

**Pennington Borough Council
Special Meeting – August 16, 2021**

Mayor Davy called the Special Meeting of the Borough Council to order at 7:01 pm. The meeting was held on Zoom due to the COVID19 pandemic. Borough Administrator Eileen Heinzl called the roll with Council Members Chandler, Gross, Gnatt, Marcianta and Mills. Ms. Semple was absent.

Also present were Borough Administrator Eileen Heinzl, Public Works Superintendent Rick Smith, Police Chief Doug Pinelli and Borough Attorney Walter Bliss.

Mayor Davy announced that notice of this meeting has been given to the Hopewell Valley News, Trenton Times and was posted on the door at Borough Hall at 30 North Main Street and on the Borough web-site according to the regulations of the Open Public Meetings Act.

Open to the Public – Agenda Items Only

Mayor Davy read the following statement.

The meeting is now open to the public for comments on items on the agenda for which no public discussion is provided. In an effort to provide everyone interested an opportunity to address his or her comments to the Governing Body, a public comment time limit has been instituted for each speaker. **Please raise your hand and when the Borough Administrator acknowledges your name and address for the record. Please limit comments to the Governing Body to a maximum of 3 minutes.**

There were no comments from the public.

ORDINANCES FOR PUBLIC HEARING AND ADOPTION

Mayor Davy read Ordinance 2021-9 by title.

**BOROUGH OF PENNINGTON
ORDINANCE NO. 2021 - 9**

**AMENDED ORDINANCE RESTRICTING THE NUMBER, LOCATION AND
OPERATION OF CANNABIS RETAILERS, MEDICAL CANNABIS DISPENSARIES
AND CANNABIS DELIVERY SERVICES AND PROHIBITING ALL OTHER
CANNABIS BUSINESSES AND OPERATIONS IN THE BOROUGH, AMENDING THE
CODE OF THE BOROUGH OF PENNINGTON**

WHEREAS, the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act, N.J.S.A. 24:6I-31, et seq. (the “Personal Use Act”) legalizes the recreational use of marijuana by adults 21 years of age or older and establishes a comprehensive regulatory and licensing scheme for commercial production, distribution and sale of cannabis items;

WHEREAS, the Personal Use Act establishes six marketplace classes of licensed cannabis businesses, including: Class 1, Cannabis Cultivator, involved in growing cannabis; Class 2, Cannabis Manufacturer, dedicated to the manufacture, preparation and packaging of cannabis items; Class 3, Cannabis Wholesaler, which obtains and sells cannabis items for later resale by others licensees; Class 4, Cannabis Distributor, involved in transporting cannabis plants in bulk from one licensed cultivator to another or cannabis items in bulk among licensed cannabis businesses; Class 5, Cannabis Retailer, licensed to sell cannabis items and related supplies to consumers; and Class 6, Cannabis Delivery Services, providing courier service for consumer purchases of cannabis items that are fulfilled by a cannabis retailer for delivery to the consumer, or taking orders from the consumer to be presented to a retailer for fulfillment and then delivered to the consumer;

WHEREAS, the Personal Use Act authorizes municipalities to adopt regulations by ordinance governing the number of cannabis establishments, distributors and delivery services allowed to operate within their borders, regulating the location, manner and times of operation of these establishments, distributors and delivery services, and establishing civil penalties for the violation of any such regulations, provided the time of operation of delivery services shall be subject only to regulation by the State Cannabis Regulatory Commission (N.J.S.A. 24:6I-45.a);

WHEREAS, the Personal Use Act further authorizes municipalities to prohibit by ordinance the operation of any one or more classes of cannabis establishment, cannabis distributor or cannabis delivery service anywhere in the municipality, provided the prohibitory ordinance be adopted by August 21, 2021, 180 days after the effective date of the Act (N.J.S.A. 24:6I-45.b);

WHEREAS, the failure of a municipality to enact an ordinance prohibiting the operation of one or more classes of cannabis establishment, cannabis distributor or cannabis delivery service within 180 days after the effective date of the Personal Use Act shall result in any class of cannabis establishment, cannabis distributor or cannabis delivery service not so prohibited being permitted as follows: the growing,

cultivating, manufacturing, and selling and reselling of cannabis and cannabis items, and operations to transport in bulk cannabis items by a cannabis cultivator, cannabis manufacturer, cannabis wholesaler, or as a cannabis distributor or cannabis delivery service, shall be permitted uses in all industrial zones of the municipality, and the selling of cannabis items to consumers from a retail store by a cannabis retailer shall be a conditional use in all commercial zones or retail zones, subject to meeting the conditions set forth in any applicable zoning ordinance or receiving a variance from one or more of those conditions in accordance with the Municipal Land Use Law, and the municipality shall be barred for at least five years thereafter from enacting an ordinance prohibiting these uses and any such prohibition may be prospective only;

WHEREAS, the Jake Honig Compassionate Use Medical Cannabis Act, N.J.S.A. 24:6I-1, et seq., (the “Medicinal Use Act”) permits the authorized cultivation, processing, manufacturing, preparing, packaging, transferring, sale, purchase, research, possession, use, and consumption of medical cannabis and products created from or which include cannabis;

WHEREAS, the Medicinal Use Act authorizes the licensed operation of medical cannabis cultivators, medical cannabis manufacturers, medical cannabis dispensaries and clinical registrants as defined in the Medicinal Use Act, N.J.S.A. 24:6I-3;

WHEREAS, a medical cannabis dispensary as defined in the Medicinal Use Act, means an organization issued a permit by the State Cannabis Regulatory Commission authorizing the dispensary, among other things, to sell and dispense medical cannabis and medical cannabis products and related supplies to qualifying patients and caregivers, N.J.S.A. 24:6I-3;

WHEREAS, a clinical registrant as used in the Medicinal Use Act means an entity that has a written contractual relationship with an academic medical center in the region in which it has its principal place of business, which includes provisions whereby the parties will engage in clinical research related to the use of medical cannabis and the academic medical center or its affiliate will provide advice to the entity regarding patient health and safety, medical applications, and dispensing and managing controlled dangerous substances, among other areas, N.J.S.A. 24:6I-3;

WHEREAS, municipalities are authorized by the Personal Use Act and N.J.S.A. 40:481-1.a (1) to impose by ordinance a transfer tax of up to two percent (2%) on the sale of cannabis or cannabis items by a cannabis retailer located in the municipality;

WHEREAS, municipalities imposing a transfer tax are required by N.J.S.A. 40:481-1.b (1) to include in the ordinance a user tax, at the equivalent transfer tax rates, on any current license holder operating more than one cannabis establishment and transferring cannabis or cannabis items from the license holder’s establishment in the municipality to any of the other license holder’s establishment(s), whether located in the municipality or another municipality, based on the value of each such transfer or use not otherwise subject to the transfer tax;

WHEREAS, municipalities are authorized by the Medicinal Use Act, N.J.S.A. 24:6I-10i, to adopt an ordinance imposing a transfer tax not to exceed two percent (2%) on the purchase price of any medical cannabis dispensed by a medical cannabis dispensary located in the municipality;

WHEREAS, Borough Council determines that it is in the best interests of the Borough and the health, safety and welfare of its citizens that all cannabis establishments, cannabis distributors and cannabis delivery services, together with medical cannabis dispensaries, clinical registrants and other licensed medical cannabis entities, be prohibited from operating anywhere in the Borough except as expressly authorized and regulated by this ordinance;

WHEREAS, Borough Council further determines that it is in the best interests of the Borough and the health, safety and welfare of its citizens that any cannabis retailer or medical cannabis dispensary so authorized and regulated shall not permit on-premises consumption of cannabis whether indoor or outdoor and shall not include a cannabis consumption area as defined or described in N.J.S.A. 24:6I-33 and 24:6I-21.

NOW, THEREFORE, BE IT ORDAINED, by Borough Council of the Borough of Pennington, as follows:

General Prohibition of Cannabis- and Medical Cannabis-
Related Enterprises, with Exceptions

1. The above recitals are repeated and incorporated herein by reference.
2. In accordance with the authority granted to municipalities by N.J.S.A. 24:6I-31, et seq. (the Personal Use Act), in particular N.J.S.A. 24:6I-45, all classes and types of cannabis establishments (Class 1 cannabis cultivators, Class 2 cannabis manufacturers, Class 3 cannabis wholesalers and Class 5 cannabis retailers), as well as Class 4 cannabis distributors and Class 6 cannabis delivery services, are hereby prohibited from operating anywhere in the Borough of Pennington except as expressly provided herein with respect to a limited number of Class 5 cannabis retailers permitted as conditional uses

in the BH-Business Highway and OB-Office Business zoning districts and Class 6 delivery services permitted as conditional uses in the BH-Business Highway, OB-Office Business and MU-1 Mixed Use 1 zoning districts. As used herein, cannabis establishments, cannabis distributors and cannabis delivery services are as defined at N.J.S.A. 24:6I-33.

3. These prohibitions extend as well to all medical cannabis cultivators, medical cannabis manufacturers, medical cannabis dispensaries, clinical registrants and other entities authorized to operate under N.J.S.A. 24:6I-1, et seq. (the Medicinal Use Act), except as further provided in this ordinance with respect to medical cannabis dispensaries as defined in the Medicinal Use Act, N.J.S.A. 24:6I-3.

Amendments to Relevant Borough Zoning Provisions

4. Chapter 215 of the Code of the Borough of Pennington (“Code”), concerning Zoning, is hereby amended at Section 215-25, Prohibited Uses, to add to the list of Prohibited Uses in all zoning districts cannabis cultivators, cannabis manufacturers, cannabis wholesalers and cannabis distributors, medical cannabis cultivators, medical cannabis manufacturers and clinical registrants, as follows:

215-25. Prohibited Uses.

Any use not specifically permitted in a zoning district established by this chapter is hereby specifically prohibited from that district, and further provided that the following uses and activities shall be specifically prohibited in any zone of the Borough of Pennington:

* * *

Q. Cannabis cultivators, cannabis manufacturers, cannabis wholesalers and cannabis distributors, medical cannabis cultivators, medical cannabis manufacturers and clinical registrants.

5. Chapter 215 of the Code is hereby amended at section 215-71, TC Town Center Zone, to add cannabis and medical cannabis uses to Prohibited Uses, as follows:

215-71. TC – Town Center Zone.

* * *

D. Prohibited uses. Any use not hereby specifically permitted in the Town Center is prohibited. The following uses are hereby specifically prohibited:

* * *

(6) Cannabis cultivators, cannabis manufacturers, cannabis wholesalers, cannabis retailers, cannabis distributors, cannabis delivery services, medical cannabis cultivators, medical cannabis manufacturers, medical cannabis dispensaries and clinical registrants

* * *

6. Chapter 215 of the Code is hereby amended at section 215-71.1, TCB Town Center Buffer Zone, to add cannabis and medical cannabis uses to Prohibited Uses, as follows:

215-71.1 Town Center Buffer Zone

* * *

D. Prohibited uses. Any use not hereby specifically permitted in the Town Center Buffer Zone is prohibited. The following uses are hereby specifically prohibited:

* * *

(6) Cannabis cultivators, cannabis manufacturers, cannabis wholesalers, cannabis retailers, cannabis distributors, cannabis delivery services, medical cannabis cultivators, medical cannabis manufacturers, medical cannabis dispensaries and clinical registrants

* * *

7. Chapter 215 of the Code is hereby amended at section 215-72, B-H Highway Business Zone, to restrict permitted wholesale business establishments to other than cannabis wholesalers and to add cannabis retailers (**without cannabis consumption areas**), cannabis delivery services and medical cannabis dispensaries (**without cannabis consumption areas**) to the list of Conditional Uses, subject to operating hours exclusively from 9:00 a.m. to 8:00 p.m. daily and the other provisions of Article VIII, and to insert Prohibited Uses, as follows:

215-72. B-H Highway Business Zone.

- A. Permitted primary uses. The permitted primary uses allowed in the B–H Highway Business Zone shall be as follows:

* * *

(4) Wholesale business establishments other than cannabis wholesalers.

* * *

- C. Conditional uses. The conditional uses allowed in the B-H Highway Business Zone shall be as follows and shall be further subject to the provisions of Article VIII:

* * *

(5) cannabis retailers (**without cannabis consumption areas**)

(6) cannabis delivery services

(7) medical cannabis dispensaries (**without cannabis consumption areas**).

- D. Prohibited uses. Any use not hereby specifically permitted in the BH-Business Highway zone is prohibited. The following uses are hereby specifically prohibited:

* * *

(6) Cannabis cultivators, cannabis manufacturers, cannabis wholesalers, cannabis distributors, medical cannabis cultivators, medical cannabis manufacturers and clinical registrants

- E. ~~-D.~~ Other Provisions and Requirements

* * *

(5) As further provided in Article VIII, the operating hours of cannabis retailers and medical cannabis dispensaries shall be exclusively from 9:00 a.m. to 8:00 p.m. daily.

8. Chapter 215 of the Code is hereby further amended at section 215-73, O-B Office Business Zone, to add to Conditional Uses cannabis retailers (**without cannabis consumption areas**), cannabis delivery services and medical cannabis dispensaries (**without cannabis consumption areas**), subject to the provisions of Article VIII, and to insert Prohibited Uses, as follows:

215-73. O-B Office (Building) Business Zone.

* * *

- C. Conditional uses, subject to the provisions of Article VIII.

* * *

(5) cannabis retailers (**without cannabis consumption areas**)

(6) cannabis delivery services

(7) medical cannabis dispensaries (**without cannabis consumption areas**)

- D. Prohibited Uses. Any use not hereby specifically permitted in the OB-Office Business Zone is prohibited. The following uses are hereby specifically prohibited:

(1) Cannabis cultivators, cannabis manufacturers, cannabis wholesalers, cannabis distributors, medical cannabis cultivators, medical cannabis manufacturers and clinical registrants

- E ~~D.~~ General Requirements * * *

* * *

- F ~~E.~~ Off-street parking requirements. * * *

* * *

- G F. Off-street loading requirements * * *

* * *

- H. As further provided in Article VIII, the operating hours of cannabis retailers and medical cannabis dispensaries shall be exclusively from 9:00 a.m. to 8:00 p.m. daily.

9. Chapter 215 of the Code is hereby amended at section 215-77, MU-1 Mixed Use Zone, to add a new subsection E for Conditional Uses and to include as conditional uses cannabis delivery services, subject to the provisions of Article VIII, and to add a new subsection F for Prohibited Uses as follows:

215-77. MU-1 Mixed Use Zone.

* * *

E. Conditional Uses, subject to the provisions of Article VIII.

(1) cannabis delivery services.

F. Prohibited uses. Any use not hereby specifically permitted in the MU-1 Mixed Use zoning district is prohibited. The following uses are hereby specifically prohibited:

- (1) Cannabis cultivators, cannabis manufacturers, cannabis wholesalers, cannabis retailers and cannabis distributors, medical cannabis cultivators, medical cannabis manufacturers, medical cannabis dispensaries and clinical registrants

10. Chapter 215 of the Code is hereby amended at section 215-78, MU-2 Mixed Use Zone, to insert a new subsection D for Prohibited Uses, as follows:

215-78 MU-2 Mixed Use Zone

* * *

D. Prohibited Uses. Any use not hereby specifically permitted in the MU-2 Mixed Use zoning district is prohibited. The following uses are hereby specifically prohibited:

- (1) Cannabis cultivators, cannabis manufacturers, cannabis wholesalers, cannabis retailers, cannabis distributors, cannabis delivery services, medical cannabis cultivators, medical cannabis manufacturers, medical cannabis dispensaries and clinical registrants

~~E~~ D. Office and retail use restrictions.

* * *

~~F~~ E. Bulk Standards.

* * *

~~G~~ F. Parking, loading and screening.

* * *

~~H~~ G. Building and site design.

* * *

11. Chapter 215 of the Code is hereby amended at section 215-78.2, Route 31 Corridor Business Overlay Zone, to insert Prohibited Uses to the extent not permitted as Conditional Uses in the underlying B-H Business Highway or O-B Office Business Zones, and to insert as Conditional Uses the conditional uses provided in these two underlying zones, as follows:

215-78.2 Route 31 Corridor Business Overlay Zone.

* * *

D. Conditional Uses, subject to the provisions of Article VIII.

* * *

- (3) cannabis retailers, cannabis delivery services and medical cannabis dispensaries to the extent provided in section 215-7.2 (B-H Business Highway Zone) or section 215-7.3 (O-B Office Business Zone) as applicable

E. Prohibited uses. Any use not hereby specifically permitted in the Route 31 Corridor Business Overlay Zone is prohibited. The following uses are hereby specifically prohibited:

* * *

- (5) Cannabis cultivators, cannabis manufacturers, cannabis wholesalers, and cannabis distributors, medical cannabis cultivators, medical cannabis manufacturers and clinical registrants

* * *

Conditions of Conditional Use and Restrictions on
Location, Manner and Times of Operation

12. Chapter 215 of the Code is hereby amended at section 215-79, Article VIII, concerning Conditional Uses, by the addition of a new Section 215-81 (previously reserved) to specify the conditions of approval for cannabis retailers, cannabis delivery services and medical cannabis dispensaries designated as conditional uses in the B H-Business Highway and OB-Office Business zoning districts, and cannabis delivery services designated as a conditional use in the MU-1 Mixed Use zoning district, as follows:

215-81 (New). Cannabis Retailers, Medical Cannabis Dispensaries and
Cannabis Delivery Services

- A. A total of no more than **two (2) [prior language deleted]** cannabis retailers and medical cannabis dispensaries may be permitted to operate in the BH-Business Highway and OB-Office Business zoning districts combined. At least one place in one of the two zones must be reserved for a medical cannabis dispensary. If no medical cannabis dispensary seeks to locate in one of the two zones, the total combined number of cannabis retailers in the two zones shall not exceed **one [prior language deleted]**, however distributed.
- B. Cannabis delivery services shall not be limited in number but shall be permitted only in the BH-Business Highway, OB-Office Business and MU-1 Mixed Use zoning districts.
- C. **[Prior subsection C deleted and subsections re-lettered]** The floor area of a cannabis retailer or medical cannabis dispensary shall not exceed 2,500 square feet **[prior language deleted]**.
- D. The cannabis retailer and medical cannabis dispensary (hereafter referred to together as “licensed retail facility”) shall comply with the following restrictions and performance standards affecting the location, manner and times of operation:
- (1) The operating hours of the licensed retail facility shall be between 9 am and 8 pm daily. It shall be unlawful for any person to sell or dispense cannabis or cannabis products in any licensed retail facility at any time other than between these hours.
 - (2) The licensed retail facility shall be accessible directly from a right-of-way through a separate entrance independent from any other retail ingress.
 - (3) No cannabis product shall be visible from a public sidewalk, public street or right-of-way or any other public place.
 - (4) All cannabis products shall be stored securely indoors and onsite.
 - (5) Consumption of cannabis products, by any means of ingestion, shall not be permitted in the licensed facility or adjacent grounds **[prior language deleted]**.
 - (6) A licensed retail facility shall plan and implement odor control measures, including carbon-filtered ventilation, sufficient to mitigate cannabis-related odors emanating from the interior of the facility. The ventilation system must be approved by the Borough Board of Health.
 - (7) A licensed retail facility shall develop and implement security protocols sufficient to secure the facility and its contents and protect the safety of customers, employees and the public. These security protocols shall be reviewed by the Pennington Borough Police Department, which in its discretion may, after inspection of the location, recommend or require additional safety and security measures.
 - (8) At a minimum, the following security measures must be undertaken:
 - (a) A video recording security system shall be employed covering all areas of the facility and the exterior of the building with a 24/7 recording system that records for a minimum 30-day archive.
 - (b) The facility and adjacent right-of-way shall be monitored by staff

and kept free of loitering, litter and other debris, and the sidewalks if applicable shall be swept and cleaned on a regular basis.

- E. A licensed cannabis delivery service shall comply with the following restrictions and performance standards affecting the location, manner and times of operation:
- (1) Time of operation shall be limited to such times as prescribed by the Cannabis Regulatory Commission.
 - (2) The cannabis delivery service shall comply with the restrictions and standards provided above for licensed retail facilities to the extent applicable to the operations and facilities of the delivery service.
 - (3) Cannabis items handled by or through a cannabis delivery service shall be securely packaged and properly labeled and tracked in accordance with regulations promulgated by the State Cannabis Regulatory Commission.
- F. Both licensed retail facilities and cannabis delivery services shall comply with the following requirements:
- (1) The design of any building or structure required by the licensed facility or service shall conform to the general character of the area in which it is located.
 - (2) The facility shall provide off-street parking adequate for the needs of its customers and employees, subject to the requirements for off-street parking facilities established by Article II General Regulations. In determining the total parking space requirement, the Planning Board may be guided by expert testimony and the plan of operation for the facility.
 - (3) Site access shall be located in order to direct primary traffic flow to nonresidential areas.
 - (4) The facility shall comply with all applicable zoning, signage and site plan requirements, and the specifications and standards prescribed by section 215-79 and this section, as same may be amended from time to time.
- G. Approval of an application by a cannabis retailer, cannabis delivery service or medical cannabis dispensary for issuance or renewal of licensure or permitting shall require a resolution of Borough Council approving the application and informing the Cannabis Regulatory Commission that the applicant complies with Borough restrictions on the number of such businesses and the location, manner and times of operation. Such resolution shall also be a requirement of conditional use approval under this Article VIII.

[final subsection, originally subsection I, deleted]

Administration and Enforcement

13. (New) The Borough hereby establishes a separate local licensing requirement as part of restrictions on the number of cannabis retailers, cannabis delivery services and medical cannabis dispensaries and their location, manner and times of operation, to the full extent permitted by N.J.S.A. 24:6I-1, et seq. and N.J.S.A. 24:6I-31, et seq.. All such licenses must be renewed annually.

14. (New) All actions required or authorized to be taken by the Borough in connection with State or local licensure, permitting or endorsement of a cannabis or medical cannabis business or any aspect of it located or intending to locate in the Borough, in addition to any land use approvals within the jurisdiction of the Borough Planning Board, shall be the responsibility of Borough Council.

15. (New) The issuance or renewal of a local license shall require a resolution of Borough Council finding that the applicant complies with all applicable Borough restrictions on the number of cannabis and medical cannabis businesses and the location, manner and times of their operation, including continued compliance with all zoning and land use approvals and related conditions and standards. The adoption of such a resolution shall also be a basis for conditional use approvals under section 215-81 of the Borough Code.

16. (New) Borough Council may deny or revoke a local license or take other adverse action based on failure of compliance with restrictions, conditions and standards which are the basis for

licensure. To the extent permitted by law, possession of a valid local license shall be a condition precedent to operation of a cannabis or medical cannabis business in the Borough.

17. (New) Borough Council shall notify the Commission in every case that it either approves or denies each application forwarded to it.

18. (New) Any violation of the provisions of this ordinance or the conditions of the zoning permit granted, inclusive of any agreements or conditions imposed by the Planning Board, shall be punishable by a civil fine of no less than \$1,000.00 and no more than \$2,500.00. Responsibility for enforcement of these provisions shall be shared as appropriate by the Zoning Officer, the Police Department and the Health Department of the Borough. In addition, any person may make complaint for any violation of the provisions of this ordinance or any provision or section thereof and upon conviction, the penalties provided herein shall be imposed. All violations will be reported to the State Cannabis Regulatory Commission or other appropriate state authority.

Applications and Fees

19. (New) The applicant shall complete and file such applications, produce such documents and provide such further information and testimony as shall be required by Borough Council to discharge its responsibilities under this ordinance. Applicant shall also ensure that copies of all applications for issuance or renewal of State licensing or permitting **[prior language deleted]** shall be timely filed with the Borough Clerk for action by Borough Council. The required copies shall also include copies of all applications to the Borough Planning Board for applicable land use approvals, which shall be filed separately with the Planning Board as required by the Borough Code.

20. Chapter 98 of the Borough Code, concerning Fees, shall be amended by the addition of a new Article XVIII, Fees Affecting Cannabis Enterprises, which shall read as follows:

98-__ Applicants for Borough approval as cannabis retailer, medical cannabis dispensary or cannabis delivery service, in addition to fees and other charges required in connection with applicable zoning and land use applications, shall pay to the Borough an Application Fee of \$2,500. [prior language deleted].

98-__ A. Cannabis retailers and medical dispensaries shall pay to the Borough an annual renewal or registration fee of \$5,000.

B. Cannabis delivery services shall pay to the Borough an annual renewal or registration fee in the amount of \$2,500.00.

Local Taxation

21. Chapter 180 of the Borough Code, concerning taxation, shall be amended by the addition of a new Article III, Local Cannabis Transfer and User Tax, and shall provide as follows:

188-__ (New) Sales of cannabis and cannabis items by a cannabis retailer located in the Borough shall be subject to a transfer tax payable to the Borough in the amount of two percent (2%) of gross receipts. The tax shall apply to receipts from the sale of cannabis and cannabis items to another cannabis establishment, cannabis distributor or cannabis delivery service as well as to retail customers who are 21 years of age or older, or any combination thereof.

188-__ (New) A cannabis retailer operating one or more cannabis establishments shall pay a user tax at a rate equivalent to the transfer tax on the value of each transfer or use of cannabis or cannabis items from the license holder's establishment in the Borough to or by any other establishment of the license holder whether located in the Borough or another municipality.

188-__ (New) All sales and transfers of cannabis products from a medical cannabis dispensary in the Borough shall be subject to a one percent (1%) transfer tax payable to the Borough. The tax shall be assessed on the purchase price of all medical cannabis dispensed by the dispensary, including medical cannabis that is furnished by the dispensary to a medical cannabis handler for delivery to a registered qualifying patient or the patient's caregiver.

188-__ The transfer and user taxes provided for in this Chapter shall be in addition to any other taxes imposed by law and shall be collected and transmitted to the Borough as provided by law.

Severability

22. If any part of this ordinance shall be adjudged by any court of competent jurisdiction to be invalid, that judgment shall not impair or invalidate the remainder but shall be confined in its operation to the affected part.

Effective Date

23. This ordinance is intended to supersede and replace Ordinance No. 8 introduced for first reading by Borough Council on June 7, 2021.

24. This ordinance shall be effective upon its passage and publication as provided by law.

Mayor Davy stated that this is a continuation of the Public Hearing that was started last week. Mayor Davy stated that Borough Council amended the ordinance last week in three ways, prohibiting consumption areas in the Borough, retail is authorized in two zones and the number of retail licenses was reduced to one retail and one medical and the fee for each license would increase from \$1,000 to \$2,500 per year.

Mrs. Perris of 41 East Welling Avenue stated that since the last Council meeting she has learned that no one can sell recreational marijuana in New Jersey until the CRC releases the rules. Mrs. Perris stated that she has learned that Zen Leaf which is already open for business as a medical store will likely also be selling recreational marijuana. Mrs. Perris stated that on Route 1 where Zen Leaf is located is a business zone and not located near any residential property. Mrs. Perris stated that the zone locations that our Borough is considering are both very close to residential and school properties. Mrs. Perris stated that if marijuana is allowed in these zones it would effectively strip the children of the current safe drug free school zone. Mrs. Perris stated that it is better to keep these stores out of residential areas and away from schools. Mrs. Perris stated that the people of New Jersey may have voted to allow recreational marijuana in New Jersey, but the people of Pennington never voted to have two stores near their schools in our tiny one mile square town. Mrs. Perris asked Council to wait on this decision as our neighboring towns have done and opt out. Mrs. Perris stated that there is no harm in opting out and then opting in at a later date.

Dr. Elias Perris of 41 East Welling Avenue stated that as his wife previously stated the rules have not been released yet and it seems foolhardy to enact this ordinance before the rules are established. Dr. Perris stated that Pennington Borough should opt out until such time as the rules are released. Dr. Perris asked if modification of the drug free school zone is being considered. Dr. Perris stated that opting out would not cost the Borough anything and the loss of revenue would be minimal. Dr. Perris stated that the revenue that would be collected is not enough to offset the decrease in property values. Mr. Perris stated that the Council should have requested public input and not waiting until public input is required. Dr. Perris stated that the Borough has sent multiple notices about the change in trash collection, but no notices were sent out regarding this decision. Dr. Perris stated that people have the right to know. Pennington has always been an independent Borough and the residents should have a say in whether two marijuana locations are allowed in town.

Lauren Walter of 12 Flower Hill Terrace stated that she is a community member with two young children and they have lived here for four years and she and her husband are extremely active in the community. Ms. Walter stated that she knows the concerns about opening dispensaries regarding schools and traffic and the effects on school children. Ms. Walter stated that these are the same tired arguments used to needlessly wage a war on alcohol hundreds of years ago. Ms. Walter stated that she strongly believes that these arguments are not true. Ms. Walter stated that just like the liquor industry, dispensaries are highly regulated and the rules are strictly enforced. Ms. Walter stated that there are several liquor stores in the area and they go about their business on a day to day basis. Ms. Walter stated that the tax revenue that will be generated will go back to the communities and schools. Ms. Walter stated that the voters of New Jersey voted in favor of this and it is time to embrace the benefits that this will bring to our communities.

Mr. Robert Lytle of 17 North Main Street stated that he is somewhat unprepared for the meeting as he was away. Mr. Lytle stated he agrees with the first two speakers in that maybe there was a better way to communicate this to the public. Mr. Lytle stated that he lives at the end of North Main Street and there is a piece of property near him designated an MU district and the ordinance would allow a delivery service in that zone and his concern is that right across the street is the Penn Brook Swim Club. Mr. Lytle stated that there are many kids that travel up and down the sidewalk all summer long and the fact that Council is considering allowing this use across from the swim club disturbs him greatly. Mr. Lytle stated that a referendum for the town might be a better approach to this.

Council Member Marciante made a motion to Closed the Public Hearing on the amended Ordinance 2021-9, second by Council Member Chandler with all members present voting in favor.

Council Member Chandler stated that she would just like to say that over the past four to five months, Council has listened to concerns from residents and that is why the ordinance has been amended and updated many times and the ordinance has been pared down significantly. Mrs. Chandler stated that because of the way the town voted, opting out does not work for Pennington. Mrs. Chandler stated that people have mentioned a referendum and there was a referendum and Pennington residents voted overwhelmingly in support. Mrs. Chandler stated that they have listened to the concerns and that is evident in the way this ordinance is narrowly written. Mrs. Chandler stated that the Borough is protected by the application and renewal process and the protections are much stronger than those associated with the sale of liquor. Mrs. Chandler stated that in the end it is up to the State as to whether Pennington is even granted a license and approval of this ordinance does not necessarily mean that Pennington will get any cannabis business in town.

Mr. Marciante stated that the property owners along Route 31 have a say in whether they allow cannabis stores on their property. Mr. Marciante stated that we can't stop delivery service. Mr. Marciante stated that Borough Council is on top of this and will be monitoring all locations.

Ms. Gnatt and Mrs. Mills both stated that Council has listened and done their due diligence and amended the ordinance to reflect residents' concerns.

Council Member Chandler made a motion to adopt Ordinance 2021-9, second by Council Member Gnatt with all members present voting in favor.

NEW BUSINESS

**BOROUGH OF PENNINGTON
RESOLUTION NO. 2021 – 8.3**

**RESOLUTION APPOINTING ALAINA WYSOCKE TAX ASSESSOR FOR UNEXPIRED TERM
EFFECTIVE AUGUST 16, 2021**

WHEREAS, Marianne Busher has resigned from the position of Tax Assessor of the Borough of Pennington, effective August 16, 2021, after a commendable career serving the Borough;

WHEREAS, the Mayor of the Borough has nominated Alaina Wysocke to replace Ms. Busher effective immediately;

WHEREAS, Alaina Wysocke, like her predecessor, will serve on a part-time basis;

WHEREAS, Alaina Wysocke is a certified tax assessor presently serving as full-time deputy tax assessor in North Brunswick Township;

WHEREAS, Alaina Wysocke shall hold office in the Borough of Pennington for the remainder of Ms. Busher's unexpired term, from August 16, 2021 through June 30, 2025, pursuant to N.J.S.A. 40A:9-148 and otherwise in accordance with law, and shall receive an annual salary of \$13,716.67 as provided in the Borough Salary Ordinance;

WHEREAS, Alaina Wysocke will have regular hours in Borough Hall on Wednesdays, from 5:30 to 7:00 p.m., or on such other days and at such other times one and one-half hours per week as directed by the Borough Administrator, and shall perform all other duties of Tax Assessor as required by law;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington that it hereby grants its advice and consent to the appointment of Alaina Wysocke, certified tax assessor, as Tax Assessor of the Borough of Pennington, and she shall serve in that capacity based on the terms and conditions set forth above.

Record of Council Vote on Passage

COUNCILMAN	AYE	NAY	N.V.	A.B.	COUNCILMAN	AYE	NAY	N.V.	A.B.
Chandler	X				Marciante	M			
Gnatt	S				Mills	X			
Gross	X				Sample				absent

Council Member Marciante made a motion to approve Resolution 2021-8.3, second by Council Member Gnatt with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2021 – 8.13**

**RESOLUTION CREATING AN UNPAID INTERNSHIP FOR
JOHN W. MUOIO**

WHEREAS, John W. Muoio, a resident of Pennington Borough and graduate of Hopewell Valley High School with high honors and now a distinguished scholar at Lehigh University where he majors in finance contacted the Borough to inquire about opportunities to assist the Borough with research projects; and

WHEREAS, the Mayor and Borough Administrator met with Mr. Muoio to discuss his interests and how they would best suit the Borough; and

WHEREAS, given Mr. Muoio’s interest in finance and the Borough’s interest in full transparency during the budget process, Mayor Davy has recommended that Mr. Muoio conduct research on how other cities and towns in New Jersey and across the country engage local citizens in the early stages of the budget process; and

WHEREAS, Mayor Davy has recommended that Mr. Muoio conduct interviews with members of Borough Council, the Borough Administrator and the Chief Financial Officer to ascertain their ideas and recommendations for improving the budget review and development process for the Borough budget; and

WHEREAS, Mayor Davy has recommended the appointment of John (Jack) Muoio as an unpaid intern for the summer under the guidance of the Mayor, the Borough Administrator and the Chair of the Finance Committee; and

WHEREAS, as an unpaid intern, Jack Muoio will be considered an unpaid volunteer subject to the rules, regulations, and protections for volunteers set forth in the Borough’s Volunteer Handbook;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that the aforesaid internship for Jack Muoio is hereby established as specified above; and

BE IT FURTHER RESOLVED that Jack is commended for his interest in government and is welcomed heartily to the Borough family.

Record of Council Vote on Passage

COUNCILMAN	AYE	NAY	N.V.	A.B.	COUNCILMAN	AYE	NAY	N.V.	A.B.
Chandler	M				Marciante	X			
Gnatt	S				Mills	X			
Gross	X				Semple				absent

Council Member Chandler made a motion to approve Resolution 2021-8.13, second by Council Member Gnatt with all members present voting in favor.

Public Comment

Mayor Davy asked anyone wishing to address Council to please raise your hand so the Borough Administrator can acknowledge you. Please state your name and address for the record. Please limit comments to the Governing Body to a maximum of 3 minutes.

There were no comments from the public.

With no further business to address Council Member Mills made a motion to adjourn, second by Council Member Chandler.

Respectfully submitted,

Elizabeth Sterling
Borough Clerk