

§ 100-1. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

ALTERNATIVE TREATMENT CENTER or ATC — An organization issued a permit pursuant to the Jake Honig Compassionate Use Medical Cannabis Act, P.L. 2009, c. 307 (N.J.S.A. 24:6I-1 et seq.) to operate as a medical cannabis cultivator, medical cannabis manufacturer, medical cannabis dispensary, or clinical registrant, as well as any alternative treatment center deemed pursuant to Section 7 of that Act (N.J.S.A. 24:6I-7), to concurrently hold a medical cannabis cultivator permit, a medical cannabis manufacturer permit, and a medical cannabis dispensary permit.

CANNABIS — All parts of the plant *Cannabis sativa* L., whether growing or not, the seeds thereof, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds, except those containing resin extracted from the plant, which are cultivated and, when applicable, manufactured in accordance with P.L. 2016, c. 16, for use in cannabis products as set forth in this Act, but shall not include the weight of any other ingredient combined with cannabis to prepare topical or oral administrations, food, drink, or other product. "Cannabis" does not include: medical cannabis dispensed to registered qualifying patients pursuant to the Jake Honig Compassionate Use Medical Cannabis Act, P.L. 2009, c. 307 (N.J.S.A. 24:6I-1 et seq.) and P.L. 2015, c. 158 (N.J.S.A. 18A:40-12.22 et seq.); marijuana as defined in N.J.S.A. 2C:35-2 and applied to any offense set forth in Chapters 35, 35A, and 36 of Title 2C of the New Jersey Statutes, or P.L. 2001, c. 114 (N.J.S.A. 2C:35B-1 et seq.); or marijuana as defined in Section 2 of P.L. 1970, c. 226 (N.J.S.A. 24:21-2) and applied to any offense set forth in the New Jersey Controlled Dangerous Substances Act, P.L. 1970, c. 226 (N.J.S.A. 24:21-1 et seq.); or hemp or a hemp product cultivated, handled, processed, transported, or sold pursuant to the New Jersey Hemp Farming Act, P.L. 2019, c. 238 (N.J.S.A. 4:28-6 et seq.).

CANNABIS CULTIVATOR — Any licensed person or entity that grows, cultivates, or produces cannabis in this state, and sells, and may transport, this cannabis to other cannabis cultivators, or usable cannabis to cannabis manufacturers, cannabis wholesalers, or cannabis retailers, but not to consumers.

CANNABIS DELIVERY SERVICE — Any licensed person or entity that provides courier services for consumer purchases of cannabis items and related supplies fulfilled by a cannabis retailer in order to make deliveries of the cannabis items and related supplies to that consumer, and which services include the ability of a consumer to purchase the cannabis items directly through the cannabis delivery service, which, after presenting the purchase order to the cannabis retailer for fulfillment, is delivered to that consumer.

CANNABIS DISTRIBUTOR — Any licensed person or entity that transports cannabis in bulk intrastate from one licensed cannabis cultivator to another licensed cannabis cultivator, or transports cannabis items in bulk intrastate from any one class of licensed cannabis establishment to another class of licensed cannabis establishment, and may engage in the temporary storage of cannabis or cannabis items as necessary to carry out transportation activities.

CANNABIS ESTABLISHMENT — A cannabis cultivator, a cannabis manufacturer, a cannabis wholesaler, or a cannabis retailer.

CANNABIS ITEM — Any usable cannabis, cannabis product, cannabis extract, and any other cannabis resin. "Cannabis item" does not include: any form of medical cannabis dispensed to

registered qualifying patients pursuant to the Jake Honig Compassionate Use Medical Cannabis Act, P.L. 2009, c. 307 (N.J.S.A. 24:6I-1 et seq.) and P.L. 2015, c. 158 (N.J.S.A. 18A:40-12.22 et seq.); or hemp or hemp product cultivated, handled processed, transported, or sold pursuant to the New Jersey Hemp Farming Act, P.L. 2019, c. 238 (N.J.S.A. 4:28-6 et seq.).

CANNABIS LEAF — The leaf of the plant *Cannabis sativa* L. within the plant family Cannabaceae.

CANNABIS MANUFACTURER — Any licensed person or entity that processes cannabis items in this state by purchasing or otherwise obtaining usable cannabis, manufacturing, preparing, and packaging cannabis items, and selling, and optionally transporting, these items to other cannabis manufacturers, cannabis wholesalers, or cannabis retailers, but not to consumers.

CANNABIS MANUFACTURING — The drying, processing, compounding, or conversion of usable cannabis into cannabis products or cannabis resins. "Manufacture" with respect to cannabis does not include packaging or labeling.

CANNABIS OVERLAY ZONE — The overlay zone whereby the approved classes of cannabis establishments are permitted to operate.

CANNABIS OVERLAY ZONE MAP — The official City map establishing the Cannabis Overlay Zone.

CANNABIS PARAPHERNALIA — Any equipment, products, or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, composting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, vaporizing, or containing cannabis, or for ingesting, inhaling, or otherwise introducing a cannabis item into the human body. "Cannabis paraphernalia" does not include drug paraphernalia as defined in N.J.S.A. 2C:36-1 and which is used or intended for use to commit a violation of Chapter 35 or 36 of Title 2C of the New Jersey Statutes.

CANNABIS PRODUCT — A product containing usable cannabis, cannabis extract, or any other cannabis resin and other ingredients intended for human consumption or use, including products intended to be applied to the skin or hair, edible cannabis products, ointments, and tinctures. "Cannabis product" does not include 1) usable cannabis by itself; 2) cannabis extract by itself; or 3) any other cannabis resin by itself.

CANNABIS RETAILER — Any licensed person or entity that purchases or otherwise obtains usable cannabis from cannabis cultivators and cannabis items from cannabis manufacturers or cannabis wholesalers, and sells these to consumers from a retail store, and may use a cannabis delivery service or a certified cannabis handler for the off-premises delivery of cannabis items and related supplies to consumers. A cannabis retailer shall also accept consumer purchases to be fulfilled from its retail store that are presented by a cannabis delivery service which will be delivered by the cannabis delivery service to that consumer.

CANNABIS WHOLESALER — Any licensed person or entity that purchases or otherwise obtains, stores, sells or otherwise transfers, and may transport, cannabis items for the purpose of resale or other transfer to either another cannabis wholesaler or to a cannabis retailer, but not to consumers.

CANNABIS, USABLE — The dried leaves and flowers of the female plant *Cannabis sativa* L.,

and does not include seedlings, seeds, stems, stalks, or roots of the plant.

MICROBUSINESS — A person or entity licensed under P.L. 2021, c. 16 (N.J.S.A. 24:6I-31 et seq.) as a cannabis cultivator, cannabis manufacturer, cannabis wholesaler, cannabis distributor, cannabis retailer, or cannabis delivery service that may only, with respect to its business operations, and capacity and quantity of product: 1) employ no more than 10 employees; 2) operate a cannabis establishment occupying an area of no more than 2,500 square feet, and in the case of a cannabis cultivator, grow cannabis on an area no more than 2,500 square feet measured on a horizontal plane and grow above that plane not higher than 24 feet; 3) possess no more than 1,000 cannabis plants each month, except that a cannabis distributor's possession of cannabis plants for transportation shall not be subject to this limit; 4) acquire each month, in the case of a cannabis manufacturer, no more than 1,000 pounds of usable cannabis; 5) acquire for resale each month, in the case of a cannabis wholesaler, no more than 1,000 pounds of usable cannabis, or the equivalent amount in any form of manufactured cannabis product or cannabis resin, or any combination thereof; and 6) acquire for retail sale each month, in the case of a cannabis retailer, no more than 1,000 pounds of usable cannabis, or the equivalent amount in any form of manufactured cannabis product or cannabis resin, or any combination thereof.

§ 100-2. Permitted and prohibited licenses.

- A. Permitted licenses. Those businesses possessing a license issued by the State of New Jersey to operate and a Class 1, Class 2, Class 3, Class 4, or Class 5 adult-use license pursuant to § 31b of the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (P.L. 2021, c. 16),¹ may operate within the City of Garfield, subject to all of the provisions of this chapter and all applicable state standards and regulations.
- B. Prohibited licenses. Class 6 licenses are prohibited in the City of Garfield except for the purpose of delivering cannabis items and related supplies by a Class 6 license holder located outside of the City of Garfield.

§ 100-3. Limitations on number of licenses. [Amended 4-11-2023 by Ord. No. 2983; 6-13-2023 by Ord. No. 2995; 10-24-2023 by Ord. No. 3013; 7-23-2024 by Ord. No. 3036]

The City of Garfield expressly permits 20 total cannabis licenses to operate within the City limits as follows:

- A. Four Class one cultivation licenses;
- B. Four Class two manufacturing licenses;
- C. Four Class three wholesaler licenses;
- D. Four Class four distributor licenses;
- E. Three Class five adult-use retail licenses.
- F. One alternative treatment center license.

1. Editor's Note: See N.J.S.A. 24:6I-45b.

§ 100-4. License required. [Amended 5-21-2024 by Ord. No. 3034; 7-23-2024 by Ord. No. 3036; 12-30-2024 by Ord. No. 3052]

It shall be unlawful for any person or any corporate entity to operate a cannabis establishment without first having procured an annual license from the City Clerk's office.

A. License fees; renewal; late fees.

- (1) A cannabis establishment permitted to operate in the City shall pay to the City an annual license fee of \$20,000.
- (2) A cannabis establishment permitted to operate in the City as an alternative treatment center shall pay to the City an annual license fee of \$10,000.
- (3) The licenses issued shall be effective for the calendar year, expiring on the 31st day of December of the year of issue, and may be renewable upon application for succeeding calendar years thereafter. The fee for license renewals shall be due and payable on or before the first day of February in the year of renewal or be subject to late fees.
- (4) Late fees. A late fee of \$100 shall be charged for renewal licenses which are not paid on or before February 1 of the license year. An additional \$75 shall be charged for each thirty-day period that the license fee is not paid after February 1 of the license year.

B. Application for license; fees.

- (1) Any person or persons, corporation or corporations desiring to conduct, maintain or operate any of the aforementioned businesses within the City of Garfield shall complete the designated application form.
- (2) Applications shall be submitted to the City Clerk and will be deemed complete upon submittal of all documentation and information described herein to the satisfaction of the governing body.
- (3) Subject to the provisions set forth below, licensing for a cannabis establishment will be on a reserve basis based on the order the application form is received until the number of permitted licenses is reached. A licensee's failure to submit a fully completed cannabis establishment application after a period of 90 days from the original date of submittal shall constitute a basis for the governing body to deem the application expired and subject the licensee to a loss of the reserve space.
- (4) No further applications will be accepted when the City has obtained the number of application forms totaling the number of available licenses permitted by ordinance.
- (5) The following documentation and information shall be provided in order for the application to be deemed complete and the license issued:
 - (a) A copy of the current state-approved license;
 - (b) The proposed days and hours of operation;
 - (c) Security plan;

- (d) Environmental impact and sustainability plan;
 - (e) Water and energy consumption plan detailing anticipated water and energy consumption;
 - (f) Host community plan;
 - (g) A proposed signage plan;
 - (h) A plan describing the mitigation measures and ventilation system that will be used to prevent any odor of cannabis off the premises;
 - (i) The name(s) and location(s) of the off-site cultivation facilities associated with a dispensary; and
 - (j) Such other information or documentation as determined to be necessary to assess compliance with the requirements set forth or referenced herein.
- (6) An initial application fee for new cannabis establishments shall be \$20,000, in addition to and separate from any licensing fees.
- C. Notification of award. Upon completion of the requirements set forth in Subsection B above, a notification of award shall be issued pursuant to resolution by the governing body. The City Clerk's office shall then issue the annual license.
- D. Inspection.
- (1) Every cannabis establishment licensed to operate in the City shall be subject inspection by City officials or agents, during reasonable hours, without prior notice. Failure or refusal on the part of the licensed cannabis establishment or his agents or servants to permit such inspection may be subject to suspension or revocation of the license.
 - (2) Should an inspection result in a documented violation in the form of a complaint, the cannabis establishment must rectify the violation according to the complaint or be subject to a suspension or revocation of the license.
- E. Revocation, suspension or cancellation of licenses; hearing.
- (1) Any license issued under the terms and provisions of this chapter may be suspended or revoked by the governing body for the willful violation by the licensee of any provision of the City Code.
 - (2) Summary suspension. If the City Council has reasonable grounds to believe that a licensee has engaged in deliberate and willful violation of any provision of this chapter of the City Code or upon proof that the public health, safety, and/or general welfare has been jeopardized and requires emergency action, the City Council may enter a summary suspension order for the immediate suspension of such license pending a public hearing.
 - (3) A public hearing shall be scheduled within 30 days of the summary suspension order. Said order shall contain the time and place of the public meeting.
 - (4) Written notice of the time and place of such hearing shall be served upon the cannabis

establishment at least 10 days prior to the date set for such hearing. Notice may be given either by personal delivery thereof to the person to be notified or by certified mail, return receipt, to the business address appearing upon said license.

- (5) Upon due consideration and deliberation based on the record evidence presented, the governing body may issue a fine not to exceed \$2,500 per violation and issue a temporary suspension of the license not to exceed three months, or may revoke the license in its entirety.
- (6) If any such license shall have been revoked, neither the holder thereof nor any person acting for him/her, directly or indirectly, shall be entitled to another license to carry on the same business within the City, unless the application for such license shall be approved by the governing body.

§ 100-5. Zoning. [Amended 12-13-2022 by Ord. No. 2969; 4-11-2023 by Ord. No. 2983; 6-13-2023 by Ord. No. 2995; 10-24-2023 by Ord. No. 3013; 11-21-2023 by Ord. No. 3016; 5-21-2024 by Ord. No. 3034; 7-23-2024 by Ord. No. 3036]

- A. A cannabis establishment seeking to operate under a Class 1, Class 2, Class 3, or Class 4 license may operate within the LM District as a conditional use.
- B. A cannabis establishment seeking to operate under a Class 5 retail license or as an alternative treatment center may operate within the B-2 District as a conditional use.
- C. Except as stated in § 100-5C, all bulk standards established for the underlying zoning as identified in Chapter 341, Attachment 2, shall apply.
- D. For Class 5 cannabis retail dispensaries, bulk standards associated with "other permitted uses" in B-2 Districts as identified in Chapter 341, Attachment 2, shall apply.
- E. All cannabis establishments operating in the City of Garfield shall be permitted as a conditional use, subject to the following conditions:
 - (1) Present proof of the appropriate state annual license;
 - (2) All cannabis establishments shall undergo site plan review by the City's Land Use Board, unless a prior approval has been previously issued by the City's Land Use Board approving the same cannabis establishment license to operate at the proposed location;
 - (3) A cannabis establishment shall be subject to licensing requirements outlined in City Code § 100-4;
 - (4) For Class 5 cannabis retail dispensaries, parking and loading requirements associated with retail store uses shall apply;
 - (5) For all other classes of cannabis licenses, the parking requirements shall be one parking space for each employee;
 - (6) Cannabis establishments shall be permitted to conduct their business during the hours of 7:00 a.m. to 10:00 p.m., Monday through Saturday; and 12:00 p.m. to 5:00 p.m. on Sunday.

- (7) Drive-through access shall be prohibited;
- (8) No Class 5 cannabis retail establishment shall be located within 750 feet from a parcel housing a pre-existing public, nonpublic, or charter school identified in the New Jersey Department of Education's School Directory within Garfield or shall be within 750 feet of a park or recreational facility, including, but not limited to, those parks or recreation facilities identified in the Recreation Element of the City of Garfield's 2002 Master Plan.
 - (a) Distances shall be measured in a straight line from the center of the entrance of the cannabis establishment to the closest point of the property line.
 - (b) Emergency/fire exits, maintenance access, and doors to gain access to nonpublic areas are not used in the measurement. If the entrance is set back from the sidewalk by a walkway or doorway, the measurement is taken from the center of the line where the walkway/doorway meets the sidewalk or curb.
 - (c) For an establishment in a multistory building, the building entrance at street level is to be used to guide the measurement.
- (9) No cannabis paraphernalia shall be displayed or kept at the cannabis establishment so as to be visible from outside the premises;
- (10) Cannabis consumption areas are strictly prohibited;
- (11) No cannabis product shall be smoked, eaten, or otherwise consumed or ingested on the premises of any cannabis establishment;
- (12) A cannabis establishment shall not be located in a home, apartment, townhouse, condominium or mixed-use building;
- (13) If located in a multitenant commercial building, the cannabis establishment shall have a separate entrance where no part of the cannabis establishment shall be directly accessible from any common area within the building;
- (14) The applicant shall implement an odor mitigation infrastructure so that odors emanating from the facility are not detectable by a person on adjacent properties, rights-of-way, or other units with a building on the same lot;
- (15) All activities associated with the production of cannabis, including cultivation, manufacturing, and processing, shall occur within an enclosed building;
- (16) The applicant shall provide appropriate landscape buffers at least six feet high at the time of installation, or other equivalent method of buffering, to be installed adjacent on any property line shared with a residential property;
- (17) The applicant shall comply with the signage standards of the underlying zoning district, including the following additional limitations:
 - (a) No sign shall be placed on the roof of a building nor placed on its walls so as to exceed in height the roof of a building.
 - (b) No illuminated signs shall be permitted.

- (c) No freestanding signs shall be permitted.
- (d) There shall only be one sign.
- (e) The content of signage shall be restricted to text on a solid background. The logo of the business may be included, provided the logo does not include a cannabis plant leaf or image of other cannabis paraphernalia or products.

§ 100-6. Creation and imposition of municipal tax.

A. Transfer tax and user tax imposed.

- (1) There is hereby imposed a transfer tax of 2% on receipts from the sale of all cannabis from a cannabis cultivator, a cannabis manufacturer, and a cannabis retailer.
- (2) There is hereby imposed a transfer tax of 1% on receipts from the sale of cannabis from a cannabis wholesaler.
- (3) There is hereby imposed a user tax equivalent to the transfer tax rate established in Subsection A(1) and (2), on any concurrent license holder, as permitted by Section 33 of P.L. 2021, c. 16 (N.J.S.A. 24:6I-46), operating more than one cannabis establishment. The user tax shall be imposed on the value of each transfer or use of cannabis or cannabis items not otherwise subject to the transfer tax, 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.
- (4) Such transfer tax shall be collected or paid and remitted to the municipality by the cannabis establishment from the cannabis establishment purchasing or receiving the cannabis or cannabis item, or from the consumer at the point of sale, on behalf of the municipality by the cannabis retailer selling the cannabis item to that consumer.
- (5) The transfer tax shall be stated, charged, and shown separately on any sales slip, invoice, receipt, or other statement or memorandum of the price paid or payable, or equivalent value of the transfer, for the cannabis or cannabis item. No cannabis establishment required to collect a transfer tax imposed hereunder shall advertise or hold out to any person, or to the public in general, in any manner, directly or indirectly, that the transfer tax or user tax will not be separately charged and stated to another cannabis establishment or the consumer, or that the transfer tax will be refunded to the cannabis establishment or the consumer.

B. Tax liability. Every cannabis establishment required to collect a transfer tax and user tax imposed herein shall be personally liable for the transfer tax or user tax imposed, collected, or required to be collected under this section. Any cannabis establishment shall have the same right with respect to collecting the transfer tax from another cannabis establishment or the consumer as if the transfer tax was a part of the sale and payable at the same time, or with respect to nonpayment of the transfer tax or user tax by the cannabis establishment or consumer, as if the transfer tax was a part of the purchase price of the cannabis or cannabis item, or equivalent value of the transfer of the cannabis or cannabis item, and payable at the same time.

C. Collection of taxes and lien.

- (1) All revenues collected from a transfer tax and user tax imposed pursuant to this section shall be remitted to the City of Garfield Chief Financial Officer in the manner prescribed herein. The Chief Financial Officer shall collect and administer any transfer tax or user tax imposed.
- (2) The City of Garfield may enforce the payment of delinquent taxes or transfer fees imposed by ordinance pursuant to this section in the same manner as provided for municipal real property taxes.
 - (a) In the event that the transfer tax imposed by ordinance pursuant to this section is not paid when due by a cannabis establishment, the unpaid balance, and any interest accruing thereon, shall be a lien on the parcel of real property comprising the cannabis establishment's premises in the same manner as all other unpaid municipal taxes, fees, or other charges.
 - (b) The lien shall be superior and paramount to the interest in the parcel of any owner, lessee, tenant, mortgagee, or other person, except the lien of municipal taxes, and shall be on a parity with and deemed equal to the municipal lien on the parcel for unpaid property taxes due and owing in the same year.
 - (c) The City shall file in the office of its Tax Collector a statement showing the amount and due date of the unpaid balance and identifying the lot and block number of the parcel of real property that comprises the delinquent premises. The lien shall be enforced as a municipal lien in the same manner as all other municipal liens are enforced.

D. Administration of transfer tax and user tax.

- (1) The City of Garfield Chief Financial Officer is charged with the administration and enforcement of the provisions of this chapter, and is empowered to prescribe, adopt, promulgate and enforce rules and regulations relating to any matter pertaining to the administration and enforcement of this chapter, 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 chapter.
- (2) Should a cannabis establishment fail or refuse to provide adequate information to the Chief Financial Officer to determine the amount of tax due, the Chief Financial Officer may use information provided to the Chief Financial Officer from other sources (i.e., the Commission or Department of Treasury) to determine the amount of tax liability.
 - (a) Every medicinal cannabis dispensary is hereby directed and required to give to the Chief Financial Officer, or to any agent designated by him/her, the means, facilities and opportunity for such examinations and investigations as are hereby authorized.
 - (b) The Chief Financial Officer is hereby authorized to examine the books, papers and records of the cannabis establishment to verify the accuracy of any declaration or return, or if no declaration or return was filed, to ascertain the tax due.

- (c) It shall be the duty of the Chief Financial Officer to collect and receive the taxes, fines, and penalties imposed by this chapter. It shall also be the duty of the Chief Financial Officer to keep a record showing the date of such receipt. The Chief Financial Officer is authorized to enter into agreements with the State of New Jersey to obtain information to facilitate administration of the tax. The Chief Financial Officer is authorized to issue a ruling upon written request of a taxpayer or upon its own volition.

E. Recordkeeping.

- (1) A cannabis establishment liable for the transfer tax or user tax shall be required to keep such records as will enable the filing of true and accurate returns of the tax, and such records shall be preserved for a period of not less than three years from the filing date or due date, whichever is later, in order to enable the Chief Financial Officer or any agent designated to verify the correctness of the declarations or returns filed.
- (2) If records are not available in the municipality to support the returns which were filed or which should have been filed, the cannabis establishment will be required to make them available to the Chief Financial Officer either by producing them at a location in the municipality or by paying for the expenses incurred by the Chief Financial Officer or his agent in traveling to the place where the records are regularly kept.

F. Returns.

- (1) All cannabis establishments operating in the municipality are required to file a tax return with the Chief Financial Officer to report their sales during each calendar quarter and the amount of tax in accordance with the provisions of this chapter. Returns shall be filed and payments of tax imposed for the preceding calendar quarter shall be made on or before the last day of April, July, October, and January, respectively.
- (2) A cannabis establishment that has overpaid the transfer tax, or who believes it is not liable for the tax, may file a written request on an amended tax return with the Chief Financial Officer for a refund or a credit of the tax. For amounts paid as a result of a notice asserting or informing a taxpayer of an underpayment, a written request for a refund shall be filed with the Chief Financial Officer within two years of the date of the payment.

- G. Confidentiality. The returns filed by the cannabis establishment, and the records and files of the Chief Financial Officer respecting the administration of the transfer tax, shall be considered confidential and privileged and neither the municipality nor any employee or agent engaged in the administration thereof or charged with the custody of any such records or files, nor any former officer or employee, nor any person who may have secured information therefrom, shall divulge, disclose, use for their own personal advantage, or examine for any reason other than a reason necessitated by the performance of official duties any information obtained from the said records or files or from any examination or inspection of the premises or property of any person. Neither the Chief Financial Officer nor any employee engaged in such administration or charged with the custody of any such records or files shall be required to produce any of them for the inspection of any person or for use in any action or proceeding except when the records or files or the facts shown thereby are

directly involved in an action or proceeding under the provisions of the State Uniform Tax Procedure Law or of the tax law affected, or where the determination of the action or proceeding will affect the validity or amount of the claim of the municipality under the tax provisions of this chapter.

H. Audit and assessment.

- (1) The City's Chief Financial Officer may initiate an audit by means of an audit notice to be served on any agent at the cannabis establishment's principal place of business. If, as a result of an examination conducted by the Chief Financial.²
- (2) In the event a return a return is found to be incorrect and transfer or user taxes are owed, the Chief Financial Officer is authorized to assess and collect any tax due and owing. Deficiency assessments (i.e., where a cannabis establishment filed a return but is found to owe additional tax) shall include taxes for up to three years to the date when the deficiency is assessed.
- (3) If no return has been filed and tax is found to be due, the tax actually due may be assessed and collected with or without the formality of obtaining a return from the taxpayer. Where no return was filed, there shall be no limit to the period of assessment.
- (4) All expenses incurred by the City associated with the audit and the collection of the outstanding taxes shall be paid by the delinquent cannabis establishment.
- (5) Upon proposing an assessment, the Chief Financial Officer shall send the cannabis establishment an interim notice by certified mail, return receipt requested, or by electronic means approved by the cannabis establishment, advising the taxpayer of additional taxes that are due. Should the taxpayer wish to dispute the assessment administratively by requesting a hearing with the Chief Financial Officer, it must do so within 30 days of the date of such interim notice. If, after the Chief Financial Officer sends an interim notice, a taxpayer fails to timely request a hearing with the Chief Financial Officer or requests a hearing and after conducting a hearing, the Chief Financial Officer determines that the taxes are due, the Chief Financial Officer shall send the cannabis establishment by certified mail, return receipt requested, or by electronic means approved by the cannabis establishment, a final notice. Should the cannabis establishment wish to dispute the assessment set forth in the final notice, the medicinal cannabis dispensary must initiate an appeal in the New Jersey Tax Court within 90 days after the mailing of any final notice regarding a decision, order, finding, assessment, or action hereunder.

I. Time limitations. The following periods of limitations shall apply to suits for collection of taxes:

- (1) When a return has been filed but no tax paid, any suit brought to recover the tax due and unpaid shall be filed within two years after the return was due or filed, whichever is later;
- (2) Where no return was filed or a fraudulent return was filed, there shall be no limits to file

2. Editor's Note: So in original.

suit for the collection of taxes;

- (3) Where, before the expiration of the time prescribed in this section for the filing a lawsuit against the taxpayer, both the Chief Financial Officer and the taxpayer have consented in writing to its extension after such time, the suit may be filed at any time prior to the expiration of the period agreed upon; and
 - (4) The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.
- J. Hearings. Any person who receives an interim notice from the Chief Financial Officer may, within 30 days after the date of an interim notice, request a hearing with the Chief Financial Officer. Any person who fails to request a hearing in a timely manner waives the right to administratively contest any element of the assessment. The Chief Financial Officer shall accept payments of disputed tax amounts under protest pending appeals; however, any request for refund of such monies must be filed in accordance with this section.
- K. Appeals. A cannabis establishment may, within 90 days after the mailing of any final notice regarding a decision, order, finding, assessment, or action hereunder, or publication of any rule, regulation or policy of the Chief Financial Officer, appeal to the Tax Court pursuant to the jurisdiction granted by N.J.S.A. 2B:13-2a(3) to review actions or regulations of municipal officials by filing a complaint in accordance with the New Jersey Court Rule 8:3-1. The appeal provided by this section shall be the exclusive remedy available to any taxpayer for review of a final decision of the Chief Financial Officer in respect to a determination of liability for the tax imposed by this chapter.

§ 100-7. Definitions and repealer.

Unless specifically defined otherwise herein, any term used herein shall be incorporate the definition of that term in the Act. Any article, section, paragraph, subsection, clause, or other provision of the City of Garfield Code inconsistent with the provisions of this chapter is hereby repealed to the extent of such inconsistency.

§ 100-8. Interpretation and savings provision.

No ordinance, regulation or interpretation thereof shall conflict with the Act. If any section, paragraph, subsection, clause, or provision of this chapter shall be adjudged by a court of competent jurisdiction to conflict with the Act or otherwise be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause, or provision so adjudged, and the remainder of this chapter shall be deemed valid and effective.

§ 100-9. Violations and penalties.

Any person or business who violates any provision of this chapter shall, upon conviction, be subject to the penalties provided by Chapter 1, Article II, of the City Code.