

ORDINANCE #_-21

AN ORDINANCE TO AMEND AND SUPPLEMENT CHAPTERS 18 “ZONING”, CHAPTER 5 “GENERAL LICENSING AND BUSINESS REGULATIONS”, AND CHAPTER 3 “REVENUE AND FINANCE” OF THE CODE OF THE BOROUGH OF FREEHOLD ESTABLISHING LAND USE REGULATIONS AND LICENSING REQUIREMENTS FOR CANNABIS ESTABLISHMENTS

WHEREAS, the Borough of Freehold (the “Borough”) is a public body corporate and politic of the State of New Jersey; and

WHEREAS, the Borough Council wishes to create land use regulations and licensing requirements for cannabis dispensaries that can provide medicinal benefits and promote the health, safety, and general welfare of the community; and,

WHEREAS, the State of New Jersey is presently reviewing applications and will be issuing licenses to cannabis establishments in the State of New Jersey; and,

WHEREAS, inquiries have been made by persons and companies that operate or seek to operate cannabis facilities in New Jersey and that have expressed interest in establishing business operations in Freehold; and,

WHEREAS, these companies have applied or will apply to the State of New Jersey for licensing and are awaiting approval and issuance of a State license; and,

WHEREAS, it is in the best interest of the Borough of Freehold to be proactive in establishing such local land use regulations and licensing requirements for cannabis establishments in advance of the issuance of additional licenses by the State to facilitate the opportunity for such businesses to establish operations in the Borough of Freehold.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE BOROUGH OF FREEHOLD AS FOLLOWS:

SECTION ONE: AMENDMENT TO TITLE 18 ZONING

Title 18 “Zoning” of the Code of the Borough of Freehold shall be amended as follows; additions to the current ordinance are noted in underline.

Section 18.62 Cannabis Establishment Zones

a. Definitions. The terms and definitions as delineated in N.J.S.A. 24:6I-33 are incorporated herein.

b. State Licensed Cannabis Establishments are Permitted.

1. Any business duly licensed by the State of New Jersey to conduct legal adult use marijuana operations, as defined by State law, may operate within the noted zones so long as: (i) the entity maintains its State license in good standing; (ii) the entity maintains

its Freehold Business License in good standing; and (iii) the entity otherwise remains in full compliance with the laws and regulations established by the State of New Jersey and the applicable Agency, Authority, and/or Department governing the licensed activity, as may be amended.

2. No Business License to operate within the Borough of Freehold shall be granted or renewed without such evidence as may be required by the Borough Clerk's Office to determine that the entity maintains all valid State and/or Departmental licenses and approvals, and that all such licenses and/or approvals remain in good standing at the time of registration.

c. Zoning Districts Where Cannabis Establishments are Permitted.

1. Cannabis Retailers in the following areas:

a. Commercial Manufacturing (C-M) and Modified Commercial Manufacturing (MCM) Zones but only for lots fronting on Throckmorton Street and between the intersection of Throckmorton Street and Rhea Street west to the Borough limits; or

b. Office Commercial (B-1), Limited Professional Office (B-1a), and General Commercial (B-2b) Zones but only for lots fronting on Park Avenue and between the intersection of Park Avenue and South Street east to the Borough limits; or

c. Commercial Manufacturing (C-M) and General Commercial (B-2b) Zones but only for lots fronting on Jerseyville Avenue and between the intersection of Jerseyville Avenue and Parker Street east to the Borough limits.

All Cannabis Retailers must comply with all applicable provisions set forth herein, state law, and all other applicable codes and regulations, including but not limited to the Building Code.

2. Cannabis Cultivators, Cannabis Distributors, Cannabis Manufacturers, and Cannabis Wholesalers are only permitted in the Commercial Manufacturing District (C-M) in accordance with all applicable provisions set forth herein, state law, and all other applicable codes and regulations, including but not limited to the Building Code.

3. No Cannabis Delivery businesses are permitted in any zone.

d. Site Standards for Cannabis Establishments

1. There shall be no on-site sales of alcohol or tobacco products, and no on-site consumption of food, alcohol, tobacco, or marijuana by patrons.

2. Hours of public operation shall be limited to 8:00 a.m. through 8:00 p.m. daily. No licensed Cannabis Establishment shall be open to the public between the hours of 8:01 p.m. and 7:59 a.m. on any day.

3. For any licensed cultivation, processing, or similar operation, the facility shall provide an air treatment system with sufficient odor absorbing ventilation and exhaust systems such that any odors generated inside the facility are not detectable by a person of reasonable sensitivity anywhere on adjacent property, within public rights of way, or within any other unit located within the same building as the licensed facility if the use only occupies a portion of a building.

4. For any licensed cultivation, processing, manufacturing, or similar operation, the facility shall provide for noise mitigation features designed to minimize disturbance from machinery, processing and/or packaging operations, loading, and other noise generating equipment or machinery. All licensed facilities must operate within applicable State decibel limitations.

5. To the extent not already required by the entity's State license, all sites must be equipped with security cameras covering all exterior parking and loading areas, points of entry, and interior spaces which are either open to the public or used for the storage or processing of marijuana products. Footage must be maintained for the duration required under State law.

6. All licensed facilities must provide the Freehold Police Department with access to security footage immediately upon request by the Department.

7. To the extent not already required by the entity's State license, all licensed facilities must provide at least one security guard (or more if required by the State) during all times the facility is open to the public. At a minimum, the security guard shall be a State Certified Security Officer whose certification is in good standing.

8. For any licensed cultivation operation, the facility must mitigate lighting spillover into any residential neighborhoods and must comply with all applicable State lighting limitations.

9. No Cannabis Retailers shall be located within the following distances from the specified land uses listed below:

a. 250 feet of a licensed childcare facility or residential childcare facility;

b. 500 feet of any elementary school, middle school, high school, college or university either public or private; or

10. Cannabis waste shall be stored, secured, and managed in accordance with applicable state laws.

11. Display of Cannabis and Related Paraphernalia: Cannabis plants, products, and paraphernalia shall be screened from view from any exterior windows.

12. All Cannabis Establishments shall conduct operations indoors. No Cannabis Cultivators shall be permitted to operate outdoors, e.g., grow canopies.

e. On-Site Signage

1. No State licensed marijuana business shall display signage containing text and/or images intended to promote excessive consumption of legal marijuana products.
2. Signage shall otherwise comply with the requirements of Chapter 15.16 (Signs) of the Freehold Borough Code to the extent permissible by applicable State laws and regulations governing signage standards for licensed marijuana businesses.
3. No State licensed marijuana business shall place or cause to be placed any off-site advertising signage.

f. Penalties.

Any person violating any provision of this section shall, upon conviction be subject to the penalties stated in Chapter 1.08 General Penalty, except that fines shall be in the amount of \$2,500 for a first offense, \$5,000 for a second offense, and \$10,000 for a third offense.

SECTION TWO: AMENADMENT TO TITLE 5 GENERAL LICENSING AND BUSINESS REGULATIONS

Title 5 “General Licensing and Business Regulations” of the Code of the Borough of Freehold shall be amended as follows; additions to the current ordinance are noted in underline.

Section 5.04.010 Purpose.

The purpose of this title is to provide a uniform set of procedures for administering the issuance, renewal and revocation of all licenses issued by the borough, except alcoholic beverage licenses, dog licenses, taxicab licenses, and cannabis establishment licenses.

Chapter 5.96

CANNABIS ESTABLISHMENT LICENSES.

5.96.010 Purpose.

This chapter is enacted to regulate the cultivation, production, sale, and transportation of cannabis in the borough in accordance with the provisions of the “New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act” comprising N.J.S.A. 24:6I-31 et seq., and in accordance with the rules and regulations of the Cannabis Regulatory Commission.

5.96.020 Definitions.

As used in this chapter, words and phrases shall have the same meanings they have in N.J.S.A. 24:6I-31 et seq., and in accordance with the rules and regulations of the Cannabis Regulatory Commission.

5.96.030 Licenses.

a. Laws Applicable. All applications for licenses, all licenses issued, and all proceedings under this chapter shall be in accordance with the act, rules and regulations referred to in Section 5.96.010 and all other applicable laws of the state of New Jersey.

b. Issuing Authority. All licenses required by this chapter, including renewal licenses, shall be issued by the governing body, which shall also administer the provisions of this chapter.

c. License Required. No person shall cultivate, sell, or distribute cannabis within the borough without having obtained a license in accordance with the act referred to in Section 5.96.010 and the provisions of this chapter.

d. License Fees--Maximum Number. The annual license fee and maximum number of licenses for the Cannabis Establishments in the borough shall be as follows:

Class of License	Annual License Fee	No. of Licenses
Class 1 Cannabis Cultivator	\$10,000	2
Class 2 Cannabis Manufacturer	\$10,000	2
Class 3 Cannabis Wholesaler	\$5,000	2
Class 4 Cannabis Distributor	\$5,000	2
Class 5 Cannabis Retailer	\$5,000	2

Class 6 Delivery licenses shall not be permitted in the borough. Consumption areas shall not be permitted in the borough.

5.96.040 License Conditions. In order to be granted a business license or for the renewal of same for the operation of any Cannabis Establishment the following conditions must be satisfied:

a. Completion of all forms, checklists, and other submissions as may be required by the Borough Clerk's Office;

b. Payment of all applicable local fees, including inspection and licensing fees;

c. Demonstration that all applicable State licenses have been obtained;

d. Passage of all applicable State and local inspections required to be completed prior to the beginning of operations and/or renewal of any State and/or local license;

e. Emergency contact information to be utilized by police, fire, and EMT personnel in the event of an on-site emergency;

f. Submission of a full copy of the Application for State Licensure, via hard copy or digitally, with pages prominently marked "CONFIDENTIAL" as appropriate for purposes of compliance with New Jersey's Open Public Records Act (NOTE: pages not marked as confidential will be disclosed in response to an applicable OPRA request); and

g. Submission of application fee of Five Thousand (\$5,000) Dollars.

5.96.050 Regulation of licenses.

Any license issued under this chapter shall conform to the requirements of Title 18, Chapter 18.62 of the Borough Code with regard to operation.

5.96.060 Revocation of licenses.

a. Any license issued under this chapter may be suspended or revoked for violation of any of the provisions of this chapter or any provision of any applicable statute or any of the rules and regulations of the Cannabis Regulatory Commission.

b. Notice of a hearing for the suspension or revocation of a license shall be given in writing by the borough clerk. The notice shall specifically set forth the grounds upon which the proposed revocation is based and the time and place of the hearing. It shall be served by mailing a copy to the licensee at his or her last known address by certified mail, return receipt requested, at least five days prior to the date set for the hearing.

c. At the hearing, the licensee shall have the right to appear and be heard, to be represented by an attorney, to present witnesses in his or her own behalf, to cross-examine opposing witnesses and to have a permanent record made of the proceedings at his or her own expense. The council shall revoke or suspend the license if they are satisfied by a preponderance of the evidence that the licensee is guilty of the acts charged.

d. Suspension or revocation of a license shall be in addition to any other penalty which may be imposed for a violation of this chapter.

5.96.070 Penalties

Any person violating any provision of this section shall, upon conviction be subject to fines of \$2,500 for a first offense, \$5,000 for a second offense, and \$10,000 for a third offense.

SECTION THREE: AMENDMENT TO TITLE 3 REVENUE AND FINANCE

Title 3 "Revenue and Finance" of the Code of the Borough of Freehold shall be amended as follows; additions to the current ordinance are noted in underline.

Chapter 3.20 Cannabis Establishment Sales Tax

3.20.010 A tax is hereby imposed upon all persons engaged in the business of selling cannabis as a Cannabis Cultivator, Cannabis Manufacturer, or Cannabis Retailer in the Borough of Freehold, at the rate of two percent (2%) of the gross receipts from such sales made in the course of that business. Retailers may reimburse themselves for their tax liability hereunder by separately stating the tax as an additional charge, which charge may be stated in combination, in a single amount, with any State tax that retailers are required to collect.

3.20.020 A tax is hereby imposed upon all persons engaged in the business of selling cannabis as a Cannabis Wholesaler in the Borough of Freehold, at the rate of one percent (1%) of the gross receipts from such sales made in the course of that business. Retailers may reimburse

themselves for their tax liability hereunder by separately stating the tax as an additional charge, which charge may be stated in combination, in a single amount, with any State tax that retailers are required to collect. Each person required to collect the tax herein imposed shall be personally liable for the tax imposed, collected, or required to be collected hereunder.

3.20.030 The imposition of the tax imposed by this Chapter is in accordance with the provisions of State law and is in addition to any and all other taxes and charges.

3.20.040 The tax imposed by this Section, and all civil penalties that may be assessed as an incident thereto, shall be remitted to, collected by and enforced by the Borough of Freehold Tax Collector, who shall have the full power to administer and enforce the provisions of this Chapter.

3.20.050 The failure to timely collect or remit all taxes due pursuant to this Chapter is a violation of this Code and may be subject to the penalties hereunder.

3.20.060 Penalties.

Any person violating any provision of this section shall, upon conviction be subject to the penalties stated in Chapter 1.08 General Penalty, except that the minimum penalty shall not be less than \$500 for a first offense, \$1,000 for a second offense, and \$1,500 for a third offense.

SECTION FOUR: All ordinances, or parts of ordinances, in conflict with the provisions of this Ordinance, to the extent of such conflict, are repealed.