

**TOWNSHIP OF WATERFORD**

**ORDINANCE NO. 2021-10**

**ORDINANCE OF THE TOWNSHIP OF WATERFORD CREATING A NEW CHAPTER IN THE TOWNSHIP CODE TO IMPOSE A TRANSFER TAX ON THE SALE OF CANNABIS BY LICENSED BUSINESSES OPERATING IN THE TOWNSHIP AND A USER TAX ON CONCURRENT LICENSE HOLDERS OPERATING MORE THAN ONE CANNABIS ESTABLISHMENT**

**WHEREAS**, on November 6, 2020 the voters in New Jersey approved Public Question No. 1 which amended the New Jersey Constitution permitting legalization of a controlled form of marijuana called “cannabis” subject to regulated recreational and personal use by adults 21 years of age and older; and

**WHEREAS**, on February 22, 2021 Governor Murphy signed legislation known as the “New Jersey Cannabis Regulatory Enforcement Assistance and Marketplace Modernization Act” (the “Act”) which legalized the recreational use of marijuana by adults 21 years of age or older and established a comprehensive regulatory and licensing scheme for commercial recreational cannabis operations, use and possession; and

**WHEREAS**, the act established six marketplace classes of licensed businesses identified as:

- (i) Class 1 - Cannabis Cultivator License, for facilities involved in growing and cultivating cannabis;
- (ii) Class 2 - Cannabis Manufacturer License, for facilities involved in the manufacturing, preparation and packaging of cannabis items;
- (iii) Class 3 - Cannabis Wholesaler License, for facilities involved in obtaining and selling cannabis items for later resale by other licensees;
- (iv) Class 4 - Cannabis Distributor License, for businesses involved in transporting cannabis plants in bulk from one licensed cultivator to another licensed cultivator or cannabis items in bulk from any type of licensed cannabis business to another;
- (v) Class 5 - Cannabis Retailer License, for locations at which cannabis items and related cannabis supplies are sold to consumers; and

- (vi) Class 6 - Cannabis Delivery License, for businesses providing courier services for consumer purchases that are fulfilled by a licensed Cannabis Retailer in order to make deliveries of the purchased items to a consumer, and which service would include the ability of a consumer to make a purchase directly through the cannabis delivery service which would be presented by the delivery service for fulfillment by a retailer and then delivered to a consumer; and

**WHEREAS**, the Mayor and Township Committee have presently determined not to permit a Class 5 Retail Business in the Township; and

**WHEREAS**, N.J.S.A. 40:8I-1 authorizes a Municipality by Ordinance to impose a transfer tax on the sales of cannabis and cannabis-related items by a cannabis establishment that is identified as a Class 1, Class 2 or Class 3 licensee and other such licensed cannabis business; and

**WHEREAS**, said law also provides that any Municipal Ordinance imposing such transfer tax shall include provisions for imposing a user tax, at the equivalent rates on any concurrent license holder operating under more than one cannabis type of license; and

**WHEREAS**, the Mayor and Township Committee of the Township of Waterford has determined to take this opportunity to enhance the Township's revenue stream for the benefit and general welfare of its residents and determined that the Township will allow certain businesses conducting licensed cannabis activities, subject to local licensure requirements and land use standards, to operate as a conditional use in zoning districts identified in a new Chapter being added to the Township Code entitled "Cannabis".

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and Township Committee of the Township of Waterford, County of Camden, State of New Jersey, that a new Chapter shall be added to the Township Code entitled "Transfer and User Tax" which shall authorize the imposition of transfer and user taxes on cannabis transactions by licensed cannabis businesses licensed to operate within the Township as follows:

**Section 1.** A new Chapter of the Township Code captioned “Transfer and User Tax” is hereby created to establish transfer and user taxes on cannabis transactions by licensed cannabis businesses properly operating within the Township and which shall read as follows:

**Section 2. PURPOSE**

**§2-1 Purpose.**

The purpose of this Chapter is to impose a tax on the sale of cannabis or cannabis products by licensed commercial cannabis businesses operating in the Township of Waterford pursuant to the New Jersey Cannabis Regulatory, Enforcement Assistance and Marketplace Modernization Act, to specify the type of tax and rate of tax to be levied and the method of collection, and to comply with all requirements for the imposition of a transfer or user tax pursuant to State law. This Chapter is enacted solely to raise revenue and not for regulation. This Chapter does not authorize the conduct of any business or activity in the Township of Waterford, but provides for the taxation of such businesses or activities as they occur.

**§2-2 Definitions.**

The terms and definitions enumerated in Section 3 of a new Chapter of the Township Code entitled “Cannabis” are hereby incorporated by reference as if fully set forth herein. For the purpose of this Chapter, words and phrases herein shall have the same meanings as codified under state law, N.J.S.A. 40:481-1(d), and any amendments or supplements thereto, and the rules and regulations of the Cannabis Regulatory Commission. In the event of a conflict in the meaning of words or phrases as between the Township Code and the foregoing laws or regulations of the State concerning legal cannabis, State law or regulations shall govern.

**§2-3 Imposition of Cannabis Transfer Tax and User Tax**

The Township of Waterford hereby imposes and shall collect certain local option taxes on cannabis business activity as follows:

A. A municipal transfer tax is hereby imposed on the receipts of each sale by a licensed cannabis business operating in the Township of Waterford at the rate of two percent (2%) of the receipts from each sale by a Cannabis Cultivator, and a Cannabis Manufacturer, and one percent (1%) of the receipts from each sale by a Cannabis Wholesaler.

B. A municipal user tax is hereby imposed, at the equivalent transfer tax rates, on any concurrent license holder 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 this section, 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.



## **§2-4 Payment of Taxes**

All revenues collected pursuant to this section shall be remitted to the Chief Financial Officer of the Township of Waterford in the manner provided by this ordinance. The taxes imposed by this section shall be computed and paid for each calendar month. Said taxes are due and payable to the Chief Financial Officer on or before the twentieth day of the succeeding month.

## **§2-5 Administration**

A. The Chief Financial Officer is hereby authorized and empowered to administer, regulate and collect payment of all taxes imposed by this ordinance.

B. Chief Financial Officer may order an audit of any taxpayer under this Chapter for the purpose of ascertaining the correctness or completeness of any return or payment.

## **§2-6 Penalties**

A. The payment of delinquent taxes or transfer fees imposed by this ordinance shall be enforced in the same manner as provided for delinquent real property taxes.

B. In the event that the transfer tax or user tax imposed by this ordinance is not paid as and when due by a cannabis establishment, the unpaid balance, and any interest accruing thereon, shall be a lien on the parcel of real property comprising the cannabis establishment's premises in the same manner as all other unpaid municipal taxes, fees, or other charges. The lien shall be superior and paramount to the interest in the parcel of any owner, lessee, tenant, mortgagee, or other person, except the lien of municipal taxes, and shall be on a parity with and deemed equal to the municipal lien the parcel for unpaid property taxes due and owing in the same year.

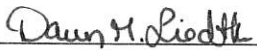
C. In the event that a lien is imposed on a delinquent taxpayer pursuant to this section, the Township shall file in the office of the tax collector a statement showing the amount and due date of the unpaid balance and identifying the lot and block number of the parcel of real property that comprises the delinquent cannabis establishment's premises. The lien shall be enforced as a municipal lien in the same manner as all other municipal liens are enforced.

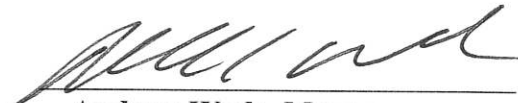
**Section 3.** Repealer. Any and all Ordinances or parts of Ordinances inconsistent with the terms of this Ordinance are hereby repealed to the extent of any such inconsistencies.

**Section 4.** If the provisions of any section, subsection, paragraph, subdivision, or clause of this Ordinance shall be judged invalid by a Court of competent jurisdiction, such order of

judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision or clause of this Ordinance.

**Section 5.** This Ordinance shall only take effect after final adoption and publication as required by law and is subject to the regulations to be promulgated and adopted by the Cannabis Regulatory Commission.

  
 Dawn Liedtka, RMC / CMR Clerk

  
 Andrew Wade, Mayor

Introduced: 7/14/2021  
 Public Hearing: 7/28/2021  
 Adopted: 7/28/2021

UPON INTRODUCTION ON July 14, 2021					
	GIANGIULIO	ROMOLINI	WILSON	YEATMAN	WADE
YES		x	x	x	x
ABSTAIN					
NO					
ABSENT	x				
UPON ADOPTION ON -2021					
	GIANGIULIO	ROMOLINI	WILSON	YEATMAN	WADE
YES	x	x	x	x	x
ABSTAIN					
NO					
ABSENT					

**CERTIFICATION**

I, Dawn Liedtka, Clerk of the Township of Waterford, Camden County, New Jersey, do hereby certify the foregoing to be true and exact copy of the Ordinance which was finally adopted by the Mayor and Township Committee of the Township of Waterford at a Meeting held on 28<sup>th</sup> day of July, 2021.

  
 Dawn Liedtka, RMC / CMR Clerk