

**Borough of Freehold
Planning Board
Agenda No. 21-10
June 23, 2021**

The Freehold Borough Planning Board will hold a Video Conferencing Online Meeting on Wednesday, June 23, 2021 at 7:00 PM in accordance with the New Jersey State Emergency Declaration.

1. Call to order and statement of compliance. Adequate notice of this meeting has been provided by posting a copy of public meeting dates on the municipal bulletin board and by sending a copy to the Asbury Park Press and the News Transcript and filing a copy with the Municipal Clerk.
2. Roll call of members and consultants.

**Mr. Kevin A. Kane, Mayor
Mr. William Barricelli, Class IV Member
Mr. Paul Ceppi, Class IV Member
Mr. Michael McCabe, Class IV Member
Mr. Michael Wildermuth, IV Member
Ms. Shealyn M.S. Crombie, IV Member
Ms. Caridad Argote-Freyre, IV Member
Mr. Garry Jackson, Class II Member
Mrs. Margaret Rogers, Class III Member
Mrs. Brianne Van Vorst, Alternate Member I
Mr. Ronald D. Cucchiaro, Esq., Board Attorney
Mr. William Wentzien, PE, Board Engineer**

3. Approval of Minutes from the Meeting of June 9, 2021.
(See Attachment I)
4. Review Borough of Freehold, County of Monmouth, State of New Jersey Ordinance #2021/11 Amend and Supplement Chapter 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 Business. (See Attached II, *referred by the Borough of Freehold Governing Body*)
5. Adjourn.

*All backup material in regards to the agenda can be viewed in the Land Use office and on our website http://www.freeholdboroughnj.gov/PB/PB_agendas.html

Dominica R. Napolitano

Dominica R. Napolitano
June 18, 2021

ATTACHMENT I

FREEHOLD BOROUGH PLANNING BOARD
MINUTES OF JUNE 9, 2021

MONTHLY MEETING

The monthly meeting of the Freehold Borough Planning Board was held on Wednesday, June 9, 2021 at 7:00 p.m. via remote session.

Chairman Barricelli stated that this meeting was provided in accordance with the Open Public Meeting Act, by providing a copy of the agenda to the official newspaper and posting same on the official bulletin board of the Municipal Building.

Chairman Barricelli opened the meeting which was a continuation from the reorganization meeting - no Salute to the Flag.

ROLL CALL

PRESENT	Mr. William Barricelli
PRESENT	Mr. Paul Ceppi
ABSENT	Mr. Michael McCabe
PRESENT	Mr. Michael Wildermuth
PRESENT	Ms. Shealyn M.S. Crombie
PRESENT	Ms. Caridad Argote-Freyre
PRESENT	Mr. Garry Jackson
PRESENT	Councilwoman Margaret Rogers
PRESENT	Brianne Van Vorst

Mr. Barricelli read Item No. 3 on the Agenda as follows:

Approval of Minutes from Planning Board Meeting May 12, 2021.

Mr. Wildermuth made a motion to approve the minutes, Ms. Argote-Freyre seconded the motion.

Yes	7	Barricelli, Wildermuth, Crombie, Argot-Freyre, Jackson and Councilwoman Rogers Van Vorst
No	0	
Abstain	1	Ceppe
Absent	1	McCabe

Mr. Barricelli read Item No. 4 on the Agenda as follows:

Memorialize Resolution for Applicant Hi Mount Realty Inc.
Application Number: PB-SP-2021-005
Location: 20-36 Hull Avenue, Block 96, Lots 11
Request: Preliminary and Final Site Plan Approval

Mr. Jackson made a motion to memorialize the resolution; Ms. Van Vorst seconded;

Yes	7	Barricelli, Wildermuth, Crombie, Argot-Freyre, Jackson and Councilwoman Rogers Van Vorst
No	0	
Abstain	1	Ceppe
Absent	1	McCabe

Mr. Barricelli – anyone have anything new to add or comment;

Mr. Cucchiaro – we will go back to in person meeting in July; a re-notice will need to be prepared & published;

Mr. Jackson – do we have anything on for the next meeting, June 23, 2021;

Ms. Napolitano – yes, we have Cannabis Ordinance from Mayor and Council to review;

Councilwoman Rogers – at our council meeting Monday, we approved a resolution with an organization Disability Allies, Inc, they are building a coffee shop downtown, location to be in vacant space near sneaker shop; they will employ people who live in the building who have different levels of disabilities but live independently and will be able to work in coffee shop; look forward to that coming to town; also new juice house, the will be open soon if not already;

New Borough Hall will be open by end of this summer;

Mr. Wildermuth – where is coffee shop located;

Councilwoman Rogers – open lot a few doors down from florist and the sneaker / barber shop;

Mr. Barricelli – I went to the Historical Society to look at Springsteen exhibit, it is free to Borough residents; I spent a good two hours there, very enlightening, shows Freehold to be a home town and recommend to everyone to stop in, it is fantastic;

Mr. Barricelli – thank you; anyone else; hearing nothing;

Councilwoman Rogers made a motion to adjourn, Mr. Jackson seconded;

All in favor, aye, - All members

Meeting adjourned at 7:08 PM.

Respectfully submitted,

Dominica R. Napolitano

ATTACHMENT II

KEVIN A. KANE

Mayor

TRACI L. DiBENEDETTO

Borough Clerk



STEPHEN J. GALLO

Business Administrator

RICHARD J. GARTZ

Chief Financial Officer

BOROUGH OF FREEHOLD

MEMORANDUM

TO: Planning Board Members

FROM: Dominica R. Napolitano, Planning Board Secretary DLN

DATE: June 16, 2021

RE: Borough Ordinance Review

Enclosed please find for your review a memo from the Borough Clerk and proposed Ordinance #2021/11 of the Borough of Freehold, County of Monmouth, State of New Jersey Amend and Supplement Chapter 18 "Zoning" and 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 Businesses.

The First Reading and Introduction of the Ordinance by Mayor and Council was on their agenda Monday, June 7, 2021. The Second Reading and Public Hearing is scheduled to be on the Council agenda for on Monday, July 19, 2021.

Thank you for your attention to this matter.

cc: Stephen J. Gallo, Business Administrator
Ronald D. Cucchiaro, Esq. Planning Board Attorney
William T. Wentzien, P.E, P.P., C.M.E., Planning Board Engineer

MEMORANDUM
FREEHOLD BOROUGH CLERK'S OFFICE
51 WEST MAIN STREET FREEHOLD, NJ 07728
PHONE: 732-462-1259 FAX: 732-409-1453
E-MAIL: tdibenedetto@freeholdboro.org

TO: Dominica Napolitano, Planning Board Secretary
FROM: Traci L. DiBenedetto, Borough Clerk *TV*
SUBJECT: Ordinance #2021/11 Amending and Supplementing Chapter 18 "Zoning" and 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 Businesses
DATE: 6/10/2021
CC: Stephen J. Gallo, Business Administrator

Attached for the review of the Freehold Borough Planning Board is the above referenced ordinance, introduced at a regular meeting of the Mayor and Council on June 7, 2021. Please place this on your next available agenda.

The Ordinance will be further considered for adoption after public hearing scheduled to be heard on July 19, 2021.

If you have any questions or concerns, please give me a call. Thank you.

**BOROUGH OF FREEHOLD
COUNTY OF MONMOUTH
ORDINANCE #2021/11**

**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 BUSINESSES**

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

WHEREAS, on February 22, 2021, Governor Murphy signed into law P.L. 2021, c. 16, known as the “New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act” (the “Act”), which legalizes the recreational use of cannabis by adults 21 years of age or older, and establishes a comprehensive regulatory and licensing scheme for commercial recreational (adult use) cannabis operations, use and possession; and

WHEREAS, the Act establishes six marketplace classes of licensed businesses, including: Class 1 Cannabis Cultivator license, for facilities involved in growing and cultivating cannabis; Class 2 Cannabis Manufacturer license, for facilities involved in the manufacturing, preparation, and packaging of cannabis items; Class 3 Cannabis Wholesaler license, for facilities involved in obtaining and selling cannabis items for later resale by other licensees; Class 4 Cannabis Distributor license, for businesses involved in transporting cannabis plants in bulk from on licensed cultivator to another licensed cultivator, or cannabis items in bulk from any type of licensed cannabis business to another; Class 5 Cannabis Retailer license for locations at which cannabis items and related supplies are sold to consumers; and Class 6 Cannabis Delivery license, for businesses providing courier services for consumer purchases that are fulfilled by a licensed cannabis retailer in order to make deliveries of the purchased items to a consumer, and which service would include the ability of a consumer to make a purchase directly through the cannabis delivery service which would be presented by the delivery service for fulfillment by a retailer and then delivered to a consumer; and

WHEREAS, section 31a of the Act authorizes municipalities by ordinance to adopt regulations, including those delegated to them pursuant to the Municipal Land Use Law, N.J.S.A. 40:55D-1, governing the number of Cannabis Establishments (defined in section 3 of the Act as “a cannabis cultivator, a cannabis manufacturer, a cannabis wholesaler, or a cannabis retailer”), cannabis distributors or cannabis delivery services allowed to operate within their boundaries, as

WHEREAS, the Borough Council wishes to create land use regulations and licensing requirements for cannabis businesses that can 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 businesses 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 businesses 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; and

WHEREAS, the Mayor and Borough Council have determined that cannabis businesses present special concerns and should be regulated specifically to permit the uses where appropriate in the Borough; and

WHEREAS, the Borough has determined that certain classes of cannabis businesses should be permitted in certain zones and in appropriate locations as delineated herein.

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 Businesses Zones

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

b. **State Licensed Cannabis Businesses are Permitted.**

1. Any business duly licensed by the State of New Jersey to conduct legal adult use cannabis 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 Cannabis 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 Businesses 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.

4. Cannabis consumption areas are not permitted in the Borough.

d. Site Standards for Cannabis Businesses

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

2. Hours of public operation shall be limited to 8:00 a.m. through 8:00 p.m. daily. No licensed Cannabis businesses shall be open to the public between the hours of 8:01 p.m. and 7:59 a.m. on any day unless the Cannabis Regulatory Commission designates different hours. In such case, the more restrictive times shall apply.

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 cannabis 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
- c. 200 feet of a halfway house or correctional facility.

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 businesses 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 cannabis business shall display signage containing text and/or images intended to promote excessive consumption of cannabis 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 cannabis businesses.

3. No State licensed cannabis 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: AMENDMENT AND SUPPLEMENT 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 BUSINESS 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 of the Borough, 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 businesses 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 business 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 Cannabis Business 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 Cannabis Business 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 fined \$2,500 for a first offense, \$5,000 for a second offense, and \$10,000 for a third offense.

SECTION THREE: AMENDMENT AND SUPPLEMENT 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 Business 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, Cannabis Distributor, 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. Businesses 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. Businesses 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.