

**THE TOWNSHIP OF FRANKFORD
COUNTY OF SUSSEX, NEW JERSEY**

ORDINANCE 2021-16

AN ORDINANCE AMENDING THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF FRANKFORD IN THE COUNTY OF SUSSEX TO AMEND CHAPTER 30, "COMPREHENSIVE LAND USE," TO CREATE ARTICLE XV "CANNABIS RELATED BUSINESSES," AND TO CREATE CHAPTER 23, "CANNABIS TRANSFER TAX."

WHEREAS, the voters of the State of New Jersey endorsed the legalization of Adult Use Cannabis with the Legislature and Governor signing into law The New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act ("NJCREAMMA"), furthering strengthening municipal control over such uses and allowing, at the discretion of the municipality, the tax may be imposed on: receipts from the sale of cannabis by a cannabis cultivator to another cannabis cultivator; receipts from the sale of cannabis items from one cannabis establishment to another cannabis establishment; receipts from the retail sales cannabis items by a cannabis retailer to retail consumers, with each municipality setting its own rate or rates, but in no case shall a rate exceed: two percent of the receipts from each sale by a cannabis cultivator; two percent of the receipts from each sale by a cannabis manufacturer; one percent of the receipts from each sale by a cannabis wholesaler; and two percent of the receipts from each sale by a cannabis retailer.; and

WHEREAS, the Township supports safe and appropriate siting of cannabis related and supporting businesses within the Township, including cultivation centers, manufacturing facilities, and testing facilities; and

WHEREAS, the Township does not support the siting of cannabis dispensaries or retail facilities within the Township; and

WHEREAS, the Township wishes to amend Chapter 30 "Comprehensive Land Use," to create Article XV entitled "Cannabis Related Businesses" and to establish Chapter 23, entitled "Cannabis Transfer Tax" to conform with such amendments; and

NOW, THEREFORE, BE IT ORDAINED, by the Committee of the Township of Frankford, County of Sussex that the Code of the Township of Frankford be amended as follows:

Section 1. Chapter 30, COMPREHENSIVE LAND USE ARTICLE XV "CANNABIS RELATED BUSINESSES":

§30-1501 Definitions. As used in this section, the following terms shall have the meanings indicated:

ACT

The New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act.

ADULT USE CANNABIS BUSINESS

Encompasses all components of the cannabis industry. Accordingly, it shall mean any business involved in cultivating, manufacturing, distribution, sales, or testing of marijuana. While it may have a component that administers Medical Cannabis to qualifying patients, it is open to adult use of cannabis for person 21 years and older.

ADULT USE CANNABIS CULTIVATION CENTER or CULTIVATION CENTER

A building, structure, or premises used for the cultivation or storage of cannabis. Includes the planting, propagating, cultivation, growing, harvesting, labeling or manufacturing, compounding and storing of cannabis for the limited purpose of this chapter. A cultivation center may be physically separate and off-site from the associated licensee's cannabis dispensary. When connected to, or part of, the same property by which an Alternative Treatment Center dispenses from, it is considered part of the Alternative Treatment Center.

ADULT USE CANNABIS DISPENSARY or DISPENSARY

An ATC facility that acquires, possesses, sells, distributes, transmits, gives, dispenses, or otherwise provides cannabis to person 21 years and older. While it may administer medical cannabis to qualifying patients, it is open to Adult Use.

ADULT USE CANNABIS MANUFACTURING FACILITY

Facility involved with compounding, making, and processing of medical cannabis in all forms including those that involve food handling.

ALTERNATIVE TREATMENT CENTER (ATC) or MEDICAL CANNABIS ALTERNATIVE TREATMENT CENTER

An organization authorized through licensure issued by the NJ State Department of Health and the Board of Medical Examiners to perform activities necessary to provide registered qualifying patients with usable cannabis and related paraphernalia in accordance with the provisions of the Jake Honig Compassionate Use Medical Cannabis Act (N.J.S.A. 24:61-2, et seq.). For the purposes of zoning, an ATC is the interface between provider and patient and is synonymous with a medical cannabis dispensary. Cultivation and manufacturing, unless within the same structure or property as a dispensary, shall be treated as a separate use category though it may be part of the license issued by the state for a single entity.

CANNABIS

The definition given to “marijuana,” as provided in section 2 of the New Jersey Controlled Dangerous Substances Act, P.L. 1970, c. 226 (effective January 17, 1971), codified at N.J.S.A. 24:21-1 et seq.

CANNABIS BUSINESS

An organization issued a permit by the Commission to operate as a cannabis cultivator, cannabis manufacturer, cannabis wholesaler or cannabis dispensary.

COMMISSION

See Permitting Authority

MEDICAL CANNABIS CULTIVATOR or CULTIVATION CENTER

An organization issued a permit by the Permitting Authority that authorizes the organization to: possess and cultivate cannabis and deliver, transfer, transport, distribute, supply, and sell medical cannabis and related supplies to other medical cannabis cultivators and to medical cannabis manufacturers and dispensaries, as well as to plant, cultivate, grow, and harvest medical cannabis for research purposes. For the purposes of zoning, this shall include the building, structure, or premises used for the cultivation or storage of medical cannabis. A cultivation center may be physically separate and off-site from an associated medical cannabis dispensary. When connected to, or part of, the same property as a medical cannabis dispensary, the cultivation center shall be considered part of the medical cannabis dispensary.

MEDICAL CANNABIS DISPENSARY or DISPENSARY

An organization issued a permit by the Permitting Authority that authorizes the organization to: purchase or obtain medical cannabis and related supplies from medical cannabis cultivators; purchase or obtain medical cannabis products and related supplies from medical cannabis manufacturers; purchase or obtain medical cannabis, medical cannabis products, and related supplies and paraphernalia from other medical cannabis dispensaries; deliver, transfer, transport, distribute, supply, and sell medical cannabis and medical cannabis products to other medical cannabis dispensaries; furnish medical cannabis, including medical cannabis products, to a medical cannabis handler for delivery to a registered qualifying patient, designated caregiver, or institutional caregiver consistent with the requirements of the Act; and possess, display, deliver, transfer, transport, distribute, supply, sell, and dispense medical cannabis, medical cannabis products, paraphernalia, and related supplies to qualifying patients, designated caregivers, and institutional caregivers. For the purposes of zoning, this shall include the building, structure, or premises used for the dispensing of medical cannabis.

MEDICAL CANNABIS MANUFACTURER OR MANUFACTURING FACILITY

An organization issued a permit by the Permitting Authority that authorizes the organization to: purchase or obtain medical cannabis and related supplies from a medical cannabis cultivator; purchase or obtain medical cannabis products from another medical cannabis manufacturer; produce, manufacture, or otherwise create medical cannabis products; and possess, deliver, transfer, transport, distribute, supply, and sell medical cannabis products and related supplies to other medical cannabis manufacturers and dispensaries. For the purposes of zoning, this shall include the building, structure, or premises used for the manufacturing of medical cannabis products.

MICRO BUSINESS

A cannabis business meeting the criteria established by NJCREAMMA including New Jersey residency requirements for owners, directors, officers and employees, no more than 2500 square feet of business operating space and monthly production limitations as established by NJCREAMMA, the regulations adopted pursuant thereto, as the same may be amended from time to time.

PERMIT

The documents issued by the Permitting Authority pursuant to the Act granting the legal right to operate as a cannabis business.

PERMITTING AUTHORITY

The entity responsible for the regulation and enforcement of activities associated with the medical use of cannabis. This shall include the New Jersey Department of Health and the Cannabis Regulatory Commission, established pursuant to section 31 of P.L.2019, c. 153 (C.24:6I-24), which shall assume all powers, duties, and responsibilities with regard to the regulation and oversight of activities authorized pursuant to P.L.2009, c. 307 (C.24:6I-1 et al.) from the Department of Health for the further development, expansion, regulation, and enforcement of activities associated with the medical use of cannabis pursuant to P.L.2009, c. 307 (C.24:6I-1 et al.).

USABLE CANNABIS

The dried leaves and flowers of cannabis, and any mixture or preparation thereof, but does not include the seed, stems, stalks, or roots of the plant.

VERTICALLY INTEGRATED FACILITIES. Vertically integrated operations proposing to have cultivation,

manufacturing, and dispensing within the same facility. For the purpose of zoning, Vertically Integrated facilities shall be considered dispensaries.

WHOLESALE CANNABIS facilities licensed by the Commission to obtain and sell cannabis items for later resale by other licensees.

§30-1502 Permitted Cannabis Businesses, location.

(1) **Adult use/medical cultivation centers and manufacturing facilities.** Cultivation centers and manufacturing facilities, both adult use and medical, shall be permitted to be located within the following zones in accordance with this chapter and the Redevelopment Plans where applicable. For all properties, adherence to the site design standards of the Township Land Development Ordinances and Redevelopment Plans through preliminary/final site plan review and approval by the Township Land Use Board is required. A micro business shall be subject to minor site plan review and approval by the Township's Land Use Board. Cultivation centers and manufacturing facilities are not permitted on lands with farmland assessment and therefore will trigger a rollback of taxes. Zones permitted include:

- (a) AR Agricultural/Residential District
- (b) C-1
- (c) C-2
- (d) FCC
- (e) FCNS
- (f) C-3
- (g) CR
- (h) LI
- (i) FCED
- (j) CED-1
- (k) CED-2

(2) Schedule A Permitted, Conditional and Accessory Uses and Structures shall be amended to add cannabis cultivation center, cannabis manufacturing facility, and cannabis microbusiness, as scheduled permitted uses in the aforementioned zones.

§30-1503. Prohibited Cannabis Businesses.

a) Dispensaries. Dispensaries and retail cannabis facilities, both adult use and medical, shall be prohibited within all zones of the Township. This includes Alternative Treatment Centers and Vertically Integrated Facilities.

b) Wholesalers. Wholesale Cannabis facilities shall be prohibited within all zones of the Township.

§30-1504. Mobile Delivery of cannabis products. Cannabis products may be transferred or delivered, consistent with the requirements of the Act under a Cannabis Delivery License. Mobile facilities shall not be permitted unless expressly authorized under the Act or permitted by the Permitting Authority, and approved by Special Permit by the Township.

§30-1505. Specific requirements for cannabis businesses.

(1) The cultivation of cannabis shall not be permitted on exterior portions of a lot, unless under Special Permit for the Cultivation of Hemp that is in conformance with Federal Agriculture Improvement Act of 2018 (2018 Farm Bill). The cultivation, production or possession of cannabis within a building or unit must not be perceptible from the exterior of the building or unit from a street or residential use. Such use shall adhere to the bulk standards of the underlying zoning.

(2) Cannabis businesses must limit signage to text on external signage, labeling, and brochures. Use of graphics shall be limited to the logo for the business so long as it does not include a cannabis plant leaf and outward glorification of cannabis consumption.

(3) All other Township sign regulations must be complied with.

(4) Cannabis business signage shall not display on the exterior of the facility or windows advertisements for cannabis or a brand name except for purposes of identifying the building by the permitted name.

(5) Cannabis cultivation facilities and cannabis manufacturing facilities shall meet the parking standards set forth in Schedule D Minimum Parking Requirements for the Commercial/Professional Use.

(6) In the event of a conflict between the Township bulk standards and the Act or the Permitting Authority's regulations, the Township shall consider the pertinent statute or regulation as justification of any variance and/or design waiver.

(7) The minimum lot size for s standalone cultivation center and/or manufacturing facility shall be 25 acres. This criteria shall not be applicable to a micro business.

(8) All cannabis facilities shall comply with the regulatory requirements set forth in N.J.A.C. 17:30.

§30-1506. Security and reporting. Security systems must be in place, along with a 24/7 recording system that records for a minimum thirty-day archive. This system shall be shared with the New Jersey State Police via web browser. Outside areas of the premises and the perimeter shall be well lit. The New Jersey State Police shall be provided the name and phone number of a staff person to notify during suspicious activity during or after operating hours. Security staff is required on the premises during all hours of operation. Additionally:

(1) The premises must only be accessed by authorized personnel and free of loitering.

(2) All cultivation of cannabis shall take place in an enclosed, locked facility.

(3) All cannabis facilities shall comply with the regulatory requirements set forth in N.J.A.C. 17:30.

§30-1507. No products to be visible from public places. Cannabis plants, products, accessories, and associated paraphernalia contained in any cannabis business shall not be visible from a public sidewalk, public street or right-of-way, or any other public place. On-site storage of usable cannabis shall comply with 21 CFR 1301.72.

§30-1508. Storage of products. All products and accessories shall be stored completely indoors and on-site in accordance with the Act and the Permitting Authority regulations.

§30-1509. Prevention of emissions and disposal of materials.

(1) Sufficient measures and means of preventing smoke, odors, debris, dust, fluids and other substances from exiting the cannabis business premises shall be provided at all times. In the event that any debris, dust, fluids or other substances shall exit the business premises, the property owner and operator shall be jointly and severally responsible for the full cleanup immediately.

(2) Businesses shall properly dispose of all materials and other substances in a safe and sanitary manner in accordance with state regulations.

(3) As applicable, cannabis businesses shall be equipped with ventilation systems with carbon filters sufficient in type and capacity to eliminate cannabis odors emanating from the interior to the exterior of the premises discernible by reasonable persons. The ventilation system must be inspected and approved by the Construction Official.

(4) If carbon dioxide will be used in any cultivation area, sufficient physical barriers or a negative air pressure system shall be in place to prevent carbon dioxide from moving into the ambient air, into other units in the same building or into an adjacent building in a concentration that would be harmful to any person, including persons with respiratory disease and shall be inspected and approved by the Construction Official and the Fire Marshall.

(5) All state regulations concerning ventilation systems shall be followed.

§30-1510. Compliance with other codes. Any cannabis business and the adjacent grounds of the cannabis business shall comply with all zoning, health, building, fire, and other codes and ordinances of the Township as shown by completed inspections and approvals by the Township Engineer, Township Zoning Officer, Construction Official and Fire Safety Official, and the County and Township Health Departments, if applicable.

§30-1511. No harm to public health, safety or welfare. The premises of a cannabis business, and any adjacent grounds thereto, shall be operated in a manner that does not cause any substantial harm to the public health, safety and welfare.

§30-1512. Additional requirements. At the time a site plan approval is granted, amended, or a major change to a cannabis business is approved, the Township may impose on the applicant any condition related to the proposed use that is reasonably necessary to protect the public health, safety or welfare, not inconsistent with the Permitting authority requirements, including but not limited to the following:

- (1) Additional security requirements;
- (2) Limits and requirements on parking and traffic flows;

- (3) Requirements for walls, doors, windows, locks and fences on the premises and adjacent grounds;
- (4) Requirements and limits on ventilation and lighting;
- (5) Limits on noise inside the licensed premises or on the adjacent grounds;
- (6) Prohibitions on certain conduct in the cannabis business;
- (7) Limits on hours of operation.

§30-1513. Penalty for violation. Any violation of the provisions of this subsection or the conditions of the zoning permit granted, by a cannabis business shall be punishable by a civil fine of up to \$1,000. Each day that a violation is committed, exists or continues shall be deemed a separate and distinct offense. In addition, any violation of the provisions of this subsection, or any conditions imposed by the zoning permit may result in the revocation of the zoning permit.

§30-1514. Relationship to any Redevelopment Plan, and the Township Zoning and site plan standards. To the extent any provisions of the Township redevelopment plans, zoning and site plan standards conflict with this section, the provisions and standards of this section shall control.

Section 2. Chapter 23, entitled CANNABIS TRANSFER TAX, is hereby created to read as follows:

§23-1 Purpose.

It is the purpose of this article to implement the provision of New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act, P.L. 2021, (signed into law February 22, 2021), which authorizes the governing body of a municipality to adopt an ordinance imposing a transfer tax at a uniform percentage rate not to exceed two percent of the receipts from each sale by a cannabis cultivator; two percent of the receipts from each sale by a cannabis manufacturer; one percent of the receipts from each sale by a cannabis wholesaler; and two percent of the receipts from each sale by a cannabis retailer located in the Township, which shall be in addition to any other tax or fee imposed pursuant to statute or local ordinance or resolution by any governmental entity upon the dispensary.

§23-2 Adult Use Cannabis Transfer Tax.

The tax rate for each category of license shall be as follows:

- a. Cannabis Cultivator: Two percent of the receipts from each sale by a cannabis cultivator.
- b. Cannabis Manufacturer: Two percent of the receipts from each sale by a cannabis manufacturer.

§23-3 Remission of Taxes.

Every cannabis business and/or licensee shall remit taxes collected and due and owing on a quarterly basis to the municipal chief financial officer, along with certified copies of sales receipts and product transfer ledgers or documentation. The dates of tax remission shall be on or before January 2, April 1, July 1 and October 1, or as established by the chief financial officer. Each licensee shall certify to the truth and accuracy of the receipts and product transfer ledgers or documentation, and shall remit a return in a form determined by the chief financial officer.

§23-4 Delinquent taxes.

All unpaid taxes as required under this Article shall be subject to the accrual of interest and penalties at rates and penalties set forth and established for delinquent ad valorem taxes within the Township of Frankford.

§23-5. Liability for taxes owed.

Each cannabis establishment owner and/or licensee shall be personally liable for any and all taxes imposed under this Article and any interest and penalty accruing thereon. In addition, any unpaid balance and interest and penalties accruing thereon shall constitute a lien on the real property in which the cannabis establishment is located and such liens shall be enforced in the same manner as municipal tax liens.

§23-6. Audit.

Every cannabis establishment and/or licensee within the Township of Frankford is subject to audit, no greater than once per annum, of the establishment's or licensee's business records, receipts and accounting books, such audit to be performed at the chief financial officer's discretion, by a certified public accountant. Every cannabis establishment and licensee shall be obligated to fully comply with the requirements of an auditor. Failure to cooperate with the audit, or any misrepresentation or fraud committed by the establishment or licensee, shall result in the immediate suspension of the license.

Section 3. Severability. Should any section, paragraph, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid for any reason by any Court of competent jurisdiction, such provision(s) shall be deemed severable and the remaining portions of this Ordinance shall remain in full force and effect.

Section 4. Repealer. All ordinances or parts of ordinances or resolutions that are inconsistent with the provisions of this Ordinance are repealed to the extent of such inconsistency. Specifically, but not by way of limitation, subparagraph b. of Section 30-1002 entitled, "Prohibited Uses," is repealed in its entirety.

Section 5. Effective Date. This ordinance shall take effect after the second reading, public hearing, adoption and publication, in accordance with the law and filing with the Sussex County Planning Board.

NOTICE

NOTICE is hereby given that the foregoing Ordinance was introduced to pass on first reading at a regular meeting of the Committee of the Township of Frankford held on August 24, 2021 and ordered published in accordance with the law. Said Ordinance will be considered for final reading and adoption at a regular meeting of the Township Committee to be held on September 14, 2021 at 7:00 p.m. or as soon thereafter as the Township Committee may hear this Ordinance at the Municipal Building, 151 US Highway 206, Augusta, New Jersey, at which time all persons interested may appear for or against the passage of said Ordinance.

Lori Nienstedt, MBA, RMC
Administrator, Municipal Clerk

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COUNTY OF SUSSEX, NEW JERSEY**

ORDINANCE 2021-16

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NOTICE OF ADOPTION

Notice is hereby given that the foregoing Ordinance was adopted on second reading after a public hearing at a meeting of the Mayor and Committee of the Township of Frankford, County of Sussex, State of New Jersey, held on the 14th day of September, 2021.

Lori Nienstedt, RMC, MBA
Municipal Clerk, Administrator