

## **Cannabis Update**

**Background:** In November of 2020, New Jersey included a referendum question on legalization and adult use of cannabis, which 67% of West Amwell Township (“WAT”) residents supported. In 2021, WAT drafted ordinances to respond to the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (“CREAMM” or the “Act”) which legalizes the recreational use of marijuana by adults 21 years of age or older and establishes a regulatory and licensing scheme for commercial production, distribution, and sale of cannabis items. Given the newness of the Act, the Cannabis Regulatory Commission (“CRC”) and related rules/regulations, the state has made changes to the Act as the market has evolved and municipalities then have to update their ordinances accordingly. Federal law currently precludes the transportation of cannabis across state lines, meaning that any cannabis sold in New Jersey must be grown in New Jersey.

**Reasoning and Purpose:** WAT is a rural municipality with limited areas that accommodate zoning for business that produces commercial tax ratables to offset municipal and school expenditures, impacting residential property taxes. The Township Committee (“TC”), Zoning and Planning Boards believe that cannabis businesses will bring significant additional revenue to WAT while benefiting the community through host community agreements. These businesses also benefit the community by creating new job opportunities, keeping taxes close to home, providing corporate social responsibility programs that positively impact wellness of the community, as well as by innovating and diversifying the local marketplace. TC’s objective is to generate revenues from these ratables to keep your municipal taxes flat for the next 15 plus years while preserving the rural character of the Township.

WAT used to operate at a surplus, but it lost one-third (1/3<sup>rd</sup>) of its budget when the state took the Township’s utility tax revenue. WAT operates with a breakeven budget, has no surplus to address emergencies, and has a difficult time planning for capital improvements without raising residential property taxes.

Revenue from the approved medicinal cannabis cultivation facility is projected to generate \$600,000 in annual revenues for WAT, once the grow facility is operating at capacity. For medicinal cannabis, this revenue comes from a community host agreement that also provides \$100,000 for each of the first five years and a \$50,000 one-time contribution for WAT parks. If the licensee were to be approved for cultivation of recreational cannabis, revenue is projected to increase. Revenues would be used for capital improvements (roads, buildings, parks), repayment of debt, support of township services, including volunteer services like the fire department, and to build a surplus reserve.

At the same time, the Township recognizes that cannabis businesses may strain certain local resources, and this represents a change for nearby commercial and residential property owners. Accordingly, the Township drafted its ordinance to limit cannabis activities. For example, the Township’s ordinance only permits indoor growth – including greenhouses – to provide for better control of security, odor, and water usage. As an ancillary benefit to the businesses, indoor grow operations typically produce a better crop, resulting in higher potential sales revenue.

### **Indoor Cultivation Facilities Are Not Factories**

When cultivating cannabis outdoors, growers are at the whim of Mother Nature’s unpredictability. Oftentimes, this leads to security issues, no control of odor, less control over water usage, and suboptimal crop.

Cultivating cannabis indoors allows growers to control:

- Light schedules
- Water requirements
- Temperature and humidity settings
- Fertilization needs
- And other growing conditions to their specifications.

Through this tight control, indoor growers can manage their crop's growth and flowering. Indoor growing is discreet, allowing farmers to tend their crops with fewer outside distractions.

Although indoor growing has many benefits, it is resource-intensive. Indoor grow facilities generally demand a significant amount of electricity, owing to artificial light sources, air circulation fans, and water pumps, among other equipment. Additionally, noise is generated from HVAC equipment and other systems that must run 24 hours a day. Cannabis business is highly regulated by the state. Accordingly, licensed businesses must operate compliantly with state and local regulations.

### **Ordinance Amendments - Feedback From Residents on Cannabis**

Recognizing that the current state government is invested in the success of the new cannabis industry, and that the implementing rules and regulations are constantly evolving, the Township has always anticipated the need to amend its cannabis ordinance to keep up with the evolving landscape of the industry. The Township has been considering and will continue to consider amendments deemed necessary and proper for the order and protection of persons and property, and for the preservation of the public health, safety, and welfare of the municipality and its inhabitants.

The Township has already adopted some amendments and anticipates additional amendments will be made to the cannabis ordinance in the future. Residents have also raised some concerns at township meetings regarding the Township's Ordinance and regulation of cannabis businesses. Some of these concerns include:

- **Unlimited Licenses - Cultivation:** Given the limited areas and related regulations that would accommodate certain cannabis businesses within WAT, the ordinance language did not limit the number of licenses. The TC believes that the small number of state cultivation licenses when combined with the limited development areas in WAT would automatically limit the number of businesses WAT could support. However, the public has a different perception.
  - The TC recommends amending the ordinance to limit the number of certain licensed operations
- **Cultivation Water Usage and Conservation:** Residents are naturally concerned about how cannabis cultivation may impact wells in areas surrounding cultivation development even though each applicant is required to present usage projections and confirm available well water to the Planning Board in the application review process.
  - The TC recommends amending the ordinance to require that all cultivation applicants provide a water usage and conservation plan, describing the water-conserving features of proposed cannabis operation.
- **Odor:** Cannabis produces a unique pungent, skunk-like odor when being grown and harvested and residents are concerned about the potential for those odors to escape the buildings in which cultivation or manufacturing are conducted. Cannabis businesses are required to contain odors and engage with neighbors who may have concerns about their presence, as well as create and implement environmental sustainability plans. To facilitate quick resolution to issues or concerns from the surrounding community, cannabis businesses will be required to have a staff member

who neighbors can call to report any nuisances. Community residents will also be able to report issues directly to the CRC. The public believes that there should be more oversight and regulation of odors. There appear to be no state or industry accepted guidelines specific to monitoring the emission of cannabis odors.

- While typically enforced through the Planning Board, the TC recommends amending the ordinance to require all cannabis facilities to have an air treatment system to mitigate cannabis-related odor installed and maintained in compliant working order. The air treatment system shall have sufficient odor absorbing filtration systems utilizing carbon filters or similar, and ventilation and exhaust systems to eliminate cannabis odors coming from the interior of the premises, such that any odor generated inside the facility is not detectable at the subject property line.
- Traffic: One of the benefits of any new business is the number of jobs that can be created. But with those jobs comes additional traffic on the roadways – not just from the added employees that will work at a facility, but also from the trucks that will be delivering supplies to the facility, delivering products to their dispensaries, and removing solid waste.
  - The TC recommends amending the ordinance to require traffic projections and management plan for businesses that exceed a certain size and traffic studies if more than a certain number of trips are generated during peak hours.
- Other Matters: Similarly, the TC will recommend some changes in the ordinance to better define regulations regarding:
  - Security:
  - Lighting
  - Noise

Recommended changes to the ordinance will be proposed to address matters for specific license categories or in generality recognizing that each potential business is different and detailed or additional requirements can be made by the Planning Board.