORDINANCE AMENDING THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF WEST AMWELL IN THE COUNTY OF HUNTERDON TO AMEND CHAPTER 109, "LAND DEVELOPMENT," PART 10 "CANNABIS," ARTICLE XLIII "CANNABIS RELATED BUSINESSES", TO AMEND CHAPTER 62, "CANNABIS" AND TO AMEND CHAPTER 140, "TAXATION," ARTICLE I "CANNABIS TRANSFER TAX", AND TO ADD CHAPTER 111, ARTICLE II, CANNABIS BUSINESS LICENSING.

WHEREAS, the Township Planning Board adopted a Master Plan Reexamination Report in August 2021, which, among other things, recommended changes to the Township's zoning regulations to permit cannabis-related businesses in certain zones and subject to certain conditions; and

WHEREAS, the Township Committee of the Township of West Amwell (the "Township Committee") adopted Ordinance 06-2021 on August 18, 2021 adding Chapter 109, Part 10, entitled "Cannabis" to the Code of the Township of West Amwell (the "Code") to regulate Cannabis related businesses; and

WHEREAS, the Township Committee adopted Ordinance 10-2021 on November 17, 2021, Ordinance 08-2022 on December 7, 2022 and Ordinance 05-2023 on July 19, 2023 to amend the Township Code pertaining to Cannabis Related Businesses; and

WHEREAS, the Township Committee wishes to make revisions to Ordinances 06-2021, 10-2021 and 08-2022, and repeal Ordinance 05-2023 in order to further protect the health, safety, and general welfare of Township residents, as well as to preserve the character of the community; and

WHEREAS, this Ordinance implements changes to the Township's zoning regulations recommended by the August 2021 Master Plan Reexamination Report; and

WHEREAS, pursuant to N.J.A.C. 17:30-5.1(a)(4), a municipality may enact an ordinance imposing a local licensing requirement; and

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

SECTION 1. Chapter 109, LAND DEVELOPMENT, Part 10 Cannabis, Article XLIII "CANNABIS RELATED BUSINESSES" is repealed in its entirety and replaced with the following:

§109-264. Cannabis Related Businesses

A. Definitions. As used in all Code sections pertaining to cannabis, the following terms shall have the meanings indicated:

ACT

Collectively refers to NJ CUMA and NJ CREAMMA.

ALTERNATIVE TREATMENT CENTER (ATC) OR MEDICAL CANNABIS ALTERNATIVE TREATMENT CENTER

As defined in P.L.2021, c.16 C.24:6I-31 et al.) Alternative treatment center means 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. Cultivation and manufacturing, unless within the same structure or property as a dispensary, shall be treated as a separate zoning use category though it may be part of the license issued by the state for a single entity.

CANNABIS

As defined in P.L.2021, c.16 C.24:6I-31 et al.) 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 in for use in cannabis products as set forth in the NJ CREAMMA, 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.

CANNABIS BUSINESS or ESTABLISHMENT

As defined in P.L.2021, c.16 C.24:6I-31 et al.) means a cannabis cultivator, a cannabis manufacturer, a cannabis wholesaler, or a cannabis retailer.

CANNABIS CONSUMPTION AREA:

As defined in P.L.2021, c.16 C.24:6I-31 et al.) 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 license 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 license holder, either separate from or connected to the cannabis retailer or license holder, at which cannabis items or medical cannabis either obtained from the retailer or license holder, or brought by a person to the consumption area, may be consumed.

CANNABIS CULTIVATION CENTER (Class 1 License)

As defined in P.L.2021, c.16 C.24:6I-31 et al.) 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. The person or entity shall hold a Class 1 Cannabis Cultivator License. Medical Cannabis Cultivator is defined below.

CANNABIS DELIVERY SERVICE (Class 6 License)

As defined in P.L.2021, c.16 C.24:6I-31 et al.) 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.

CANNABIS DISPENSARY or CANNABIS RETAILER (Class 5 License)

As defined in P.L.2021, c.16 C.24:6I-31 et al.) any licensed person or entity that purchases or otherwise obtains usable cannabis from cannabis cultivators and cannabis items from cannabis manufacturers or cannabis wholesalers, and sells these to consumers from a retail store, and may use a cannabis delivery service or a certified cannabis handler for the off-premises delivery of cannabis items and related supplies to consumers. A cannabis retailer shall also accept consumer purchases to be fulfilled from its retail store that are presented by a cannabis delivery service which will be delivered by the cannabis delivery service to that customer. This person or entity shall hold a Class 5 Cannabis Retailer License. Medical Cannabis Dispensary is defined below.

CANNABIS DISTRIBUTOR (Class 4 License)

As defined in P.L.2021, c.16 C.24:6I-31 et al.) 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.

CANNABIS MANUFACTURING FACILITY (Class 2 License)

As defined in P.L.2021, c.16 C.24:6I-31 et al.) 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. Medical Cannabis Manufacturer is defined below.

CANNABIS MICROBUSINESS

As defined in P.L.2021, c.16 C.24:6I-31 et al.) Means a person or entity licensed as a cannabis cultivator, cannabis manufacturer, cannabis wholesaler, cannabis distributor, cannabis retailer, or cannabis delivery service that may only, with respect to its business operations, and capacity and quantity of product: (1) employ no more than 10 employees; (2) operate a cannabis establishment occupying an area of no more than 2,500 square feet, and in the case of a cannabis cultivator, grow cannabis on an area no more than 2,500 square feet measured on a horizontal plane and grow above that plane not higher than 24 feet; (3) possess no more than 1,000 cannabis plants each month, except that a cannabis distributor's possession of cannabis

plants for transportation shall not be subject to this limit; (4) acquire each month, in the case of a cannabis manufacturer, no more than 1,000 pounds of usable cannabis and; (5) acquire for resale each month, in the case of a cannabis wholesaler, no more than 1,000 pounds of usable cannabis, or the equivalent amount in any form of manufactured cannabis product or cannabis resin, or any combination thereof; and (6) acquire for retail sale each month, in the case of a cannabis retailer, no more than 1,000 pounds of usable cannabis, or the equivalent amount in any form of manufactured cannabis product or cannabis resin, or any combination thereof. In accordance with P.L.2021, c.16, microbusinesses must be owned in their entirety by current New Jersey residents who have resided in the State for at least the past two years and at least 51 percent of the owners, directors, officers, or employees of the microbusiness shall be residents of the municipality in which the business is located, or a bordering municipality.

CANNABIS WHOLESALER (Class 3 License)

As defined in P.L.2021, c.16 C.24:6I-31 et al.) 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.

CAREGIVER IDENTIFICATION CARD

The New Jersey Medical Marijuana Program Identification Card, which identifies registered caregivers under the Act.

COMMISSION

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 Township Cannabis Committee or entity set up for the review and local licensing of Cannabis Businesses.

DESIGNATED CAREGIVER

Institutional or Designated Caregiver, as defined in P.L.2021 c.16 (C.24:6I-3), who is authorized to assist with a registered qualifying patient's medical use of cannabis.

HOST AGREEMENT

A contract negotiated between West Amwell Township and a Cannabis Business that includes terms and conditions governing the relationship and permitting the Cannabis Business to operate in the municipality.

LICENSE

The documents issued by the Commission pursuant to the Act and local ordinance granting the legal right to operate as a Cannabis Business.

MEDICAL CANNABIS

As defined in P.L.2021, c.16 C.24:6I-31 et al.) means 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, c.158 (C.18A:40-12.22 et al.). “Medical cannabis” does not include any cannabis or cannabis items which is cultivated, produced, processed, and consumed in accordance with P.L.2021, c.16 (C.24:6I-31 et al.).

MEDICAL CANNABIS CULTIVATOR

As defined in P.L.2021, c.16 C.24:6I-3 an organization holding a license issued by the Commission that authorizes the organization to: possess and cultivate cannabis and deliver, transfer, transport, distribute, supply, and sell medical cannabis and related supplies to other medical cannabis cultivators and to medical cannabis manufacturers, clinical registrants, and medical cannabis dispensaries, as well as to plant, cultivate, grow, and harvest medical cannabis for research purposes. A medical cannabis cultivator license shall not authorize the license holder to manufacture, produce, or otherwise create medical cannabis products, or to deliver, transfer, transport, distribute, supply, sell, or dispense medical cannabis, medical cannabis products, paraphernalia, or related supplies to qualifying patients, designated caregivers, or institutional caregivers.

MEDICAL CANNABIS DISPENSARY

As defined in P.L.2021, c.16 C.24:6I-3 an organization issued a license 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 license shall not authorize the license holder to cultivate medical cannabis, to produce, manufacture, or otherwise create medical cannabis products.

MEDICAL CANNABIS MANUFACTURER

As defined in P.L.2021, c.16 C.24:6I-3 an organization issued a license by the Commission that authorizes the organization to: purchase or obtain medical cannabis and related supplies from a medical cannabis cultivator or a clinical registrant; purchase or obtain medical cannabis products from another medical cannabis manufacturer or a clinical registrant; produce, manufacture, or otherwise create medical cannabis products; and possess, deliver, transfer, transport, distribute, supply, and sell medical cannabis products and related supplies to other medical cannabis manufacturers and to medical cannabis dispensaries and clinical registrants. A medical cannabis manufacturer license shall not authorize the license holder to cultivate medical cannabis or to deliver, transfer, transport, distribute, supply, sell, or dispense medical cannabis, medical cannabis products, paraphernalia, or related supplies to registered qualifying patients, designated caregivers, or institutional caregivers.

MEDICAL USE OF CANNABIS

As defined in P.L.2021, c.16 C.24:6I-3 the acquisition, possession, transport, or use of cannabis or paraphernalia by a registered qualifying patient as authorized by P.L. 2009, c. 307(C.24:6I-1 et al.) and P.L.

2015, c. 158(C.18A:40-12.22 et al.). The acquisition, possession, transport or use of cannabis or paraphernalia by a registered qualifying patient as authorized by the CUMA.

MMP IDENTIFICATION CARD

The New Jersey Medical Marijuana Program Identification Card, which identifies registered qualifying patients under the Act.

NJ 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.

NJ 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 Schedule I drug.

PARAPHERNALIA

The definition as provided in N.J.S.A. 2C:36-1.

QUALIFYING PATIENT OR PATIENT

As defined in P.L.2021, c.16 C.24:6I-3, 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 Commission as, a registered qualifying patient.

USABLE CANNABIS

As defined in P.L.2021, c.16 C.24:6I-31 et al.) 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.

VERTICALLY INTEGRATED CANNABIS FACILITY

The co-location or combination of the following activities related to the production of usable cannabis for qualifying patients within a single corporate entity: cultivation, manufacturing, and dispensing. NJ CREAMMA does not permit vertically integrated cannabis facilities with regard to adult use cannabis.

B. Permitted Locations.

Cannabis Establishments and Businesses, both standard and microbusinesses, shall be prohibited in all zoning districts within the Township 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 Planning Board, including site plan approval and (if necessary) a conditional use variance approval by the Zoning Board pursuant to N.J.S.A. 40:55D-70(d)(3). Cannabis Establishments shall comply

with additional requirements set forth in subsections D-N below. Nothing herein shall prohibit the Township from adopting a redevelopment plan permitting any type of Cannabis Establishment in a designated redevelopment area.

- 1) Cannabis Cultivation Centers (Class 1), including Cannabis Cultivation Centers that qualify as Microbusinesses, shall be permitted as conditional uses in the following zones in accordance with this chapter.
 - a) LHC
 - b) NC
 - c) LI
- 2) Cannabis Manufacturing Facilities (Class 2), shall be permitted as conditional uses in the following zones in accordance with this chapter. Cannabis Manufacturers that qualify as a Microbusiness shall not be permitted in any zoning district:
 - a) LHC
 - b) LI
 - c) NC
- 3) Cannabis Wholesalers (Class 3), shall be permitted as a conditional use in the following zones in accordance with this chapter. Cannabis Wholesalers that qualify as a Microbusiness shall not be permitted in any zoning district:
 - a) LHC
 - b) LI
- 4) Cannabis Distributors (Class 4) shall not be permitted in any zoning district.
- 5) Cannabis Dispensaries/Retailers (Class 5) shall be permitted as a conditional use in the following zones in accordance with this chapter. Cannabis Retailers that qualify as a Microbusiness shall not be permitted in any zoning district.
 - a) LHC
 - b) HC
- 6) Cannabis Delivery Service (Class 6) shall not be permitted in any zoning district. Nothing herein shall be interpreted to restrict the transportation or deliveries of cannabis items to consumers within the Township in compliance with the NJ CREAMMA.
- 7) Vertically Integrated Cannabis Facilities, Medical Cannabis Dispensaries and Alternative Treatment Centers are permitted as conditional uses in zones where their component operations are permitted as set forth in subsections 1-6 above and in the Village Center Redevelopment Area as set forth in the applicable Redevelopment Plan.

C. Requirements Applicable to All Cannabis Businesses.

- 1) Adherence to the site design standards of the Township Land Development Ordinances through a review by the Zoning Official, and the Township Planning Board when applicable. The look and design of such facility shall be in keeping with the agricultural nature of the region.
- 2) In compliance with Section 37(b) of the NJ CREAMMA, cannabis businesses are not permitted on land that is valued, assessed or taxed as an agricultural or horticultural use pursuant to the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.).
- 3) Issuance of zoning permit and site plan approval is required.
- 4) Cannabis businesses 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, secondary, school, daycare or school board).
- 5) The Applicant shall provide traffic projections and management plan as may be required by the Township Planning Board.
- 6) The Applicant shall provide a stormwater management plan that satisfies all New Jersey Department of Environmental Protection and Township stormwater control standards as may be required by the Township Planning Board.
- 7) Secured in accordance with all applicable provisions as defined in the Act and outlined in Subsection G below.
- 8) Unusual odors, smells, fragrances or other olfactory stimulants shall be prohibited. Odor control is required and shall prevent all odors from escaping from the buildings on the site, such that the odor cannot be detected by a reasonable person of normal sensitivity within 25 feet of the buildings. The air treatment system shall have sufficient odor absorbing filtration systems utilizing carbon filters, or similar filtration media, and ventilation and exhaust systems to eliminate cannabis odors emanating from the interior of the premises, such that any odor generated inside the facility is not detectable by a person of reasonable sensitivity within 25 feet of the buildings. Odor mitigation filtration systems must be installed and maintained in perfect working order.
- 9) Noise, from any source emanating from Cannabis Business operations, beyond the decibel level permitted by State Noise Regulations (N.J.A.C. 7:29) shall be prohibited. Outside generators and other mechanical equipment used for any kind of power supply, cooling, or ventilation shall be enclosed and have appropriate baffles, mufflers, and/or other noise reduction systems to mitigate noise pollution. Generators shall be housed in a noise minimizing enclosure set back at least 75 feet from the property line and shall conform with all applicable State noise regulations.
- 10) All interior and outdoor lighting shall be shielded through the use of best available technology to prevent light trespass into the night sky and glare onto adjoining parcels or rights-of-way. Light pollution, glare or brightness resulting from glow lamps must be 0.5 candle or less at the property line.

11) The possession 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.

12) Parking shall be provided as provided for in § 109-164. Except that:

- a. Parking for Cannabis Dispensaries shall be provided for as retail businesses.
- b. Parking for Cannabis Cultivation Centers shall be provided for as research and laboratory use.

13) In the event of a conflict between Township zoning ordinance, and the Act or the Commission's regulations, the Township Planning or Zoning Board shall consider the pertinent statute or regulation as justification for any variance and/or design waiver.

14) 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 West Amwell Township Police Department with access to this real-time camera footage in case of an emergency.
 - iii. The recordings shall be maintained at the Cannabis Operation 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.
- b. Outside areas of the premises and the perimeter shall be well lit and all doors equipped with motion censored lights.
- c. The West Amwell 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.
- d. Security staff is required on the premises during all hours of operation.
- e. The premises must only be accessed by authorized personnel and free of loitering. Note: retail customers may access a dispensary during normal business hours.
- f. All cultivation of cannabis shall take place in an enclosed, locked facility.

- 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 West Amwell 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.
- 15) 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.
- 16) 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.
- 17) Storage of products. All products and accessories shall be stored completely indoors and on-site in accordance with the Act and the Commission regulations.
- 18) No mobile facilities shall be permitted.
- 19) Conversion of Microbusiness. The Commission permits Microbusinesses to convert to standard businesses after one year. Such conversion will require amended site plan approval by the Township Planning Board or Zoning Board, as applicable. The proposed standard cannabis business activity must be a permitted use in the zone where the existing Microbusiness is located.
- 20) Vertically Integrated Cannabis Facilities and the Operation of multiple cannabis businesses at a single location. A licensed person or entity holding multiple license classes or holding a vertically integrated license may operate two cannabis businesses on the same property without the need for a use variance under the following conditions:
- a. If a dispensary is co-located with any other Cannabis Business, the area of the proposed premises utilized for the dispensing of cannabis and open to the public or to patients shall be physically separated from the area of the premises proposed for any other licensed Cannabis Business activity creating a clear distinction between each business type.
 - b. Walls, barriers, locks, signage and other means shall be employed to prevent the public from entering the area of premises utilized for the cultivation, manufacturing, or wholesale storage of cannabis.
 - c. Each business shall be in full compliance with the requirements of the Act and the Township Land Development Ordinances including amended site plan approval by the Township Planning Board or Zoning Board, as applicable.

D. Requirements Applicable to Cannabis Cultivation Centers and Manufacturing Facilities Only.

- 1) The Applicant shall provide a water conservation plan, describing the water-conserving features of proposed cannabis operation. These features may include, but are not limited to the following: i) evaporative barriers on exposed soils and pots; ii) rainwater capture and reuse; iii) recirculated irrigation water (zero waste); iv) timed drip irrigation; v) soil moisture monitors; and vi) the use of recycled water.

- 2) Landscape screening must be installed to prevent public view of structures from all roadways and adjoining parcels and in compliance with the standards set forth in Chapter 109, Article 31 of the Township Code.
- 3) No signage other than directional or discrete building identification found in shall be permitted. Signage shall remain innocuous and part of the general directional signage typically found in industrial manufacturing 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.
- 4) The cultivation of cannabis must be conducted indoors within a permanent, principal structure. For the purposes of this section, a permanent structure is one that is anchored to a permanent foundation with an impermeable floor and is completely roofed and walled with permanent materials. No hoophouse or temporary greenhouse covered in plastic sheeting is permitted for cannabis cultivation purposes. All buildings within which cannabis cultivation activities take place must have permanent side and end walls.
- 5) The cultivation or manufacture 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.

E. Requirements Applicable to Cannabis Dispensaries/Retailers Only.

- 1) Cannabis Dispensaries must be located within a permanent, principal structure. For the purposes of this section, a permanent structure is one that is anchored to a permanent foundation with an impermeable floor and is completely roofed and walled with permanent materials. No mobile facilities shall be permitted.
- 2) Dispensaries shall limit their hours of operation from 8:00 a.m. to 10:00 p.m., Monday to Sunday, or as otherwise provided for within a special use permit.
- 3) Cannabis Dispensaries shall not be located within 1,500 feet of another Cannabis Dispensary.
- 4) The retail component must be located on the major roadway frontage of Route 31, Route 179, or Route 29 in a Permitted Location in accordance with §109-264 B. (5) above.
- 5) Medical dispensaries may only sell useable cannabis-related product to individuals with an active MMP Identification Card or Caregiver Identification Card.
- 6) 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 West Amwell Township Police Department and allowable under Commission regulations and state legislation.
- 7) Dispensaries may sell "cannabis paraphernalia" as that term is defined in this section.
- 8) 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. All other Township sign regulations must be complied with.

- 9) Adherence to the site design standards of the Township Land Development Ordinances through a review by the Zoning Official, and the Township Planning Board when applicable, is required.

F. 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 Establishment.

G. 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 Marshall.
- 5) All state regulations concerning ventilation systems shall be followed.

H. 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 Engineer, Zoning Office, Construction Division, Fire Safety Division, and the Township Board of Health, if applicable.

I. 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.

J. Additional requirements. At the time a site plan approval is granted, amended, or a major change to a cannabis business is approved, the Township Planning or Zoning Board 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) Requirement to obtain a Cannabis Business License from the Township before any building permits are obtained.
- 2) Additional security requirements;
- 3) Limits and requirements on parking and traffic flows;

- 4) Requirements for fences and landscaping on the premises;
- 5) Requirements and limits on lighting;
- 6) Requirements relating to odor mitigation;
- 7) Requirements as to the availability of water, water use, and wastewater disposal;
- 8) Assurances regarding compliance with applicable noise regulations;
- 9) Limits on hours of operation.

K. 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.

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

SECTION 3 Chapter 140, TAXATION, Article I, CANNABIS USER AND TRANSFER TAX, to be repealed in its entirety and replaced with the following:

§ 140-1. 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 or user tax on the sale of any usable cannabis or cannabis products by a cannabis establishment located within the municipality, 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 cannabis establishment.

§ 140-2. Definitions.

All definitions used in Chapter 109 are incorporated in this Chapter 140, Article I by reference.

§ 140-3. Cannabis User Tax.

There is hereby established a user tax imposed on the sale or transfer of any usable cannabis or cannabis products by a cannabis establishment located within the Township. The user tax rate shall be assessed at 2% of the receipts from each sale by a cannabis cultivator, cannabis manufacturer and cannabis retailer. The user tax rate shall be assessed at 1% of the receipts from each sale by a cannabis wholesaler. The user tax shall also be imposed upon any transfer of any usable cannabis or cannabis products to any person or cannabis establishment, including any transfer to another cannabis establishment owned by the licensee. Transfers shall be taxed according to the full retail value of the usable cannabis or cannabis products transferred. The user tax shall not apply to retail sales of medical cannabis. The user tax shall be in addition

to any other tax or fee imposed pursuant to statute or local ordinance or resolution by any governmental entity with regard to cannabis. Any transaction for which the user tax is imposed, is exempt from the tax imposed under the "Sales and Use Tax Act", except for those which generate receipts from the retail sales by cannabis retailers.

SECTION 4. Chapter 111, Article II, entitled, "Cannabis Business Licenses," is hereby established as follows:

§111-5. Purpose. This Article is enacted to regulate the cultivation, production, sale, and transportation of cannabis in the Township in accordance with the provisions of the "New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act" (N.J.S.A. 24:6I-31, *et seq.*), and in accordance with the rules and regulations of the Cannabis Regulatory Commission.

§111-6. Definitions. The definitions set forth in the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (N.J.S.A. 24:6I-31, *et seq.*) and Section are incorporated herein and shall have the same meaning.

§111-7. License Required. No person shall operate a Cannabis Establishment or otherwise cultivate, sell, or distribute cannabis within the Township without having obtained a license in accordance with this Chapter and Chapter 62. In order to obtain a license in the Township, a person shall file an application, signed by the applicant, with the Cannabis Advisory Committee which sets forth all information necessary for a proper consideration of the application in accordance with Section 111-11. Such application to the Township shall be filed contemporaneous to filing an application for a license pursuant to CREAMMA.

§111-8. License Fees and Maximum Number.

A. For first-time applicants, there shall be an initial non-refundable application fee of \$1,000 due at the time of submission.

B. The annual license fee and maximum number of licenses for Cannabis Establishments in the Township shall be as follows:

Class of License	Annual License Fee	No. of Licenses
Medicinal Cultivator, Manufacturer, or Dispensary	\$5,000	1 Cannabis Business License within the Village Center Redevelopment Area
Class 1, Cultivator	\$10,000 Standard \$ 1,000 Microbusiness	2 (1 within the NC Zone and 1 within the LHC or LI Zones)
Class 2, Manufacturer	\$10,000	2
Class 3, Wholesaler	N/A	0 (none permitted)
Class 4, Distributor	N/A	0 (none permitted)
Class 5, Retailer	\$5,000	2
Class 6, Delivery Service	N/A	0 (none permitted)

C. The Commission permits Microbusinesses to convert to standard businesses after one year. Microbusinesses may apply to convert to a standard license at the municipal level only if the license class limit set above has not been reached and site plan approval has been granted.

D. In the event more than one license application for a Cannabis Dispensary, Cultivator, or Manufacturer of the same classification are submitted to the Township in close proximity to one another, or should only one license for such classification be available due to the limitations set forth in subsection (A); and if the applications comply with all the requirements of this Article and the Act, the Cannabis Advisory Committee shall review the application that was first submitted and determined to be a complete and compliant application for recommendation to the Township Committee. As a condition of a complete application, the Cannabis Advisory Committee may take into account the applicant business plan's impact to natural resources such as the water use energy saving designs/extensive odor monitoring devises and benefit/impact to the community.

§111-9. Issuing Authority. All licenses required by this Chapter shall be issued by resolution adopted by the Township Committee.

§111-10. License Expiration and Renewal.

- 1) Local licenses for Cannabis Establishments shall expire on December 31 of each year. Renewals must be submitted by December 1 of each year. Such license shall be valid for the calendar year within which it is issued.
- 2) Any license issued pursuant to this Chapter that receives a State Cannabis License to operate shall be renewed in accordance with the provisions of this Chapter.
- 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) Renewal of any license shall be conditioned upon compliance with the Host Agreement as well as any State or local requirements, including any required modification.
- 5) Transfer of ownership of any local license or change of location of any license or modification to expand a permitted premise shall be subject to review and recommendation by the Township Committee, Planning and Zoning Boards.
- 6) 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 related products from the premises of any licensee after the expiration of the license.

§111-11. Application Requirements and License Conditions. The following items must be submitted in order to be granted a license or for the renewal of same for the operation of any Cannabis Establishment the following conditions must be satisfied:

For first-time Applicants:

- A. Complete Application
- B. Application Fee (for first-time applicants)
- C. Annual Licensing Fee
- D. Proof of payment of all real estate taxes due on the premises on which the Cannabis Establishment is located.
- E. Proof of payment of all transfer and user taxes required by Chapter 140, Article I of the Township Code.

- F. Proof the Applicant has or will have lawful possession of the site proposed for the Cannabis Establishment (i.e., Contract of Sale, Lease, or Deed).
 - a. If the Applicant shall be leasing the property on which the Cannabis Establishment will be located, an executed acknowledgment by the property owner that unpaid license fees and cannabis transfer and user taxes shall become a lien on the property. Such acknowledgment shall be in a form approved by the Township and on file in the Clerk's Office.
- G. Proof of license in good standing issued by Cannabis Regulatory Commission
- H. Full copy of the Application for State Cannabis Licensure
- I. Emergency contact information to be utilized by police, fire, and EMT personnel in the event of an on-site emergency.
- J. Security Plan, which shall, at a minimum consist of the following:
 - a. Proof of submission of such security plan to the New Jersey State Police.
 - b. Overview of and type of security systems to be installed.
 - c. 24-hour monitoring 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 (if applicable), cannabis growing areas (if applicable), 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.
 - d. The security cameras must be Internet Protocol (IP) cameras capable of providing real time footage over the internet. Operators must provide the local Police Department with access to this real-time camera footage in case of an emergency.
 - e. 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 local Police Department within twenty-four (24) hours of a written request from the Police Department for any recordings.
 - f. Information as to whether on-site security or armed guards will be provided. To the extent not already required by the entity's State license, all licensed facilities must provide at least one security guard (or more if required by the State) during all times the facility is open to the public. At a minimum, the security guard shall be a State Certified Security Officer whose certification is in good standing.
- K. Copy of site plan approved by the Township Planning Board or Zoning Board.
- L. Summary of how all products and materials will be tracked and inventoried.
- M. Business Registration Certificate authorizing Applicant to do business in the State of New Jersey.
- N. A copy of Applicant's corporate/company governing documents (i.e., certificate of incorporation, certificate of formation, operating agreement, shareholders agreement, bylaws, and/or partnership agreements), and the Applicant's organizational chart, including the identity and ownership interest of all persons.

For Renewal Licensing:

- C, E, F, G, I, M (or good standing certificate) from the list above.
- O. Reporting on sale or transfer of any usable cannabis or cannabis products by the Applicant;
- P. Reporting in compliance with Planning Board resolutions, such as water use, water disposal, etc.
- Q. Such other information as the Township may request.

§111-12. Revocation of License

- A. Any license issued under this chapter may be suspended or revoked for violation of any of the provisions of this Chapter or Chapter 109 of the Township Code or any provision of any applicable statute or any of the rules and regulations of the Cannabis Regulatory Commission.
- B. Notice of a hearing for the suspension or revocation of a license shall be given in writing by the Township Clerk to the license holder. The notice shall specifically set forth the grounds upon which the proposed revocation is based and the time and place of the hearing. Such notice shall be served by mailing a copy to the licensee at his or her last known address by certified mail, return receipt requested, at least five days prior to the date set for the hearing.
- C. At the hearing, the licensee shall have the right to appear and be heard, to be represented by an attorney, to present witnesses in his or her own behalf, to cross-examine opposing witnesses and to have a permanent record made of the proceedings at his or her own expense.
- D. The Township Committee shall revoke or suspend the license if they are satisfied by a preponderance of the evidence that the licensee is guilty of the acts charged.
- E. Suspension or revocation of a license shall be in addition to any other penalty which may be imposed for a violation of this chapter.
- F. Any person whose license is suspended or revoked under this Chapter shall have the right to appeal that decision to a court of competent jurisdiction within 45 calendar days of suspension or revocation.

§111-13. Unpaid License Fees to Become a Lien

If annual license fees under this Chapter are not paid by February 1, the Clerk shall certify the unpaid license fees to the Township Committee, who shall examine the certificate and, if it is correct, cause the cost as shown thereon, together with any penalty assessed pursuant to this Chapter, to be charged against the lands. The amount so charged shall become a lien upon the lands and be added to and become a part of the taxes next to be assessed and levied upon the lands and shall bear interest at the same rate as taxes and be collected and enforced by the same officer and in the same manner as taxes. Costs shall be in addition to any penalties imposed for any violation of this Chapter.

§111-14. Violations and Penalties

Any person violating any provision of this Chapter shall, upon conviction be subject to fines of \$2,500 for a first offense, \$5,000 for a second offense, and \$10,000 for a third offense.

Section 5 Severability. Should any section, clause, sentence, phrase or provision of this article be declared unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the remaining portions of this article.

Section 6 Repealer. All prior ordinances or parts of same inconsistent with any provisions of this article are hereby repealed to the extent of such inconsistency.

Section 7 Effective Date. This ordinance shall take effect upon final adoption and publication in accordance with law.

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

ATTEST:

By Order of the Township Committee

Maria Andrews, Township Clerk, RMC

Gary Hoyer, Mayor

Introduced: 11/15/23

Adopted: 12/6/23