

ORDINANCE NO. 2024-12

**AN ORDINANCE OF THE BOROUGH OF STOCKTON,
COUNTY OF HUNTERDON, NEW JERSEY,
PERMITTING CLASS 5 CANNABIS RETAILERS IN
THE COMMERCIAL RESIDENTIAL (CR) ZONE AND
REGULATING CLASS 5 CANNABIS RETAILERS**

WHEREAS, on February 22, 2021, 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”), codified at N.J.S.A. 24:6I-31 et seq., which legalizes the recreational use of cannabis by adults twenty-one 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, the Act established six marketplace classes of licensed businesses, including:

- Class 1 Cannabis Cultivator license, for facilities involved in growing and cultivating cannabis;
- Class 2 Cannabis Manufacturer license, for facilities involved in the manufacturing, preparation, and packaging of cannabis items;
- Class 3 Cannabis Wholesaler license, for facilities involved in obtaining and selling cannabis items for later resale by other licensees;
- Class 4 Cannabis 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;
- Class 5 Cannabis Retailer license, for locations at which cannabis items and related supplies are sold to consumers; and
- Class 6 Cannabis Delivery license, for businesses providing courier services for consumer purchases that are fulfilled by a licensed cannabis retailer in order to make deliveries of the purchased items to a consumer, and which service would include the ability of a consumer to make a purchase directly through the cannabis delivery service which would be presented by the delivery service for fulfillment by a retailer and then delivered to a consumer; and

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

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

WHEREAS, pursuant to section 31b of the Act, the failure to do adopt a municipal prohibition shall mean that for a period of five years thereafter, the growing, cultivating, manufacturing, selling and reselling of cannabis and cannabis items shall be permitted uses in all industrial zones, and the retail selling of cannabis items to consumers shall be a conditional use in all commercial and retail zones, subject to a municipality’s regulation of any the following, consistent with N.J.A.C. 17:30-5.1: the numerical limit of cannabis businesses; the location, manner and times of operation; limitations on operation of a cannabis business premises within a certain distance to the closest church, synagogue, temple, or other place of religious worship, and/or from the closest school, playground, park or child daycare facility; municipal licensing requirements; and procedures for issuance of local support; and

WHEREAS, at the conclusion of the initial and any subsequent five-year period following a failure to enact a local prohibiting ordinance, the municipality shall again have 180 days to adopt

an ordinance prohibiting cannabis businesses, but any such ordinance would be prospective only and would not apply to any cannabis business already operating within the municipality; and

WHEREAS, in 2021, the Mayor and Council of the Borough of Stockton adopted a policy “opting out” of all forms of cannabis businesses in the Borough through Ordinance 2021-04 introduced by Council on April 12, 2021 and then approved by Council on May 10, 2021; and

WHEREAS, the Borough Council has recently discovered that there were procedural irregularities surrounding the introduction and adoption of Ordinance 2021-04; and

WHEREAS, also since 2021, the Borough has continued to monitor the Act and its impacts on New Jersey municipalities; and

WHEREAS, at this time, it is in the Borough’s best interest to set forth reasonable regulations permitting cannabis retail as a conditional use in the Borough’s commercial or retail zones, which consists of the Commercial Residential (CR) Zone; and

WHEREAS, pursuant to section 31 of the Act, it is incumbent on the Borough to establish conditional use standards for the operation of retail cannabis in the CR Zone that protect the public interest and are consistent with the Act and Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.), and also, pursuant to N.J.A.C. 17:30-5.1, to regulate: the numerical limit of cannabis businesses; location, manner and times of operation; limitations on operation of a cannabis business within a certain distance to the closest church, synagogue, temple, or other place of religious worship, and/or from the closest school, playground, park or child daycare facility; municipal licensing requirements; and procedures for issuance of local support for such cannabis retailers within the Borough.

NOW THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Stockton, County of Hunterdon and State of New Jersey, as follows:

1. Preamble incorporated. The preamble to this ordinance is hereby incorporated as if fully restated herein.

2. Amendment to Article 2, “Definitions,” of the “Borough of Stockton Zoning Ordinance of 1975,” as amended. Article 2, “Definitions,” of the “Borough of Stockton Zoning Ordinance of 1975,” as amended, shall be and is hereby further amended to add the following new term and definition:

2.60 CANNABIS (AND OTHER TERMS DEFINED UNDER THE CANNABIS REGULATORY, ENFORCEMENT ASSISTANCE, AND MARKETPLACE MODERNIZATION ACT)

As used in the ordinances of the Borough of Stockton, the term cannabis and all terms related to personal use cannabis shall have the same meaning as ascribed to those terms in the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act, and specifically section 3 thereof (N.J.S.A. 24:6I-33), and the regulations promulgated by the Cannabis Regulatory Commission, N.J.A.C. 17:30-1.1 et seq., as may be amended from time to time.

3. General prohibition on all classes of cannabis businesses, except class 5 cannabis retailers. Pursuant to section 31b of the Act, all class 1 cannabis cultivators, class 2 cannabis manufacturers, class 3 cannabis wholesalers, class 4 cannabis distributors, and class 6 cannabis delivery services, as said terms are defined in section 3 of the Act (N.J.S.A. 24:6I-31, as may be amended from time to time) are hereby prohibited from operating anywhere in the Borough, except for the delivery of cannabis items and related supplies within the Borough by a cannabis delivery service otherwise licensed outside the Borough.

4. Cannabis retailer permitted as conditional use only in Commercial Residential (CR) Zone. Class 5 cannabis retailers shall only be permitted as a conditional use in the Commercial Residential (CR) Zone created by ordinance adopted on January 27, 1986. To this end, Article 11A of the “Borough of Stockton Zoning Ordinance of 1975,” as amended, is hereby further amended to add a new section thereto which shall and does hereby read as follows:

Sec. 11.01-12A. Cannabis Retailers.

1. Class 5 cannabis retailers, as said term is defined in section 3 of P.L. 2021, c. 16 (N.J.S.A. 24:6I-33), and the regulations promulgated by the Cannabis Regulatory

Commission, N.J.A.C. 17:30-1.1 et seq., shall be permitted as conditional uses, and shall be subject to the following:

- a. The premises operated by the cannabis retailer shall conform to all zoning requirements applicable to uses in the Commercial Retail (CR) Zone, as well as the general requirements set forth in the “Borough of Stockton Zoning Ordinance of 1975,” as amended, unless otherwise specifically provided under this section.
- b. A cannabis business premises shall be located at least 200 feet from a school, municipal park, municipal playground, licensed child care center, registered family day care provider, or church, synagogue, temple, or other place dedicated to religious worship, or comply with a greater distance buffer therefrom as may be required by State or Federal Law. As used in this section:
 1. “Licensed child care center” shall mean a child care center licensed pursuant to N.J.S.A. 30:5B-1 et seq.
 2. “Registered family day care provider” shall mean a family day care provider registered pursuant to N.J.S.A. 30:5B-16 et seq.
- c. A cannabis retailer located adjacent to properties currently used or zoned for residential purposes shall provide a minimum landscaped buffer in accordance with section 4.13 of the “Borough of Stockton Zoning Ordinance of 1975,” as amended. A solid fence 6-feet in height may be incorporated into the buffer, provided the fence is located interior to the required buffer. In no event may a buffer be less than 20 feet wide. A buffer that consists of landscaped plantings and a solid fence may be required by the Planning Board.
- d. The operating hours of a cannabis retailer shall be between 9:00 a.m. and 7:00 p.m. Mondays through Saturdays, and between 12:00 p.m. and 5:00 p.m. on Sundays. It shall be unlawful for any cannabis retailer to sell or dispense cannabis or cannabis products at any time other than between these hours. All deliveries of cannabis items to and from the cannabis retailer shall also be between these hours of operation.
- e. A cannabis retailer shall provide a loading zone to securely load and unload cannabis items, or, in the alternative, a plan to securely load and unload cannabis items into the licensed premises.
- f. A cannabis retailer shall comply with N.J.S.A. 17:30-14.3, as may be amended, with regard to maximum amounts of cannabis sold in a single transaction. In addition, the amount of cannabis on the premises and under the control of the retailer shall not exceed the amount permitted by the license issued by the State, and all cannabis offered for sale shall be packaged and labeled as required by N.J.A.C. 17:30-16.2 and 16.3, as may be amended.

- g. A cannabis retailer shall be accessible directly from a right-of-way through a separate entrance independent from any other retail ingress. Access shall not be through common entrances with other uses. Said retailer shall only have one primary public access point, which shall be directly adjacent to the right-of-way or parking area of the building.
- h. A cannabis retailer shall be secured against unauthorized access to the premises or the retailer's electronic systems, theft and diversion of cannabis, in accordance with State statutes and regulations, including but limited to N.J.A.C. 17:30-9.10, as may be amended. In addition, the retailer shall have an around-the-clock security (burglar) alarm and video surveillance system, 365 days a year; and shall have licensed security personnel onsite within the facility at all times during operating hours. The surveillance system shall include cameras monitoring all entrances along with the interior and exterior of the premises.
- i. A cannabis retailer shall coordinate with the police department(s) responsible for public safety in the Borough, and ensure that the police have full access to the video surveillance system upon reasonable request to access same.
- j. Video surveillance tapes and digital pictures shall be retained a minimum of 60 days or pursuant to State and Federal law, whichever is greater.
- k. No cannabis product shall be visible from a public sidewalk, public street or right-of-way or any other public place.
- l. All cannabis products shall be stored securely on the interior of the establishment and in a permanent structure. A cannabis retailer's interior shall provide a secure location for storage of products with minimum products in any customer service area.
- m. Cannabis consumption areas are strictly prohibited anywhere on the premises. Use or consumption of cannabis or cannabis products in any manner shall not be permitted on the property on which cannabis retailer is located, whether in the building, on its grounds or in parking lots.
- n. All cannabis retailers shall be enclosed in heated/air-conditioned permanent structures, and shall no portion of a cannabis establishment shall be outdoors, or in any movable trailer, vehicle, kiosk, etc.
- o. 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.
- p. A cannabis retailer's signage shall comply with Article 7 of the "Borough of Stockton Zoning Ordinance of 1975," as amended. In addition, signs shall be limited to location identification/name of business; shall not

promote consumption of any cannabis product; and shall not include artistic or photographic renderings of cannabis plants or paraphernalia. Signage (exterior and interior) shall conspicuously advise that consumption on the licensed premises is strictly prohibited. Lighting for signs may include cove, gooseneck, halo or building mounted fixtures. Back-lit “sign box” signs are not permitted. Illumination should be accomplished through external lighting trained on the face or faces of the sign. Neon-lighted or neon-colored signage is prohibited. Only permanent signs are permitted.

- q. A cannabis retailer shall prevent and eliminate any conditions on the site that constitute a nuisance, including but not limited to: preventing odors from escaping the interior of the facility; maintaining the exterior of the facility and immediately adjacent sidewalk and public right of way free of litter, debris, and trash; and properly storing and disposing of all waste generated on the site in accordance with applicable law and regulation.
- r. A cannabis retailer shall not provide for a drive-through facility.
- s. No customers or other persons shall be permitted to congregate outside of a cannabis retailer or wait in line to access the cannabis retailer. The retailer shall have a plan in place if interior capacity is exceeded, i.e., numbers are given and customers wait in their vehicles until called.

5. Regulations of the local approval and licensing of cannabis retailers. The following regulations are enacted for purposes of regulating cannabis retailers permitted in the Borough and establishing standards for local approval and licensing of same, and as follows:

CANNABIS RETAILER REGULATIONS

§1 GENERAL PROVISIONS.

§1.1 Authority; Purpose.

- a. These Cannabis Retailer Regulations (“Regulations”) are enacted in accordance with the provisions of the “New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act” (P.L. 2021, c. 16) (the “Act”), and the regulations promulgated by the Cannabis Regulatory Commission (“CRC”), N.J.A.C. 17:30-1.1 et seq.
- b. The purpose of these Regulations is to regulate the establishment and operation of cannabis retailers and cannabis establishments in the Borough of Stockton and to specify the conditions and limitations applicable thereto.

§1.2 Definitions.

For the purpose of these Regulations, words and phrases herein shall have the meanings set forth in the Act and regulations promulgated by the CRC, N.J.A.C. 17:30-1.1 et seq., as may be amended from time to time.

§1.3 Applicable laws.

- a. All applications for local support, all municipal approvals issued and all proceedings under these Regulations shall be in accordance with the Act, regulations referred to in section 1.1 above, and all other applicable laws of the State of New Jersey.
- b. The provisions and standards set forth in these Regulations are subject to the enabling authority of the State of New Jersey, by and through the CRC, and are subject to compliance with all statutes and/or regulations promulgated and adopted by the State of New Jersey or its agencies.
- c. If any provision of these Regulations is inconsistent with the statutes and/or regulations of the State of New Jersey or its agencies, the State statutes and/or regulations shall prevail.

§2 STATE AND MUNICIPAL LICENSES AND APPROVALS REQUIRED.

§2.1 Licenses required.

No cannabis retailer shall operate in the Borough without the receipt of a state permit or license and full regulatory oversight of the cannabis business by the CRC or other state licensing authority and final issuance of a license by the Borough in accordance with the provisions of these Regulations.

§2.2 Maximum quantity of municipal licenses authorized.

Only the following marketplace classes of cannabis establishments shall be allowed to operate in the Borough, subject to the maximum quantity limitations and requirements set forth herein, and all other classes shall be prohibited:

Class 5 Cannabis Retailer	Up to one license
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§2.3 Applications for local support; issuance of resolution(s) of local support.

- a. Any person seeking to operate as a cannabis retailer in the Borough shall submit an application to the Borough for local support, pursuant to the Act, and specifically N.J.S.A. 24:6I-45(c) and N.J.A.C. 17:30-5.1(g).
- b. The premises on which the cannabis retailer seeks to operate shall not be within the 200-foot buffer established within Section 4 of this ordinance (entitled “Cannabis retailer permitted as conditional use only in Commercial Residential (CR) Zone”).

- b. Applications shall be solicited and submitted in accordance with the following:
 - 1. Within 90 days of the effective date of this ordinance, and thereafter within 90 days of the availability of any new or existing license, the Borough shall issue a request for applications from applicants seeking to operate any permitted cannabis establishment in the Borough. The request for applications shall comply with this ordinance, and shall describe the minimum requirements for submitting an application, including specifying all information and documents required to be submitted, and the Borough's evaluation criteria and scoring to be utilized.
 - 2. All responses to the request for applications shall be on standardized application forms issued by the Clerk's office, and shall include the following information and documents to be deemed complete:
 - a. Nonrefundable application fee, in accordance with section 3.1 below.
 - b. Annual license fee, in accordance with section 3.1 below, which shall be refunded in the event the applicant is not issued a State license.
 - c. A letter from the Borough zoning officer stating the proposed location of the requestor's cannabis establishment will conform to the Borough's zoning requirements for cannabis retailers. Note that the Borough zoning officer shall have ten business days from receipt of a request for the letter to issue said letter. This letter shall not excuse the applicant, if successful, from obtaining all necessary Planning Board approvals.
 - d. Proof that the applicant has or will have lawful possession of the premises proposed for the cannabis business, which proof may consist of: a deed, a 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 successful licensing.
 - e. Affidavit and documentary proof of compliance with all State and local laws regarding affirmative action, anti-discrimination and fair employment practices. The applicant shall also certify under oath that said applicant shall not discriminate based on race, color, religion (creed), gender, gender expression, age, national origin (ancestry), disability,

marital status, sexual orientation, or military status, in any of its activities or operations.

- f. Affidavit or other documentary proof that any person proposed to have an ownership interest in the license is in compliance with any State requirement related criminal background, and shall not have had any cannabis license or permit revoked for a violation affecting public safety in the State of New Jersey or a subdivision thereof within the preceding five (5) years.
 - g. A narrative describing how the applicant intends to comply with the Borough's conditional use and licensing requirements.
 - h. Information and documents specifically to demonstrate the applicant's responsibility, financial capability and sustainability, community benefits, local hiring process, promotion of diverse ownership structures and environmental sustainability.
 - i. Any other information and documents required for submission that may be identified in the request for applications.
3. Applicants may identify portions of their application materials that are confidential; notwithstanding the applicant's specification of any application material as confidential, the Borough shall be required to fully comply with the provisions of the New Jersey Open Public Records Act, N.J.S.A. 47:1A-1 et seq.
- c. The request for applications shall be advertised on the Borough's official website, and such other print or online publications as may be desirable by the Borough, and set forth the date and time by which all applications must be submitted. Prior to the submittal date, the request for applications may be amended by the Borough by advertising same on the Borough's official website (and in any other print or online publications originally advertised).
 - d. Only applications that are submitted on time and which are complete shall be evaluated. If any application is submitted after the time for submission or is missing any mandatory documents or information, then the application shall not be considered for evaluation.
 - e. Timely and complete applications shall be reviewed by an evaluation committee nominated by the Mayor, with the advice and consent of the Borough Council, consisting of at least three Borough officers, consultants or employees, and scored based upon the evaluation criteria identified in the request for applications.

1. The evaluation criteria shall include, but not necessarily be limited to, consideration of an applicant's responsibility, financial capability and sustainability, community benefits, local hiring process, promotion of diverse ownership structures and environmental sustainability.
 2. The request for applications shall identify the points attributable to each evaluation criteria and the minimum score which an application must achieve before further consideration by the Borough Council.
 3. Applications that satisfy the minimum score shall be referred by the evaluation committee to the Borough Council for final consideration of issuance of a "resolution of local support." The Borough Council may invite such applicants to present their plan to the Borough Council at a public meeting prior to making a decision on whether, and to whom, to issue a resolution of local support. The Borough Council shall take final action within 120 days of the application submission deadline. Nothing herein shall obligate the Borough to issue a resolution of local support.
- f. If issued, a resolution of local support shall entitle the recipient applicant to pursue a State permit or license in the appropriate classification for up to one year, which time period may be extended in the Borough Council's discretion for additional terms of six-months each for good cause. No license to operate shall issue until the applicant has received a State permit or license and satisfied other prerequisites of municipal licensure. If the recipient of a resolution of local support has not received a State permit or license within one year from issuance, unless extended by the Borough Council as set forth herein, then the Borough shall issue a new request for applications and evaluate all applicants for licensure under the above standards.
- g. Final approval from the Borough Council will be in the form of a local business license being issued pursuant to section 2.4 below.
- h. At no time shall the resolutions of local support issued by the Borough for which a State permit or license is pending exceed the quantity of available licenses in the Borough for the type of cannabis establishment sought.

§2.4 Municipal licensing.

- a. A license to operate a cannabis business shall be granted by the Borough Council only when the applicant who has received a resolution of local support has:
1. Received a state permit or license authorizing the operation of the cannabis business in the Borough by the CRC or other state licensing authority;

2. Received conditional use and site plan approval from the Stockton Borough Planning Board;
 3. Complied with all elements of its concept plan;
 4. Complied with any other applicable Borough ordinance; and
 5. Paid the annual registration (license) fee required by section 3.1 below.
- b. Except as otherwise provided immediately below, each municipal license shall be effective from January 1 until December 31 and shall be annually renewed upon the submission of an application and renewal fee provided all conditions and requirements of applicable State law and this ordinance are met. The Borough may, at its discretion, adjust the renewal date of the municipal approval to correlate with an applicant’s State licensing and renewal schedule.
1. A new license shall be effective upon its issuance. If issued after January 1, then the license shall be in effect for its initial term until December 31 of the following calendar year.
- c. Amendments to a letter of support or municipal license shall be permitted only to the extent otherwise authorized by the Act and CRC regulations. Such amendments shall be subject to the Borough Council’s approval, which shall not be unreasonably withheld, and also compliance with the provisions of all other applicable laws, regulations and ordinances, including but not limited to this ordinance and the “Borough of Stockton Zoning Ordinance of 1975,” as amended.

§3 MUNICIPAL FEES.

§3.1 Application fee; annual licensing fee.

- a. The application and annual fees for cannabis licenses in the Borough shall be as follows:

<u>Class of License</u>	<u>Application Fee (nonrefundable)</u>	<u>Annual Registration (License) Fee</u>
Class 5 Cannabis Retailer	\$5,000.00	\$10,000.00*

* Following the first year a license is issued under this ordinance, the annual license fee shall automatically increase by the “Index Rate” as defined by N.J.S.A. 40A:11-2(38) and published by the New Jersey

Department of Community Affairs on its website quarterly. The fee for each subsequent year shall be computed as of September 30 of the year before the annual license fee is due. The Borough shall confirm the applicable fee for the following January 1 to December 31 period on its website no later than October 31 of the prior year.

- b. The annual license fee shall be paid on or before January 1 and shall cover the time period from January 1 until December 31, except for the first year a license is issued, as more specifically set forth in section 2.4b.1 above.
- c. Licenses issued pursuant to this ordinance shall be personal to the licensee and shall not be transferable.

§4 ENFORCEMENT, VIOLATIONS AND PENALTIES.

§4.1 Compliance with applicable laws, regulations, ordinances and approvals.

Any person issued a license to operate a retail cannabis establishment pursuant to the authority granted under this ordinance shall fully comply with all relevant laws, regulations, ordinances and approvals granted under this ordinance.

§4.2 Suspension, revocation or non-renewal of license.

Any suspension, revocation or non-renewal of a CRC-issued license or permit for the operation of any cannabis business, or any adjudication of felony criminal guilt by the cannabis business or any of its principals, shall constitute an automatic revocation of a local license issued pursuant to this ordinance, at which time the operation shall immediately cease. A criminal conviction voids and prohibits any future reinstatement of a local license.

§4.3 Violations and penalties.

Any violation of the terms of this ordinance, of any condition of the license, or of any State, or local law, regulation or provision of any other Borough ordinance may result in the Borough Council's revocation of a license authorized under this ordinance, and may further subject the licensee to any applicable penalties, including but not limited to the general penalties set forth in Ordinance 24-09, "An Ordinance of the Borough of Stockton Establishing General Penalties and Fines for Violating Ordinances of the Borough of Stockton," as may be amended.

§4.4 Enforcement.

- a. The provisions of this ordinance shall be enforced by the New Jersey State Police or any other organization duly authorized to provide law enforcement services to the Borough, Borough zoning officer, Borough construction official and/or Borough health officer as appropriate based on the nature of the violation.

- b. Subject to the requirements and limitations of State law, the officers identified above shall have the reasonable right to inspect the premises of any licensed cannabis establishment in the Borough during its regular hours of operation to ensure compliance with this and other applicable ordinances.

§5 LOCAL CANNABIS TRANSFER AND USER TAX.

§5.1 Purpose.

The purpose of this section of the Regulations is to implement the provisions of the Act, set forth at N.J.S.A. 40:48I-1, which authorize a municipality to impose transfer and user taxes on cannabis establishments.

§5.2 Definitions.

All terms herein shall be defined as set forth in section 3 of the Act, as may be amended from time to time.

§5.3 Cannabis transfer tax.

- a. All cannabis establishments operating in the Borough shall be subject to the following transfer tax on the sale of cannabis or cannabis related items:

Class 5 cannabis retailers: Two percent (2%) of the receipts from each sale of cannabis or cannabis items by (1) one cannabis establishment to another cannabis establishment and (2) a cannabis retailer to retail consumers.

- b. The transfer tax imposed pursuant to this section 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, including but not limited any tax that may be required under the “Sales and Use Tax Act,” N.J.S.A. 54:32B-1 et seq.
- c. The transfer tax shall be collected or paid, and remitted to the Borough by the cannabis establishment purchasing or receiving the cannabis or cannabis item or selling the cannabis or cannabis item to a retail 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.

§5.4 Cannabis user tax.

- a. Any concurrent license holder operating more than one cannabis business shall be subject to a two percent (2%) user tax. 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 ordinance, from the license holder's establishment that is located in the Borough to any of the other license holder's establishments, whether located in the Borough or in another municipality.

- b. 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, including but not limited any tax that may be required under the “Sales and Use Tax Act,” N.J.S.A. 54:32B-1 et seq.
- c. The 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.

§5.5 Collection of cannabis transfer and user tax.

In accordance with the provisions of the Act:

- a. Every cannabis establishment required to collect the transfer and user taxes imposed by this ordinance shall be personally liable for the transfer and user tax imposed, collected, or required by this ordinance and the Act.
- b. Any cannabis establishment collecting a transfer tax or user tax shall have the same right with respect to collecting the tax from another cannabis establishment or the consumer as if the 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 tax was 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 that the Borough's Chief Financial Officer is joined as a party in any action or proceeding brought to collect the transfer tax or user tax.
- c. No cannabis establishment required to collect the transfer and user taxes imposed by this ordinance 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 or user tax will be refunded to the cannabis establishment or the consumer.

§5.6 Remittance of cannabis taxes; delinquencies.

- a. All revenues collected from the transfer tax and user tax imposed pursuant to this ordinance shall be remitted to the Borough’s Chief Financial Officer on a quarterly basis.
- b. The Chief Financial Officer, or said officer’s designee, shall enforce the payment of delinquent taxes or transfer fees imposed by this ordinance in the same manner as provided for municipal real property taxes.
- c. 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 Borough 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 Borough taxes, and shall be on a parity with and deemed equal to the Borough lien on the parcel for unpaid property taxes due and owing in the same year.

- d. The Borough shall file in the office of its tax collector a statement showing the amount and due date of the unpaid balance of cannabis taxes 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.
- e. No licensed cannabis establishment operating in the Borough shall be permitted to renew a license issued pursuant to this ordinance should any transfer or user tax imposed hereunder be delinquent.

§5.7 Administration.

- a. The Chief Financial Officer, or said officer's designee, is charged with the administration and enforcement of the provisions of this section, and is empowered to prescribe, adopt, promulgate and enforce rules and regulations relating to any matter pertaining to its proper administration and enforcement, including provisions for the reexamination and corrections of declarations and returns, 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 section. Should a cannabis establishment fail or refuse to provide reasonably sufficient information to the Chief Financial Officer, or said officer's designee, to determine the amount of tax due, the Chief Financial Officer, or said officer's designee, may use information provided to the Chief Financial Officer, or said officer's designee, from other sources (i.e., the CRC or Department of Treasury) to determine the amount of tax liability.
- b. The cannabis establishment shall send a statement by mail or electronically to the Borough on or before the last day of each annual quarter or such other term as required by the State. The statement must contain an account of the amount of personal use cannabis or personal use cannabis items sold or transferred to consumers and/or cannabis establishments during the preceding quarter, setting out:
 - 1. The total number of sources, including fractional ounces, sold or transferred;
 - 2. The quantity of personal use cannabis and cannabis items sold or transferred;
 - 3. If to a cannabis establishment, the cannabis establishment's licensing information;
 - 4. Such other information as may be necessary for the Borough to determine and verify the tax or fee due to the Borough.

- c. The cannabis retailer shall pay quarterly, or at such term set by the Borough, all taxes or fees, computed at the rates prescribed in this section, on the respective total quantities of the personal use cannabis sold or transferred during the preceding quarter or applicable period. The quarterly return shall be filed and the tax paid on or before the 15th day of the month to cover the preceding quarter. Failure to file the quarterly tax return and pay the applicable taxes on or before the 15th day of the month shall constitute a violation of this ordinance. The Chief Financial Officer, or said officer's designee, is hereby authorized to examine the books, papers, and records of any taxpayer to verify the accuracy of any declaration or return or, if no declaration or return was filed, to ascertain the tax due. Every taxpayer is hereby directed and required to give to the Chief Financial Officer, or to said officer's designee, the means, facilities and opportunity for such examinations and investigations as are hereby authorized. Such information will be made available within three days of being requested.

6. Referral to Planning Board. Following introduction and prior to adoption, the Clerk shall cause a copy of this ordinance to be referred to the Stockton Borough Planning Board for review pursuant to N.J.S.A. 40:55D-26.

7. Repealer. All ordinances and resolutions or parts thereof inconsistent with this ordinance are repealed.

8. Severability. If any section, paragraph, subsection, clause or provision of this ordinance shall be adjudged by the courts 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 valid and enforceable.

9. Effective Date. This ordinance shall take effect twenty days from the date of its adoption and upon filing with the Hunterdon County Planning Board, as required pursuant to N.J.S.A. 40:69A-181 and N.J.S.A. 40:55D-16.

Introduction: November 18, 2024

Public Hearing/Adoption: December 16, 2024

Referred to Planning Board: November 19, 2024

Adopted: December 16, 2024

Distribution after adoption:

1. Hunterdon County Planning Board for filing.
2. CRC
Cannabis Regulatory Commission
P.O. Box 216
Trenton, NJ 08625-0216



Recoverable Signature

X Laurie A. Courter

Laurie A. Courter

Borough Clerk

Signed by: f294cf7e-b128-47e4-b5d9-0d760677edc7