



**BOROUGH OF WANAQUE
COUNTY OF PASSAIC
STATE OF NEW JERSEY
ORDINANCE # 08-11-2025**



AN ORDINANCE AMENDING AND REPEALING IN PART ORDINANCE 9-0-2021, AND CONDITIONALLY PERMITTING CANNABIS SALES BY AMENDING ORDINANCE 23-0-09 WHICH IMPLEMENTED A REDEVELOPMENT ZONING DISTRICT BY PERMITTING THE LICENSING CERTAIN CLASSES OF CANNABIS BUSINESSES TO BE LOCATED WITHIN SPECIFIED GEOGRAPHICAL BOUNDARIES OF BLOCK 477 AND BLOCK 478 AND INDUSTRIAL ZONES OF THE BOROUGH OF WANAQUE IN PASSAIC COUNTY, NEW JERSEY, ADDING LICENSING REQUIREMENTS TO CHAPTER 3, ENTITLED “CANNABIS LICENSING”.

WHEREAS, in 2020 New Jersey voters approved Public Question No. 1, which amended the New Jersey Constitution to allow for the legalization of a controlled form of marijuana called “cannabis” for adults at least 21 years of age; and

WHEREAS, on February 22, 2021, the Governor Murphy signed into law P.L. 2021, c. 16, known as the “New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act” (the “Act”), which legalizes the recreational use of cannabis 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; and

WHEREAS, Section 31(a) of the Act 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 operation of such establishments, distributors or delivery services, and establishing civil penalties for the violation of any such regulations; and

WHEREAS, the Borough Council of the Borough of Wanaque (the “Borough”), in the County of Passaic and State of New Jersey, having previously decided that additional study of cannabis business was warranted and who thus voted to opt out of permitting any cannabis businesses, excepting the delivery of cannabis products as allowed by the Act, through the enactment of Ordinance 9-0-2021, now codified as “District Regulation Section” §114-5C of the “Borough of Wanaque Municipal Code,” have further studied the issues, including the receipt of input from the Planning Board, and have at this time found it necessary and appropriate, and in the best interests of the health, safety and welfare of the Borough’s residents and members of the public who visit, travel, and/or conduct business in the Borough, to permit certain classes of cannabis-related businesses, land use and development within the geographic boundaries of the Borough, pursuant to the terms and conditions set forth herein, and to amend the Borough’s Ordinances accordingly.

NOW, THEREFORE, BE IT ORDAINED, by the Borough Council of the Borough of Wanaque, in the County of Passaic, and State of New Jersey, as follows:

Section 1. Part 2 §114.3. of the Borough’s Ordinance-Conditional Permitted Use-Cannabis.



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The Borough Zoning Ordinance Part 2-114.3 C “Zoning District Map” is hereby amended to identify the following areas of the Borough as a “Conditional Use-Cannabis Retail Overlay Zone” to specifically include the following properties, Block and Lots. Further, the identified zones and properties hereby qualify and shall have as a permitted conditional use the sale and distribution of cannabis in strict conformance with the cannabis licensing procedures and regulations included in this ordinance, and subject to site plan review by the Wanaque Planning Board.

Block and Lot	Address	Zone
Block 477, Lot 1*	33 Union Avenue	Redevelopment RD-1
Block 477, Lot 2*	35 Union Court	Redevelopment RD-1
Block 477, 2.03*	37 Union Court	Redevelopment RD-1
Block 477, Lot 4*	39 Union Court	Redevelopment RD-1
Block 478, Lot 4	1438 Ringwood Avenue	Commercial-Business
Block 478, Lot 5	1438 Ringwood Avenue	Commercial-Business
Block 478, Lot 6	1456 Ringwood Avenue	Commercial-Business
Block 478, Lot 7	1458 Ringwood Avenue	Commercial-Business
Block 478, Lot 8	Ringwood Avenue	Commercial-Business
<p>Note: The RD-1 is the Redevelopment District-1 a Service Business District, as such the four properties in Block 477 must be combined, or merged into one parcel to allow for the licensing of cannabis businesses. In other words, any redeveloper or developer seeking a cannabis license shall acquire all four properties with no exceptions.</p>		

§ 114.39. B (7) “Guiding Principles” of the Borough Code pertaining to Conditional Permitted Land Uses is hereby amended to provide for a new paragraph “Conditional Permitted Use-Retail Cannabis License”. All applications for a Cannabis retail license and conditional use, also referred to in state law as License #5, shall be in strict conformance with Part 3 §119 of the Ordinances of the Borough of Wanaque and this Ordinance. Any and all applications for a retail Cannabis License in the Borough of Wanaque shall first receive a conditional use zoning permit issued by the Board of Adjustment or Planning Board as applicable. Further, the following zoning conditions shall be complied with:

“Conditions of Cannabis Retail Overlay Zone. All retail cannabis locations shall conform with the following provisions:



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1-CANABIS RETAIL SALES (License #5) SHALL BE PERMITTED ONLY IN THE SPECIFIC CANABIS RETAIL ZONES AND THE PROPERTIES SPECIFIED.

2-RETAIL CANNABIS LICENSES ARE LIMITED TO A TOTAL OF TWO SUCH LICENSES IN THE BOROUGH AND MAY NOT BE LOCATED WITHIN 500 FEET OF ANY OTHER CANNABIS RETAILER (OR PROPERTY).

3- NO INDIVIDUAL OR ENTITY MAY OWN OR CONSTRUCTIVELY OWN, INCLUDING BEING EMPLOYED BY MORE THAN ONE RETAIL LICENSE IN THE BOROUGH OF WANAQUE.

4-ANY CANABIS RETAIL SALES FACILITY SHALL HAVE A MINIMUM OF 5,000 SQUARE FEET. IN ADDITION TO THE SALES OF CANNIBUS PRODUCTS, THERE SHALL BE ALLOWED SEPARATE STORES OR BUILDINGS ON THE PROPERTY IN EACH CANNABIS RETAIL ZONE THAT DO NOT SELL CANNABIS.

5-INTERIOR DOORS BETWEEN THE CANNIBUS FACILITY AND ANY OTHER STORE LOCATED IN THE SAME BUILDING SHALL NOT BE PERMITTED.

6-THE SALE OF ALCOHOLIC BEVERAGES ARE NOT PERMITTED IN ANY CANABIS RETAIL ZONE."

7-NO SIGN IDENTIFYING THE CANNABIS RETAIL ESTABLISHMENT SHALL USE THE WORD "MARIJUANA" OR "CANNABIS".

Part 2 §114.14 of the Borough's Ordinance-IR-1 District C shall be added as a paragraph entitled "Conditional Permitted Use-Cannabis", first upon certification by the Borough's Zoning Officer or Borough Planner, that the property (with a current building upon it) is located in the IR-1 District or is otherwise an industrial, manufacturing or other commercial facility such as a distribution facility. No property situated in a redevelopment plan area or zone shall qualify for a Cannabis Conditional Use except as provided in this Ordinance.

The type of Cannabis Licenses may be considered by the Board of Adjustment or the Planning Board as a Permitted Conditional Use: a Class 1 cannabis cultivator, Class 2 cannabis manufacturer, Class 3 cannabis wholesaler license, . To be clear: No Class 4 cannabis distributor license, or Class 6 cannabis delivery license shall be granted or permitted in the Borough of Wanaque.

NO cannabis license for any Class of Cannabis License may be issued in any residentialzone.

Section 2. Article 3-119, presently "Reserved," of Chapter 3, "Board of Health Legislation," shall be named "Cannabis Licensing," and shall constitute the following:

Article 3-119. Cannabis Licensing.

§ 3-119-1. Statutory authority.



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This chapter is authorized pursuant to the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act, P.L. 2021, c. 016, and the implementing regulations promulgated by the Cannabis Regulatory Commission (collectively, the "Act"), which are hereby incorporated herein by reference, and shall be controlling unless more restrictive standards are prescribed herein. If any provision of this chapter is inconsistent with the statutes and/or regulations of the State of New Jersey, the Act shall govern.

§ 3-119.2. Definitions.

As used in this article, the following terms shall have the meanings as defined in the "New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act," also referenced herein as the "Act" or "P.L. 2021, c. 16," as it may be amended or superseded, and are included herein for purposes of general acknowledgement and ease of use:

"ADULT USE CANNABINOIDS" means:

1. Any tetrahydrocannabinols, artificially-derived cannabinoid, or hemp product or that is not subject to regulation pursuant to the Jake Honig Compassionate Use Medical Cannabis Act, New Jersey Compassionate Use Medical Marijuana Act, and/or Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act, or otherwise regulated by State law, and that is reasonably determined to have an intoxicating effect when ingested, smoked, or otherwise consumed;
2. Tetrahydrocannabinolic acids that are artificially or naturally derived;
3. Delta-8 THC;
4. optical isomers of delta-8-tetrahydrocannabinol or delta-9-tetrahydrocannabinol

"ADULT USE CANNABINOID ITEMS" means any products containing 0.5 milligrams or more of any combination of THC or adult use cannabinoids as defined herein, including delta-8 THC or delta-8-tetrahydrocannabinol, delta-10 THC, Tetrahydrocannabivarin ("THC-V"), THC-O-Acetate ("THC-O"), hexahydrocannabinol ("HHC"), or any other cannabinoids advertised by the manufacturer or seller as having an intoxicating effect.

CANNABIS — All parts of the plant *Cannabis sativa* L., including indica and any and all hybrids, 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 accordance with CREAMMA for use in cannabis products as set forth in that Act, 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 Honig Act and N.J.S.A. 18A:40-12.22, et al; marijuana as defined in N.J.S.A. 2C:35-2 and applied to any offense set forth in chapters 35, 35A and 36 of Title 2C of the New Jersey Statutes, N.J.S.A. 2C:35B-1 et seq., or marijuana as defined in N.J.S.A. 24:21-2 and applied to any offense set forth in the "New Jersey Controlled Dangerous Substances Act" N.J.S.A. 24:2-1, et al; or hemp or a



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hemp product cultivated, handled, processed, transported or sold pursuant to the "New Jersey Hemp Farming Act" N.J.S.A. 4:28-6, et al.

CANNABIS CULTIVATOR — Any person or entity holding a Class 1 cannabis cultivator license issued by the State of New Jersey that grows, cultivates, or produces cannabis in the State of New Jersey, 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.

CANNABIS DELIVERY — The transportation of cannabis items and related supplies to a consumer. "Cannabis delivery" also includes the use by a licensed cannabis retailer of any third-party technology platform to receive, process, and fulfill orders by consumers, which third party shall not be required to be a licensed cannabis establishment, distributor, or delivery service, provided that any physical acts in connection with fulfilling the order and delivery shall be accomplished by a certified cannabis handler performing work for or on behalf of the licensed cannabis retailer, which includes a certified cannabis handler employed or otherwise working on behalf of a cannabis delivery service making off-premises deliveries of consumer purchases fulfilled by that cannabis retailer.

CANNABIS DELIVERY SERVICE — Any person or entity holding a Class 6 cannabis delivery license issued by the State of New Jersey 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. **However, in no event may Cannabis delivery service NOT situated in the Borough of Wanaque provide such service without 72 hours advance written notice of said delivery to the Borough Clerk.**

CANNABIS DISTRIBUTOR — Any person or entity holding a Class 4 cannabis distributor license issued by the State of New Jersey that transports cannabis in bulk intrastate from one licensed cannabis cultivator to another licensed cannabis cultivator, or transports 40 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.

CANNABIS ESTABLISHMENT — Classes 1-6 cannabis businesses.

CANNABIS ITEM — Any usable cannabis, cannabis product, cannabis extract, and any other cannabis resin. "Cannabis item" does not include: any form of medical cannabis dispensed to registered qualifying patients pursuant to the Honig Act and N.J.S.A. 18A:40-12.22, et al., or hemp or a hemp product cultivated, handled, processed, transported or sold pursuant to the "New Jersey Hemp Farming Act" N.J.S.A. 4:28-6, et al.

CANNABIS MANUFACTURER — Any person or entity holding a Class 2 cannabis manufacturer license issued by the State of New Jersey, 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.



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CANNABIS RETAILER — Any person or entity holding a Class 5 cannabis license issued by the State of New Jersey 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 consumer.

CANNABIS WHOLESALER — Any person or entity holding a Class 3 cannabis wholesaler license issued by the State of New Jersey 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.

COMMISSION or CRC — The New Jersey Cannabis Regulatory Commission established pursuant to CREAMMA.

MICROBUSINESS — Shall have the same meaning as defined in N.J.S.A. 24:6I-33 and operated in accordance with N.J.A.C. 17:30-6.7. Per statute, it means a person or entity licensed by the State 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: employ no more than 10 employees; 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 about that plane not higher than 24 feet; 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; acquire each month, in the case of a cannabis manufacturer, no more than 1,000 pounds of usable cannabis; 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 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. Cannabis microbusinesses are not permitted in the Township.

PUBLIC PLACE or QUASI-PUBLIC PLACE — Any place to which the public has access that is not privately owned; or any place to which the public has access where alcohol consumption is not allowed, including but not limited to, a public street, road, thoroughfare, school, sidewalk, bridge, alley, plaza, park, playground, swimming pool, shopping area, public transportation facility, vehicle used for public transportation, parking lot, public library or any other public building, structure or area.

RESOLUTION OF SUPPORT - Proof of local municipal support, which shall be demonstrated by a resolution adopted by the municipality's governing body.

All other terms as defined in the Act are hereby incorporated herein by reference and shall have the meanings set forth in the Act, as may be amended or superseded.

In addition, the following term shall have the meanings indicated:



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Shall mean the sale of any object containing cannabis or a cannabis product wherein the cannabis itself is assigned no or a below market price sales price.

§ 3-119.3. Licensed Use Applicability.

The use of any cannabis license shall only be in strict accordance with the land use and location requirements of the Borough of Wanaque Municipal Code. Consequently, the Borough of Wanaque may or may not establish locations for the use and operation of the six types of cannabis business licenses and operations as set forth in the Act. -

§ 3-119.4. Local Licensing Authority.

- A. The Borough Council is hereby designated to act as the local licensing authority for the Borough of Wanaque for all cannabis businesses within the Borough. The Borough Administrator shall function as the receiver of any communications from the State Cannabis Regulatory Commission and shall promptly convey any item of information with regard to the licensing of cannabis businesses by the State or in which State law requires any review or approval by the Borough of any action to the Borough Council.
- B. Under no circumstances shall a local license for a cannabis business issued by the Borough Council be effective until or unless the State has issued the requisite licenses to operate such a facility. It is the intent of this article that no cannabis business may lawfully operate in the Borough of Wanaque without the issuance of a State license and full regulatory oversight of the cannabis business by the Cannabis Regulatory Commission or other state licensing authority as required by law as well as oversight and issuance of a license by the Borough.
- C. Municipal licensing for cannabis businesses shall follow the nomenclature of the “New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act” as indicated in the definitions in this article.
- D. Maximum number of licenses and fees. Subject to the land use and location requirements of the Borough of Wanaque Municipal Code, the Borough may issue up to and including the following number of licenses which shall require the associated license application and annual renewal fee:

BOROUGH OF WANAQUE CANNABIS LICENSE AND FEE SCHEDULE



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License	Class	Maximum Number of Licenses to be Issued	Nonrefundable Application Fee	Initial License Fee	Annual Renewal License Fee
Cannabis Cultivator	1	No Limit	\$5,000	\$25,000	\$25,000
Cannabis Manufacturer	2	No Limit	\$5,000	\$25,000	\$25,000
Cannabis Wholesaler	3	No Limit	\$5,000	\$25,000	\$25,000
Cannabis Retailer	5	2	\$5,000	\$25,000	\$25,000

For any class of cannabis license NOT referenced in the schedule above-Class 4 and Class 6 the Borough hereby continues to “opt out” relating to that class of cannabis license under the Act, as originally declared in Ordinance 9-0-2021. The amount of the non-refundable application fee, annual renewal fee and maximum number of licenses to be issued may be modified from time to time by a subsequent duly adopted resolution of the Borough Council.

E. A resolution of support issued by the Borough Council pursuant to N.J.A.C. 17:30-5.1(g)1 to a cannabis business shall expire within twelve (12) months unless the business has secured at least one of the annual State issued cannabis licenses for operation of a Class 1 through 5 and excluding Class 4 business within the Borough of Wanaque. The Borough Council may extend the resolution of support at its discretion for an additional period of six (6) months for good cause, including but not limited to delays in the processing of approvals required by the State, county or other local agencies. There shall be a fee of \$2,500 for each extension request. The request for an extension must be made within 30 days of the expiration of the resolution of support otherwise the resolution of support is no longer valid.

F. Additional licensing regulations.

(1) Hours of operation.

(a) No cannabis retail Class 5 dispensary may open to customers for business before 10:00 a.m. or remain open to customers for business after 10:00 p.m., Monday through Sunday. This time restriction does not apply to any other cannabis establishments.

(b) Such hours shall be construed to mean Eastern Standard Time or Eastern Daylight Savings Time.

(2) Prohibited consumption. The consumption of cannabis items through smoking, vaping, aerosolizing or other means (e.g., edibles) is prohibited within or on the grounds of any licensed cannabis establishments within the Borough of Wanaque.



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- (3) Security. All structures shall be designed, using safety and security barriers, to prevent the unlawful and unauthorized entry into the structures as prescribed by State law.
 - (a) There shall be controlled access to the site, with 24/7 on-site video monitoring of the exterior and interior of the facility. Video records shall be retained and stored for the period prescribed by State law, but in no case shall such video be retained and stored for less than 30 days.
 - (b) Any site plans, construction plans, reports, and similar documents depicting or describing access and security details information concerning the facility shall be deemed and protected as confidential security documents and exempt from disclosure as public records.
- (4) Emergency power. All licensed cannabis establishment services shall have a backup generator capable of maintaining, at a minimum, all electronic security systems and odor control systems in the event of a power failure for a period of at least forty-eight (48) hours.
- (5) Enclosed building. All cannabis establishments, as may be permitted within the Borough, shall take place within an enclosed building. Any facility that is not the sole occupant of its building shall have no internal doorways, windows, or utility chases in common with other spaces in the building and shall have a separate HVAC system (which incorporates odor control) solely for the cannabis business.
- (6) Pollen and seed control. Any cannabis business shall implement measures to prevent cross-pollination and to prevent cannabis pollen and seeds from leaving the premises, which may include, but not limited to, use of pollen screens, ultraviolet light, and other methods to ensure that employees, customers, vendors and other persons on site do not leave the premises while carrying any cannabis pollen or seeds knowingly or unknowingly.
- (7) Fencing. All fencing or walls installed for security purposes shall be at least six (6) feet in height. Such a security structure may be extended in height as approved on a site plan by the Planning Board.
- (8) Site management. Any cannabis business shall properly store and dispose of all waste generated on the site, including chemical and organic waste, in accordance with all applicable laws and regulations. No cannabis business shall dispose of cannabis or cannabis products unless they have been made unusable and unrecognizable.
- (9) Noise. All cannabis business facilities shall operate in compliance with state, county, and local noise laws and regulations, except in emergencies requiring the use of a backup generator.
- (10) Odor. All cannabis business facilities shall utilize available technology to filter and recirculate air, so that odors are not discernible by a reasonable person beyond the property line. Such determination shall be supported by such exhibits, submissions, and expert testimony in a development application before the Planning Board for site plan approval, to which the approving authority may attach reasonable conditions. The Planning Board may engage such experts as needed to evaluate the submissions made by the applicant in accordance with the procedures outlined in N.J.S.A. 40:55D-1, *et seq.*



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- (11) Site Plan and other necessary land use approvals. All applicants for a license to operate a cannabis business within the Borough shall be required to apply for and obtain zoning and site plan approval and any other necessary land use approvals from the Planning Board.
- (12) Host community benefits agreement. Any applicant for a license to operate a cannabis business within the Borough shall be required to enter into a host community benefits agreement with the Borough after obtaining all approvals to (i) address on- or off-site impacts reasonably anticipated because of the nature of the business and/or the property on which such business is proposed to be located as a condition of local land use approval, and (ii) memorialize an applicant's commitment to the community and the borough.
- (13) Sales Restricted to Persons Over Age 21. No sales of cannabis items shall be permitted to persons who are under the age of twenty-one (21) years.
- (14) Class 5 Retail Dispensary. Any retail facility shall contain video equipment to record all persons as they enter and leave the facility and as they shop within the facility. The video equipment must also record all vehicles in the parking areas.
- (15) All operations of cannabis businesses shall occur within a single, or series of, completely enclosed buildings. No outdoor storage shall be permitted.
- (16) A cannabis retail Class 5 dispensary shall not be located within 500 feet of a school or childcare facility, measured by walking legally from door to door.
- (17) State and municipal licenses shall be prominently displayed inside the permitted premises in a location where it can be easily viewed by law enforcement and administrative authorities.
- (18) 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.
- (20) No pictures, photographs, or drawings of cannabis or cannabis paraphernalia shall appear on the outside of any licensed premises nor be visible outside of the licensed premises on the licensed property. The word "marijuana," and any other words used or intended to convey the presence or availability of marijuana, shall not appear on the outside of the licensed premises nor be visible outside of the licensed premises on the licensed property. Any signage must first be approved by the Building Department.

§ 3-119.5. Licensing and application requirements.

A.No one may operate a cannabis establishment ("establishment") in the Borough without a municipal license. A license must be requested and obtained annually upon approval of the Borough Committee for the establishment prior to, and as a condition of, permit or license renewal pursuant to CREAMMA, the regulations at N.J.A.C. 17-30, et seq. and this Chapter. Only the municipal license, annually renewed pursuant



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to the cited authority herein, shall constitute the annually required written municipal approval required for the establishment pursuant to the regulations of the Cannabis Regulatory Commission ("CRC"). Other written statements, letters, resolutions, or other documents issued by the Borough or any official, employee, or other representative shall not constitute annual or renewed "written municipal approval" for purposes of the CRC.

B. In addition to a municipal license, to operate a cannabis establishment in the Borough of Wanaque, the appropriate state licenses are required. All applications for permits and licenses, all permits and licenses issued, and all proceedings under this section shall be in accordance with all applicable laws of the state.

C. To operate a cannabis establishment, the applicant shall have all applicable land use/zoning approvals and all construction permits and approvals from all municipal and state entities having jurisdiction over the same.

D. Persons seeking to obtain any classification of municipal cannabis license shall apply to the Borough Clerk on a standardized form established by the Borough and available in the Borough's Clerk's office. The Borough Clerk shall establish a reasonable application period, deadline for all applications, or a "rolling" application process. An application shall be deemed incomplete and shall not be processed by the Borough until all documents and application fees are submitted. The applicant may be required to appear for a meeting with the Cannabis Advisory Committee.

(1) The Borough Clerk, after consulting with the Committee, may deny any application that is lacking any required element or exhibit.

(2) The Borough Clerk, after consulting with the Committee, may deny any application due to an applicant's non-responsiveness to the Borough's request for additional information.

E. To be deemed complete, all applications shall be accompanied by the following:

(1) Every applicant shall specify the location where the cannabis facility will operate. Name, address of owner, applicant, property location, including address and lot and block on the official tax map, and zone identification. A separate application shall be required for each location at which a cannabis facility operates. The Borough shall permit the co-location of cannabis businesses at the same location, subject to State statute and regulations. Such co-location shall constitute one (1) license for the calculation of the limitation on the number of licenses only. All other requirements and fees apply.

(2) The applicant shall submit proof that the applicant has or will have lawful possession of the premises proposed for the cannabis establishment, which proof may consist of a deed, lease, a real estate contract contingent upon successful licensing, or a binding letter of intent by the owner of the premises indicating an intent to lease the premises to the applicant contingent upon applicant's receipt of a license from the State of New Jersey.

(3) The applicant and/or owner, as may be applicable, shall submit an affidavit and



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documentary proof of compliance with all state and local laws regarding affirmative action, anti-discrimination, and fair employment practices. The applicant and/or owner, as may be applicable, shall also certify under oath that they will not discriminate based on race, color, religion (creed), gender expression, age, national origin (ancestry), disability, marital status, sexual orientation, or military status, in any of its activities or operations.

- (4) The location proposed for licensing by the applicant shall comply with all applicable municipal zoning laws and the location restrictions outlined in the land development portion of the Borough of Wanaque Municipal Code. A letter from the appropriate zoning official indicating that the location proposed for licensing by the applicant complies with all applicable Borough zoning laws and the location restrictions set forth herein. The fee for the letter from the zoning official is \$100.
- (5) The applicant, owner, and its principals, as may be applicable, shall submit, to the satisfaction of the Borough Committee, proof of financial capability to open and operate a cannabis establishment for which the applicant is seeking a license. Standards of proof of financial capability shall be determined by the Borough. Completed applications shall include a business plan outlining the proposed operations of the cannabis business.
- (6) The applicant shall submit all required nonrefundable fees for the application and license in accordance with the BOROUGH OF WANAQUE CANNABIS LICENSE AND FEE SCHEDULE.
- (7) In addition to complying with any state requirement related to good character and criminal background, any person proposed to have an ownership interest in the license shall not have had any cannabis license or permit revoked for a violation affecting public safety in any state.

F. Cannabis Advisory Committee.

A Borough Cannabis Advisory Committee (CAC or Committee), as appointed below, will function as the body for local review for the Borough for all cannabis establishments, but the authority and responsibility to adopt a resolution of support remains with the Borough Council. Under all circumstances in which State law requires communication to the Borough by the Cannabis Regulatory Commission or any other State agency about the licensing of cannabis establishments by the State, or in which State law requires any review or approval by the Borough of any action taken by the State licensing authority, the exclusive authority for receiving such communications shall be communicated through the Borough Administrator's Office upon recommendation by the Borough's five (5) member Cannabis Advisory Committee ("CAC") and hereby authorized by the Borough's Governing Body.

a. Members of said CAC shall include the following individuals:

- (1) The Borough Administrator shall serve as the CAC chairperson
- (2) The Chief of Police or a Superior Officer designee in the Wanaque Police Department
- (3) Two members shall be appointed by the Council-who may be Councilmembers
- (4) One member shall be appointed by the Mayor-who may be the Mayor



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b. To the extent necessary and in their sole discretion, the Committee shall be supported by other legal and planning professionals. The Committee may request additional resources as necessary to effectuate the responsibilities of the Committee. The applicants shall deposit and fund an escrow in the amount of \$5,000.00 for the costs of said professionals. If the Borough must hire one or more consultants to evaluate a first-time or renewal application for a license, the applicant will be responsible for the review fees of the Borough's hired consultant(s). To the extent that the escrow is exhausted, the applicant shall provide any replenishment amount required by the Committee within ten (10) days of a replenishment request by the Committee.

c. Duties of the Committee will be to advise the Borough's Governing Body as to the issuance of a Resolution of Support and a local cannabis license within the Borough. The committee's work shall be made consistent with the criteria outlined in this Chapter, but it has discretion to deviate from the same. All applications shall be evaluated by the Cannabis Advisory Committee. The Committee shall evaluate all applications and issue to the Borough Council a recommendation as to the issuance of a resolution of support or a rejection of the application. The Cannabis Advisory Committee, pursuant to this subsection, shall prepare a memorandum addressed to the Mayor and Council recommending whether to grant or deny each completed application. The recommendation shall be made after consideration and evaluation of the following criteria:

- (a) The applicant's owners' or principals' qualifications and experience operating in highly regulated industries, including cannabis, healthcare, pharmaceutical manufacturing, or retail pharmacies, with preference to experience operating such businesses within the State of New Jersey, and where the value of the owners' experience shall outweigh the experience of non-owner principals.
- (b) The applicant's qualifications and experience related to public safety and security, including any of the applicant's owners' or principals' experience in securing controlled substances or valuable items. Applicant shall submit a summary of the applicant's plans for storage of products and currency, physical security, video surveillance, security personnel, and visitor management as well as training plans.
- (c) The status of the applicant's control over the premises at the proposed location, and specifically whether the applicant owns or has executed an agreement to lease or purchase the site.
- (d) The extent of the applicant's ties to the community as measured by residency in Wanaque by employees, managers, and/or shareholders, historical operation of a local business, historical ties to Wanaque or area civic organizations, and/or charities.
- (e) Applicant's demonstrated commitment or sufficient experience as a responsible employer, defined as the applicant entity being a party to a labor peace agreement or the applicant entity or its parent company being a party to a collective bargaining agreement in an effort to create well-paying jobs with employee benefits in the municipality.
- (f) Summary of the applicant's environmental impact and sustainability plan



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- (g) Any other information that the applicant may wish to highlight and bring to the Borough's attention regarding the proposed cannabis business operation and/or the owners, principals, or employees of the business.
- (7) The Borough Council shall act on the recommendations made by the Cannabis Advisory Committee within 60 days of the committee issuing its recommendations to issue a resolution of support or not issue a resolution of support of a municipal cannabis license under the terms of paragraph G hereinbelow. The Borough Council shall not issue resolutions of support more than the number of local cannabis licenses permitted in accordance with the BOROUGH OF WANAQUE CANNABIS LICENSE AND FEE SCHEDULE. The Borough Administrator shall engage with an applicant granted a resolution of support and, after all other approvals for a host community benefits agreement, which must be approved by the Borough Council.
- (8) Notwithstanding the foregoing competitive application process, a notification of a resolution of support shall entitle the recipient applicant to pursue a State license in the appropriate cannabis class for up to twelve (12) months, which may be extended at the Borough Council's discretion for an additional six (6) months for good cause. No license to operate shall be issued until the applicant has received a State annual license and satisfied other prerequisites of municipal licensure. If the recipient of a resolution of support has not received a State license within twelve (12) months from issuance, unless extended for good cause, the Borough Administrator shall issue a new request for applications and evaluate all applicants for licensure under the above criteria.

G. Terms of local cannabis license and cannabis license renewals:

- (1) Before the occupancy of a building or buildings where the local cannabis license will be used to operate the cannabis business, the license holder shall obtain site plan approval, along with any other land use approvals deemed necessary, from the Wanaque Planning Board, along with any additional outside governmental agency approval(s) which may be necessary.
- (2) Any local license issued pursuant to this article shall be valid for a period of one (1) year from the date of issuance and shall be renewed in accordance with the provisions of this article.
- (3) The Borough Administrator may adjust the renewal date of the local license to correlate with an applicant's State licensing and renewal schedule.
- (4) 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.
- (5) Transfer of ownership of any local license or change of location of any license or modification to expand a licensed premises shall be subject to joint Borough Council and Planning Board review and approval as well as a new license application.
- (6) Except where the Borough Clerk 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,



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transfer, transport, or otherwise remove cannabis or cannabis products from the premises of any licensee after the expiration date recorded on the face of the license, except for the closure of the business.

(7) Subject to the requirements and limitations of state law, the municipality shall have the reasonable right to inspect the premises of any approved cannabis establishment during its regular hours of operation to ensure compliance with local ordinances and regulations. It shall be unlawful for any cannabis business to refuse to allow such an inspection or to hinder such an inspection.

§ 3-119.6. Enforcement and Penalties.

- A. This ordinance shall be enforced by the Code Enforcement Officer and/or their designee.
- B. Jurisdiction. Violations of this ordinance shall be adjudicated in the Wanaque Municipal Court. This ordinance shall not affect the judicial proceedings of any other aspect of cannabis use in the Borough of Wanaque.
- C. Penalties. Convictions shall result in the following penalties:
 - (1) First offense and subsequent offenses: A mandatory fine shall be imposed in an amount of \$5,000.00 per day per violation. In addition to the mandatory fine, the following penalties may be imposed in the discretion of the Municipal Court Judge:
 - (a) Imprisonment in the Passaic County Jail for any term not exceeding 90 days; or
 - (b) Imposition of a period of community service for a period not exceeding 90 days.
 - (2) Every day of the violation shall be construed as a single and separate offense.
 - (3) Summary suspension. Notwithstanding the foregoing, when the Borough Administrator has been notified of a third conviction by a licensee, has reasonable grounds to believe that a licensee has engaged in deliberate and willful violation of any applicable law or regulation, or that the public health, safety, and/or general welfare has been jeopardized and requires immediate action, or in circumstances where the licensee has failed to reimburse the municipality for outside third party consultant fees in a timely manner as set forth herein or if the corresponding State license for the subject location is expired, surrendered, suspended, or revoked, the Borough Administrator in consultation with the Cannabis Advisory Committee may enter a summary suspension order which immediately suspends the licensee's license to operate and schedule a hearing as follows:
 - (a) The summary suspension order shall be in writing, shall state the reasons therefor, and shall schedule a hearing not less than ten (10) nor more than thirty (30) days from the date of the order. The order shall be served upon the licensee immediately.



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(b) The Borough Administrator shall convene the Cannabis Advisory Committee to conduct the hearing. The licensee shall be permitted to appear at the hearing, along with counsel, if so desired. The licensee must notify the Borough Administrator at least five (5) days before the hearing if the licensee plans to bring counsel to the hearing. At the conclusion of the hearing, the Wanaque Advisory Cannabis Committee may lift the suspension order and reinstate the license in cases where the licensee has taken sufficient immediate actions to rectify the violation(s) that were the cause of the summary suspension order. Alternatively, the Wanaque Cannabis Advisory Committee may impose any fines, conditions, restrictions, suspensions, revocations, or combination thereof as warranted.

(c) Inactive licenses. Following the commencement of operations by a cannabis business, the Borough Administrator may suspend or revoke any license if the licensed premises have been inactive or unoccupied by the licensee for at least six (6) months.

(4) State license. The Borough Administrator may suspend or revoke any locally-issued license if the corresponding State license for the subject location has expired, been surrendered, suspended, or revoked.

§ 3-119.7. Public Nuisance Declared.

Operation of any prohibited or unpermitted cannabis business operation within the municipality in violation of the provisions of this Chapter is hereby declared a public nuisance and shall be abated pursuant to all available remedies, including those penalties enumerated in § 3-119.6. Enforcement and Penalties.

§ 3-119.8. Prohibition of Unregulated Sale of Cannabis.

A. No person shall sell cannabis in the Borough of Wanaque without a state cannabis license and a Borough local cannabis license and shall be abated pursuant to all available remedies, including those penalties enumerated in § 3-119.6. Enforcement and Penalties.

B. No person shall gift cannabis in the Borough of Wanaque as part of a sale of another item or items and shall be abated pursuant to all available remedies, including those penalties enumerated in § 3-119.6. Enforcement and Penalties. Gifting is the knowing circumvention of the state's cannabis laws by "gifting" cannabis in exchange for non-cannabis-related purchases such as overpriced cookies, brownies, jars, stickers, and any other items.

§ 3-119.9. Title.

This chapter shall be known as the "Taxation of Cannabis."

§ 3-119.10 State Enablement.



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- A. Legislation and Purpose. Purpose. The purpose of this section is to implement N.J.S.A. 40:48I-1 and 24:6I-46 of the New Jersey Cannabis Regulatory Enforcement Assistance and Marketplace Modernization Act ("CREAMMA"), which authorizes a municipality to impose cannabis transfer and user taxes on cannabis for adult use, but not medical use. All terms herein shall have the same meaning as found in N.J.S.A. 24:6I-33, Section 3 of CREAMMA, and Chapter 88 of the Code, unless otherwise stated.
- B. The Act establishes six marketplace classes of licensed businesses, including:
- (1) Class 1 Cannabis Cultivator license, for facilities involved in growing and cultivating cannabis;
 - (2) Class 2 Cannabis Manufacturer license, for facilities involved in the manufacturing, preparation, and packaging of cannabis items;
 - (3) Class 3 Cannabis Wholesaler license, for facilities involved in obtaining and selling cannabis items for later resale by other licensees;
 - (4) Class 4 Cannabis Distributor 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-this license is NOT permitted in the Borough.
 - (5) Class 5 Cannabis Retailer license for locations at which cannabis items and related supplies are sold to consumers; and
 - (6) Class 6 Cannabis Delivery license, for businesses providing courier services for consumer purchases that are fulfilled by a licensed cannabis retailer 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-this license is NOT permitted in the Borough **However, in no event may a Cannabis delivery service NOT situated in the Borough of Wanaque provide such service without 72 hours advance written notice of said delivery to the Borough Clerk.**
- C. A Cannabis Business is defined as any business that holds one or more State of New Jersey issued licenses for Class 1 through Class 6 cannabis businesses, and a Vertically Integrated Cannabis Business is defined as any Cannabis Business that holds more than one Cannabis License.
- D. Section 40a(1) of the Act permits a municipality to adopt an ordinance imposing a transfer tax on the sale of cannabis or cannabis items by a cannabis establishment that is located in the municipality 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 of cannabis items by a cannabis retailer to retail consumers who are twenty-one (21) years of age or older; or any combination thereof and to set its own rate or rates, but in no case exceeding: two (2) percent of the receipts from each sale by a cannabis cultivator; two (2) percent of the receipts from each sale by a



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cannabis manufacture; one (1) percent of the receipts from each sale by a cannabis wholesaler; and two (2) percent of the receipts from each sale by a cannabis retailer.

E. Section 40a (2) of the Act requires a municipality enacting a Transfer Tax to also enact a User Tax.

§ 3-119.11. Definitions.

CONSUMER

“Consumer” means a person 21 years of age or older who purchases, directly or through a cannabis delivery service NOT located in the Borough, acquires, owns, holds, or uses cannabis items for personal use by a person 21 years of age or older, but not for resale to others.

PREMISES

“Premises” or “licensed premises” includes the following areas of a location licensed under P.L.2021, c. 16 (C.24:6I-31 et al.): all public and private enclosed areas at the location that are used in the business operated at the location, including offices, kitchens, rest rooms, and storerooms; all areas outside a building that the Cannabis Regulatory Commission has specifically licensed for the production, manufacturing, wholesaling, distributing, retail sale, or delivery of cannabis items; and, for a location that the commission has specifically licensed for the production of cannabis outside a building, the entire lot or parcel that the licensee owns, leases, or has a right to occupy.

TAXPAYER BUSINESS

Shall mean for this Chapter any cannabis business defined in this sub-section.

All other terms as defined in the “New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act,” also referenced herein as the “Act” or “P.L. 2021, c. 16,” are hereby incorporated herein by reference and shall have the meanings outlined in the Act, as may be amended or superseded.

USER TAX VALUE OR ASSESSMENT

Shall mean the average market value of cannabis or a cannabis item. User Taxes are treated as municipal property taxes, requiring that the value of said User Taxes be an average market value for assessment purposes. User Taxes 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.

§ 3-119.12. Establishment of Transfer and User Taxes.

A. Transfer Tax.



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(1) There is hereby imposed a transfer tax in the amount of two percent (2%) on receipts from the sale of cannabis as follows:

- (a) From the sale of cannabis by a cannabis cultivator to another cannabis establishment; and
- (b) From the sale of cannabis items from one cannabis manufacturer to another cannabis establishment; and
- (c) From the sale of cannabis items from a cannabis retailer to the consumer.

(2) There is hereby imposed a transfer tax in the amount of one percent (1%) on receipts of the sale of cannabis as follows:

- (a) From the sale of cannabis items from one cannabis wholesaler to another cannabis establishment.

B. Collection of Transfer Tax. Such tax shall be collected or paid, and remitted to the municipality by the cannabis establishment from the cannabis establishment purchasing or receiving the cannabis or cannabis item, or from the consumer at the point of sale, on behalf of the municipality by the cannabis retailer selling the cannabis item to that consumer. The transfer tax shall be stated, charged, and shown separately on any sales slip, invoice, receipt, or other statement or memorandum of the price paid or payable, or equivalent value of the transfer, for the cannabis or cannabis item. No cannabis establishment required to collect a transfer tax imposed hereunder shall advertise or hold out to any person or to the public in general, in any manner, directly or indirectly, that the transfer tax or user tax will not be separately charged and stated to another cannabis establishment or the consumer, or that the transfer tax will be refunded to the cannabis establishment or the consumer.

C. User Tax. There shall also be imposed 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 (C.24:6 -46), 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 paragraphs A and B of this subsection, from the license holder's establishment that is located in the municipality to any of the other license holder's establishments, whether located in the municipality or another municipality. The value of each use of cannabis or cannabis items for user tax computation shall equal the statewide average retail price of an ounce of usable cannabis for consumer purchase. The value of each use of cannabis items for user tax computation shall equal the statewide average market price of the cannabis item for consumer purchase.

D. Relationship to Other Taxes. A transfer tax or user tax imposed pursuant to this section shall be in addition to any other tax imposed by law. Any transaction for which the transfer tax or user tax is imposed, or could be imposed, pursuant to this section, other than those which generate receipts from the retail sales by cannabis retailers, shall be exempt from the tax imposed under the "Sales and Use Tax Act," P.L. 1966, c.30 (C.54:32B-



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1 et seq.). The transfer tax or user tax shall be paid by the cannabis establishment purchasing or receiving any cannabis or cannabis item from any cannabis cultivator or cannabis manufacturer licensed by the municipality, and shall be collected and remitted to the municipality by the cannabis establishment licensed by the municipality. The transfer tax or user tax shall be stated, charged, and shown separately on any sales slip, invoice, receipt, or other statement or memorandum of the price paid or payable, or equivalent value of the transfer, for the cannabis or cannabis item.

- E. Tax Liability. Every cannabis establishment required to collect a transfer tax or user tax imposed pursuant to this ordinance shall be personally liable for the transfer tax or user tax imposed, collected, or required to be collected under this section. Any cannabis establishment shall have the same right with respect to collecting the transfer tax or user tax from another cannabis establishment or the consumer as if the transfer tax or user tax was a part of the sale and payable at the same time, or with respect to non-payment of the transfer tax or user tax by the cannabis establishment or consumer, as if the transfer tax or user tax was a part of the purchase price of the cannabis or cannabis item, or equivalent value of the transfer of the cannabis or cannabis item, and payable at the same time; provided, however, that the chief financial officer of the Borough of Wanaque which imposes the transfer tax or user tax shall be joined as a party in any action or proceeding brought to collect the transfer tax or user tax.

§ 3-119.13. Administration of Transfer and User Taxes.

- A. Unless otherwise determined by the Borough Council, the chief financial officer of Wanaque is charged with the administration and enforcement of the provisions of this chapter, and is empowered to prescribe, adopt, promulgate and enforce rules and regulations relating to any matter about the administration and enforcement of this chapter, including provisions for the reexamination and corrections of declarations and statements, and of payments alleged or found to be incorrect, or as to which an overpayment is claimed or found to have occurred, and to prescribe forms necessary for the administration of this chapter. The Borough Council may determine at any time, in its sole discretion, to retain an outside third-party consultant (the "outside consultant") to exercise all of the duties and responsibilities of the chief financial officer as set forth above, except the power of enforcement, levying of fines and penalties, and entering into agreements with the State of New Jersey. If the Borough Council retains such an outside consultant, the fee schedule for the outside consultant shall be presented, for informational purposes only, to the cannabis business before such audit and other work is undertaken. The cannabis business shall be responsible for reimbursement to the Borough of the fees incurred by the Borough to the outside consultant for services rendered in its examination of the business's accounts for the determination of tax to be paid. A copy of the invoice shall be sent to the cannabis business by the municipality after the municipality is billed for the outside consultant's work. The cannabis business shall reimburse the municipality for the outside consultant's fees and expenses within sixty (60) days thereafter. Failure to timely reimburse the municipality shall invoke the suspension section of the Borough Code. Should a cannabis business fail or refuse to provide adequate information to the chief financial officer or the outside consultant to determine the amount of tax due, the chief financial officer or the outside consultant may use information provided from other sources



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(i.e., the NJ Cannabis Regulatory Commission or NJ Department of Treasury) to determine the amount of tax liability, and the licensee shall be subject to the penalties outlined in the suspension section of the Borough Code.

- B. It shall be the duty of the chief financial officer or the outside consultant, as applicable, to collect and receive the taxes, fines, and penalties imposed by this chapter. It shall also be the duty of the chief financial officer or the outside consultant, as applicable, to keep a record showing the date of such receipt. The chief financial officer is authorized to enter into agreements with the State of New Jersey to obtain information to facilitate the administration of the taxes. The chief financial officer is authorized to issue a ruling upon written request of a taxpayer or upon his or her own volition.
- C. The chief financial officer or the outside consultant, as applicable, is hereby authorized to examine the books, papers, and records of any taxpayer to verify the accuracy of any declaration or financial statement, or if no declaration or financial statement was filed, to ascertain the tax due. Every taxpayer is hereby directed and required to give to the chief financial officer, or to the outside consultant, as applicable, the means, facilities, and opportunity for such examinations and investigations, as are hereby authorized or otherwise permitted by law.
- D. If the transfer tax or user tax imposed pursuant to this ordinance is not paid 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.
- E. The chief financial officer or outside consultant, as applicable, 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.
- F. Returns and records filed by a licensee, and the records and files of the chief financial officer or the outside consultant, as applicable, respecting the administration of the Transfer and User Tax, shall be considered confidential and privileged and neither the chief financial officer nor any employee or outside consultant engaged in the administration thereof or charged with the custody of any such records or files, nor any former officer or employee, nor any person who may have secured information therefrom shall divulge, disclose, use for their own personal advantage, or examine for any reason other than a reason necessitated by the performance of official duties any information obtained from the said returns, records or files or from any examination or inspection of the premises or property of



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any person, or to an officer of a public entity for a reason authorized by N.J.S.A. 54:50-9. Neither the chief financial officer nor any employee or outside consultant engaged in such administration or charged with the custody of any such returns, records or files shall be required to produce any of them for the inspection of any person or for use in any action or proceeding except when the records or files or the facts shown thereby are directly involved in an action or proceeding to collect or challenge the assessment of Transfer or User Taxes hereunder, or where the determination of the action or proceeding will affect the validity or amount of the claim of the Borough hereunder, or in any lawful proceeding for the investigation and prosecution of any violation of this Article or of the criminal provisions of the State Uniform Tax Procedure Law or of any State tax law, or where production is required pursuant to the New Jersey Open Public Records Act (N.J.S.A. 47:1A-1, et seq.) or the Common Law, or the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (P.L. 2021, c.16) or other applicable law.

§ 3-119.14. Recordkeeping, Tax Payments, and Financial Statements.

A. Requirement to Keep Records. Taxpayers liable for the transfer and/or user tax are required to keep such records as will enable the filing of true and accurate financial statements of the tax and such records shall be preserved for a period of not less than three (3) years from the filing date or due date, whichever is later, to enable the chief financial officer or any agent designated by him to verify the correctness of the declarations or financial statements filed. If records are not available in the Borough of Wanaque to support the financial statements which were filed or which should have been filed, the taxpayer will be required to make them available to the chief financial officer either by producing them at a location in the municipality or by paying for the expenses incurred by the chief financial officer or his agent in traveling to the place where the records are regularly kept.

B. Tax Payments and Financial Statements. All cannabis establishments operating in the Borough of Wanaque shall be required to file a transfer and/or user tax statement with the chief financial officer to report their sales during each calendar quarter and the amount of tax in accordance with the provisions of this chapter. Financial statements shall be filed and payments of tax imposed for the preceding calendar quarter shall be made on or before the last day of April, July, October, and January, respectively. The cannabis establishment shall provide METRC data and reports in a form acceptable to the municipality. A taxpayer who has overpaid the transfer or user tax, or who believes it is not liable for the tax, may file a written request on an amended financial statement with the chief financial officer for a refund or a credit of the tax. A taxpayer who has underpaid the transfer or user tax by an amount greater than 5% shall be subject to accrued interest in accordance with the method and rate charged by the New Jersey Division of Taxation.

Section 5. Repealer. Any article, section, paragraph, subsection, clause, or other provision of the Code of the Borough of Wanaque, inconsistent with the provisions of this ordinance, is hereby repealed to the extent of such inconsistency, only.



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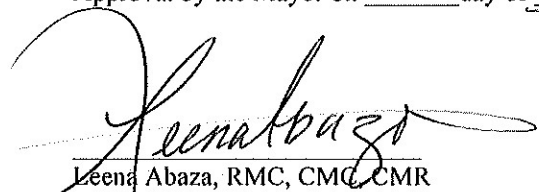
Section 6. Severability. If any section, paragraph, subsection, clause, or provision of this ordinance shall be adjudged by a court of competent jurisdiction to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause, or provision so adjudged, and the remainder of this ordinance shall be deemed valid and effective.

Section 7. Enactment. This ordinance shall become effective immediately after publication in the manner provided by law.

Section 8. Continuation and codification. This ordinance shall be a part of the "Borough of Wanaque Municipal Code," as codified and fully set forth herein. The Borough Clerk shall have this ordinance codified and incorporated in the official copies of the Borough Code. The Borough Clerk and Borough Attorney are authorized and directed to change any chapter, article, and/or section number of the "Borough of Wanaque Municipal Code" if the codification of this ordinance reveals that there is a conflict between the numbers and the existing Code, and to avoid confusion and accidental repeal of existing provisions not intended to be repealed.

Approval by the Mayor on 10th day of December, 2025


Mayor Daniel Mahler


Leena Abaza, RMC, CMC, CMR
Borough Clerk

Introduction: 8/11/25
Adoption: 12/8/25