



# Mayor and Common Council Borough of Flemington

July 12, 2021

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Council Meeting Room and Online

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## Work Session (7:00 PM)

## Regular Meeting (7:30 PM)

This meeting is being held in conformance with the Open Public Meetings Act.

Flag Salute

Roll Call:

Betsy Driver	Mayor
Caitlin Giles-McCormick	Council President
Jessica Hand	Council Member
Malik Johnston	Council Member
Jeremy Long	Council Vice President
Christopher Runion	Council Member
Kimberly Tilly	Council Member

I. Mayor's Report

II. Council Members' Reports

III. Public Comments - Session I (up to 3 minutes each, for a maximum of 30 minutes)

IV. Approval of Minutes

Motion To: **Approve Minutes: June 28, 2021 Regular Council Meeting**

Motion To: **Approve Minutes: June 28, 2021 Executive Sessions**

## Regular Agenda

1. ORDINANCE 2021-14: SECOND READING: AMENDING THE CODE OF THE BOROUGH OF FLEMINGTON TO SET FORTH CONDITIONS FOR CANNABIS RETAILERS AND CANNABIS CULTIVATORS LOCATING WITHIN CERTAIN DISTRICTS AND TO ESTABLISH A TRANSFER AND USER TAX FOR CANNABIS PRODUCTS
  2. ORDINANCE 2021-16: SECOND READING: AN ORDINANCE TO AMEND CHAPTER 25 OF THE CODE OF THE BOROUGH OF FLEMINGTON ENTITLED "COLLECTION OF SOLID WASTE"
  3. RESOLUTION 2021-142: AUTHORIZING AN INTERLOCAL AGREEMENT WITH FLEMINGTON-RARITAN REGIONAL SCHOOL DISTRICT FOR SPECIAL CLASS III LAW ENFORCEMENT OFFICERS
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4. RESOLUTION 2021-143: APPOINTING ROBERT MARTUCCI, PE, TO THE JOINT POSITION OF FLEMINGTON BOROUGH BUSINESS ADMINISTRATOR / BOROUGH ENGINEER
  5. RESOLUTION 2021-144: AUTHORIZING AN ANIMAL CONTROL CONTRACT WITH ADVANCED ANIMAL CONTROL FOR AUG. 1, 2021 THROUGH JULY 31, 2023
  6. RESOLUTION 2021-145: GRANTING APPROVAL TO FORMALLY SOLICIT REQUESTS FOR QUOTES IN THE APPLICATION AND IMPLEMENTATION PROCESS FOR AN ENVIRONMENTAL PROTECTION AGENCY BROWNFIELDS ASSESSMENT GRANT
  7. RESOLUTION 2021-146: RECOGNIZING THE FIVE-YEAR ANNIVERSARY OF LONE EAGLE BREWING
  8. RESOLUTION 2021-147: AUTHORIZING AN ON-PREMISES MERCHANDISE DRAW RAFFLE FOR THE FLEMINGTON LIONS CLUB TO BE HELD ON AUGUST 14, 2021 (RAIN DATE SEPTEMBER 11, 2021), AND AN OFF-PREMISES 50-50 RAFFLE TO BE HELD ON OCTOBER 16, 2021
  9. RESOLUTION 2021-148: AUTHORIZING THE CHIEF FINANCIAL OFFICER TO PURCHASE A BACKHOE FOR THE SEWER DEPARTMENT FROM JESCO, INC., UNDER SOURCEWELL CONTRACT 032119 IN THE AMOUNT OF \$130,024.96
  10. RESOLUTION 2021-149: AUTHORIZING THE PURCHASE OF A 2022 FORD SUPER DUTY F250 FOR THE SEWER DEPARTMENT IN THE AMOUNT OF \$43,099.98, FROM NATIONAL AUTO FLEET GROUP UNDER SOURCEWELL CONTRACT 120716-NAF
- V. Public Comments - Session II (up to 3 minutes each, for a maximum of 30 minutes)

VI. Attorney's Report

VII. Payment of the Bills

Motion To: **Pay the Bills in the Amount of \$2,549,037.63**

VIII. Executive Session for Any Other Applicable Matter Identified During the Regular Meeting (Action May Be Taken)

IX. Adjournment

Motion To: **Adjourn**

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**Mayor and Common Council**

38 Park Avenue  
Flemington, NJ 08822

Meeting: 07/12/2021 07:30 PM  
Department: Clerk of the Borough  
Category: Council Ordinance  
Prepared By: Sallie Graziano

**INTRODUCED**

Initiator: Sallie Graziano  
Sponsors:

**ORDINANCE 2021-14**

DOC ID: 3513

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**Second Reading: Amending the Code of the Borough of  
Flemington to Set Forth Conditions for Cannabis Retailers  
and Cannabis Cultivators Locating Within Certain Districts  
and to Establish a Transfer and User Tax for Cannabis  
Products**

**Borough of Flemington, County of Hunterdon**

**WHEREAS**, in 2020 New Jersey voters approved Public Question No. 1, which amended the New Jersey Constitution to allow for the legalization of a controlled form of marijuana called "cannabis" for adults at least 21 years of age; 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 marijuana 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 Distributer 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 purchases 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.

**WHEREAS**, section 31a of the Act authorizes municipalities by ordinance to adopt regulations 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 well as the location, manner and times of operation of such establishments, distributors or delivery services, and establishing civil penalties for the violation of any such regulations; and

**WHEREAS**, section 31b of the Act authorizes municipalities by ordinance to prohibit the operation of any one or more classes of cannabis establishments, distributors, or delivery services anywhere in the municipality; and

**WHEREAS**, section 31b of the Act also stipulates, however, that any municipal regulation or prohibition must be adopted within 180 days of the effective date of the Act (*i.e.*, by August 22, 2021); and

**WHEREAS**, pursuant to section 31b of the Act, the failure to do so shall mean that for a period of five years thereafter, the growing, cultivating, manufacturing, selling and reselling of cannabis and cannabis items shall be permitted uses in all industrial zones, and the retail selling of cannabis items to consumers shall be a conditional use in all commercial and retail zones; and

**WHEREAS**, the Borough does not permit industrial uses in any zoning districts; and

**WHEREAS**, the Borough Council has determined that the retail sale of cannabis items to consumers is encompassed within the definition of "General Merchandise Store" (SIC 539), which is a permitted use in the Downtown Business, Downtown II Business, Transition Commercial, Highway Retail, and Village Artisan Shopping Districts; and

**WHEREAS**, the Borough Council has determined that cannabis cultivation is encompassed within the definition of "commercial agriculture," which is a permitted use in the Professional Office, Community Business, Downtown Business, Downtown II Business, Village Artisan Shopping, and Highway Retail Districts; and

**WHEREAS**, the Borough Council finds it necessary pursuant to the Act to set forth conditions governing said uses in the afore-mentioned zoning districts; and

**WHEREAS**, cannabis uses shall be prohibited in any district where not specifically permitted;

**WHEREAS**, this ordinance shall not be construed to prohibit home growing of cannabis products in the event such is permitted by the New Jersey Legislature in the future.

**NOW THEREFORE, BE IT ORDAINED**, by the Mayor and Council of the Borough of Flemington, in the County of Hunterdon, State of New Jersey, as follows:

**SECTION 1.** Section 2601.1, entitled "Definitions" shall be added as follows:

"Alternative treatment center" means an organization issued a permit pursuant to the "Jake Honig Compassionate Use Medical Cannabis Act," P.L.2009, c.307 (C.24:6I-1 et al) 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 (C.24:6I-7) to concurrently hold a medical cannabis cultivator permit, a medical cannabis manufacturer permit, and a medical cannabis dispensary permit.

"Cannabis Consumption Area" means a designated location operated by a licensed cannabis retailer or permit holder for dispensing medical cannabis, for which both a State and local endorsement has been obtained, that is either: (1) an indoor, structurally enclosed area of the cannabis retailer or permit holder that is separate from the area in which retail sales of cannabis items or the dispensing of medical cannabis occurs; or (2) an exterior structure on the same premises as the cannabis retailer or permit holder, either separate from or connected to the cannabis retailer or permit holder, at which cannabis items or medical cannabis obtained from the retailer or permit holder may be consumed. This definition shall be consistent with the Recreational Marijuana Act and all amendments thereto.

"Cannabis cultivator" means 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. This person or entity shall hold a Class 1 Cannabis Cultivator license. This definition shall be consistent with the Recreational Marijuana Act and all amendments thereto.

"Cannabis establishment" means a cannabis cultivator, cannabis manufacturer, cannabis wholesaler, or cannabis retailer. This definition shall be consistent with the Recreational Marijuana Act and all amendments thereto.

"Cannabis retailer" means any licensed person or entity that purchases or otherwise obtains usable cannabis from cannabis growers and cannabis items from cannabis manufacturers or cannabis wholesalers, and sells these to consumers from a retail store. Cannabis retailers shall hold a Class 5 Cannabis Retailer License pursuant to the

Recreational Cannabis Act. This definition shall be consistent with the Recreational Marijuana Act and all amendments thereto.

"CUMA" means the New Jersey Jake Honig Compassionate Use Medical Cannabis Act, P.L. 2009, c. 307 (approved January 18, 2010), amended by P.L. 2019, c. 153 (approved July 2, 2019), codified at N.J.S.A. 24:6I-1 et seq.

"Medical cannabis cultivator" means an organization holding a permit issued by the commission 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, clinical registrants, and medical cannabis dispensaries, as well as to plant, cultivate, grow, and harvest medical cannabis for research purposes. A medical cannabis cultivator permit shall not authorize the permit holder to manufacture, produce, or otherwise create medical cannabis products, or to deliver, transfer, transport, distribute, supply, sell, or dispense medical cannabis, medical cannabis products, paraphernalia, or related supplies to qualifying patients, designated caregivers, or institutional caregivers.

"Medical cannabis dispensary" means an organization issued a permit by the commission 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 and from clinical registrants; 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 subsection i. of section 27 of P.L.2019, c.153 (C.24:6I-20); 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. A medical cannabis dispensary permit shall not authorize the permit holder to cultivate medical cannabis, to produce, manufacture, or otherwise create medical cannabis products.

"Recreational Cannabis Act" means the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (P.L. 2021, c. 16).

**SECTION 2.** The definition of "Commercial Agriculture" contained in Section 1201 shall be amended as follows (Additions indicated in boldface and italics *thus*; deletions indicated with strike-through ~~thus~~):

COMMERCIAL AGRICULTURE

Land used for cultivation and harvesting of herbs, fruits, flowers, vegetables, and soil in which plants are raised outdoors in planters, in green houses, in buildings or on rooftops. Plants may be grown hydroponically or in soil, for sale either as food, use in landscaping, or ornamental purposes. ***This shall be interpreted to include the cultivation of cannabis, as defined in Section 2601.1.*** Cultivation and harvesting of illegal and controlled substances shall not be permitted.

**SECTION 3.** Section 2609.1 entitled "Cannabis Establishments" is hereby added as follows:

**2609.1-1. Limitation on the number of Cannabis Establishments within the Borough.**

(A) The number of Cannabis Establishments located within the Borough shall be limited as follows:

Cannabis Retailer:           2. This limitation is inclusive of Medical Dispensaries and Alternative Treatment Centers.

Cannabis Cultivator:       2. This limitation is inclusive of medical cannabis cultivators.

(B) Cannabis Manufacturers and Cannabis Wholesalers shall not be permitted.

(C) This Section shall in no way shall be construed to prohibit home growing of cannabis products in the event such is permitted by the New Jersey Legislature in the future.

(D) In the event more than one land use application for a Cannabis Establishment of the same classification are submitted to the Borough in close proximity to one another, and if the applications comply with all the requirements of this chapter and the Recreational Marijuana Act, the Borough is not permitted to approve all of the applications because of the limitations set forth in this subsection. The Borough shall first review for approval the application that was first submitted and determined to be a complete and compliant application by the appropriate Borough Official.

**SECTION 4.** Section 2618(F), entitled "Conditional Uses", which will govern conditional uses in the Transition Commercial (TC) District shall be added as follows:

Conditional Uses Permitted. The purpose of this section is to set forth the requirements and procedures applicable to conditional uses, in accordance with N.J.S.A. 40:55D-67. The following uses may be permitted when authorized as a conditional use by the

Planning Board, including site plan approval and (if necessary) a conditional use variance approval pursuant to N.J.S.A. 40:55D-70(d)(3):

1. Cannabis Retailer, Medical Cannabis Dispensary or Alternative Treatment Center meeting the following criteria:

a. No certificate of occupancy or other business license for a Cannabis Retailer to operate within the Borough shall be granted or renewed without such evidence as may be required by the Borough Clerk's office to determine that the operator maintains all valid State of New Jersey licenses and approvals, and that all such licenses and/or approvals remain in good standing.

b. Cannabis Retailers shall comply with the Recreational Cannabis Act and all regulations promulgated by the New Jersey Cannabis Regulatory Commission. Medical Dispensaries and Alternative Treatment Centers shall comply with CUMA and all regulations promulgated by the New Jersey Cannabis Regulatory Commission.

c. Only one Cannabis Retailer shall be permitted to locate within the Transition Commercial District. However, in no event shall more than 2 Cannabis Retailers be permitted to locate within the Borough. This limitation is inclusive of Medical Cannabis Dispensary or Alternative Treatment Centers.

d. Site Plan Approval and Conditional Use Approval by the Planning Board shall be required, with notice of any public hearing provided in accordance with N.J.S.A. 40:55D-12.

e. Maximum permitted hours of operation shall be between 9:00 am and 9:00 pm.

f. Use or consumption of marijuana or cannabis in any manner shall not be permitted within the Cannabis Retailer's facility, whether in the building or on its grounds or parking lots. Cannabis Consumption Areas are not permitted.

g. Drive thru facilities are not permitted.

**SECTION 5.** Section 2619(D) of the Code governing uses in the Community Business District shall be amended as follows (Additions indicated in boldface and italics *thus*; deletions indicated with strike-through ~~thus~~):

Conditional Uses Permitted. ***The purpose of this section is to set forth the requirements and procedures applicable to conditional uses, in accordance with N.J.S.A. 40:55D-67.*** The following uses may be permitted when authorized as a conditional use by the Planning Board, ***including site plan approval and (if***



**necessary) a conditional use variance approval pursuant to N.J.S.A. 40:55D-70(d)(3):**

1. No change.
2. No change.

**3. Cannabis Cultivator and Medical Cannabis Cultivator meeting the following criteria:**

**a. No certificate of occupancy or other business license for a Cannabis Cultivator to operate within the Borough shall be granted or renewed without such evidence as may be required by the Borough Clerk's office to determine that the operator maintains all valid State of New Jersey licenses and approvals, and that all such licenses and/or approvals remain in good standing.**

**b. Cannabis Cultivators shall comply with the Recreational Cannabis Act and all regulations promulgated by the New Jersey Cannabis Regulatory Commission. Medical Cannabis Cultivators shall comply with the CUMA and all regulations promulgated by the New Jersey Cannabis Regulatory Commission.**

**c. Only one Cannabis Cultivator shall be permitted to locate within the Community Business District. However, in no event shall more than 2 Cannabis Cultivators be permitted to locate within the Borough. This limitation is inclusive of Medical Cannabis Cultivators.**

**d. Site Plan Approval and Conditional Use Approval by the Planning Board shall be required, with notice of any public hearing provided in accordance with N.J.S.A. 40:55D-12.**

**e. No Cannabis Cultivator or Medical Cannabis Cultivator shall be permitted to operate within 200 feet of any exclusively single-family residential zoning district of the Borough (i.e. the Single Family Residential (SF) District, Transition Residential (TR) District, or Townhouse Residential (TR) District) or an exclusively single-family residential zoning district of any adjacent municipality.**

**SECTION 6. Section 2620(D) of the Code governing conditional uses in the Downtown Business (DB) District shall be amended as follows (Additions indicated in boldface and italics **thus**; deletions indicated with strike-through ~~thus~~):**

Conditional Uses Permitted. ***The purpose of this section is to set forth the requirements and procedures applicable to conditional uses, in accordance with N.J.S.A. 40:55D-67.*** The following uses may be permitted when authorized as a conditional use by the Planning Board, ***including site plan approval and (if***

**necessary) a conditional use variance approval pursuant to N.J.S.A. 40:55D-70(d)(3):**

1. No change.
2. No change.
3. No change.
4. **Cannabis Retailer, Medical Cannabis Dispensary or Alternative Treatment Center meeting the following criteria:**
  - a. **No certificate of occupancy or other business license for a Cannabis Retailer, Medical Cannabis Dispensary or Alternative Treatment Center to operate within the Borough shall be granted or renewed without such evidence as may be required by the Borough Clerk's office to determine that the operator maintains all valid State of New Jersey licenses and approvals, and that all such licenses and/or approvals remain in good standing.**
  - b. **Cannabis Retailers shall comply with the Recreational Cannabis Act and all regulations promulgated by the New Jersey Cannabis Regulatory Commission. Medical Cannabis Dispensary or Alternative Treatment Center shall comply with the CUMA and all regulations promulgated by the New Jersey Cannabis Regulatory Commission.**
  - c. **Only one Cannabis Retailer shall be permitted to locate within the Downtown Business District. However, in no event shall more than 2 Cannabis Retailers be permitted to locate within the Borough. This limitation shall be inclusive of Medical Cannabis Dispensaries and Alternative Treatment Centers.**
  - d. **Site Plan Approval and Conditional Use Approval by the Planning Board shall be required, with notice of any public hearing provided in accordance with N.J.S.A. 40:55D-12.**
  - e. **Maximum permitted hours of operation shall be between 9:00 am and 9:00 pm.**
  - f. **Cannabis Consumption Areas shall be permitted subject to the following conditions:**
    - (1) **No Cannabis Retailer shall be permitted to operate a Consumption Area within 200 feet of any exclusively single-family residential zoning district of the Borough (i.e. the Single Family Residential (SF) District, Transition Residential (TR) District, or Townhouse Residential (TR) District) or an exclusively single-family residential zoning district of any adjacent municipality.**

**(2) If cannabis will be consumed by smoking or vaping, the Cannabis Retailer must comply with the New Jersey Smoke-Free Air Act (N.J.S.A. 26:3D-55 et seq.) and associated regulations (N.J.A.C. 8:6-1.1 et seq.).**

**(3) Only cannabis items purchased on-site at the Cannabis Retailer shall be consumed within the Consumption Area.**

**(4) The Cannabis Retailer must possess a valid Consumption Area endorsement from the State of New Jersey pursuant to the Recreational Cannabis Act.**

**(5) Each licensed Cannabis Retailer may operate only one Cannabis Consumption Area.**

**(6) The Cannabis Consumption Area shall comply with the definition set forth in Section 2601.1 of the Code and be either (a) an indoor, structurally enclosed area of the licensed Cannabis Retailer that is separate from the area in which retail sales of cannabis items occur or (b) an exterior structure on the same premises as the retailer, either separate from or connected to the retailer.**

**g. Drive thru facilities are not permitted.**

**5. Cannabis Cultivator or Medical Cannabis Cultivator meeting the following criteria:**

**a. No certificate of occupancy or other business license for a Cannabis Cultivator or Medical Cannabis Cultivator to operate within the Borough shall be granted or renewed without such evidence as may be required by the Borough Clerk's office to determine that the operator maintains all valid State of New Jersey licenses and approvals, and that all such licenses and/or approvals remain in good standing.**

**b. Cannabis Cultivators shall comply with the Recreational Cannabis Act and all regulations promulgated by the New Jersey Cannabis Regulatory Commission. Medical Cannabis Cultivators shall comply with the CUMA and regulations promulgated by the New Jersey Cannabis Regulatory Commission.**

**c. Only one Cannabis Cultivator shall be permitted to locate within the Downtown Business District. However, in no event shall more than 2 Cannabis Cultivators be permitted to locate within the Borough. This limitation shall be inclusive of Medical Cannabis Cultivators.**

**d. Site Plan Approval and Conditional Use Approval by the Planning Board shall be required, with notice of any public hearing provided in accordance with N.J.S.A. 40:55D-12.**

**e. No Cannabis Cultivator or Medical Cannabis Cultivator shall be permitted to operate within 200 feet of any exclusively single-family residential zoning district of the Borough (i.e. the Single Family Residential (SF) District, Transition Residential (TR) District, or Townhouse Residential (TR) District) or an exclusively single-family residential zoning district of any adjacent municipality.**

**SECTION 7.** Section 2621(D) of the Code governing conditional uses in the Downtown II Business District shall be amended to add subsection (4) as follows:

4. Conditional Uses Permitted. The purpose of this section is to set forth the requirements and procedures applicable to conditional uses, in accordance with N.J.S.A. 40:55D-67. The following uses may be permitted when authorized as a conditional use by the Planning Board, including site plan approval and (if necessary) a conditional use variance approval pursuant to N.J.S.A. 40:55D-70(d)(3):

1. Cannabis Retailer, Medical Cannabis Dispensary or Alternative Treatment Center meeting the following criteria:

a. No certificate of occupancy or other business license for a Cannabis Retailer, Medical Cannabis Dispensary or Alternative Treatment Center to operate within the Borough shall be granted or renewed without such evidence as may be required by the Borough Clerk's office to determine that the operator maintains all valid State of New Jersey licenses and approvals, and that all such licenses and/or approvals remain in good standing.

b. Cannabis Retailers shall comply with the Recreational Cannabis Act and all regulations promulgated by the New Jersey Cannabis Regulatory Commission. Medical Cannabis Dispensaries and Alternative Treatment Centers shall comply with the CUMA and all regulations promulgated by the New Jersey Cannabis Regulatory Commission.

c. Only one Cannabis Retailer shall be permitted to locate within the Downtown II Business District. However, in no event shall more than 2 Cannabis Retailers be permitted to locate within the Borough. This limitation shall be inclusive of Medical Cannabis Dispensaries Alternative Treatment Centers.

d. Site Plan Approval and Conditional Use Approval by the Planning Board shall be required, with notice of any public hearing provided in accordance with N.J.S.A. 40:55D-12.

e. Maximum permitted hours of operation shall be between 9:00 am and 9:00 pm.

f. Use or consumption of marijuana or cannabis in any manner shall not be permitted within the Cannabis Retailer's facility, whether in the building or on its grounds or parking lots. Cannabis Consumption Areas are not permitted.

g. Drive thru facilities are not permitted

2. Cannabis Cultivator or Medical Cannabis Cultivator meeting the following criteria:

a. No certificate of occupancy or other business license for a Cannabis Cultivator or Medical Cannabis Cultivator to operate within the Borough shall be granted or renewed without such evidence as may be required by the Borough Clerk's office to determine that the operator maintains all valid State of New Jersey licenses and approvals, and that all such licenses and/or approvals remain in good standing.

b. Cannabis Cultivators shall comply with the Recreational Cannabis Act and all regulations promulgated by the New Jersey Cannabis Regulatory Commission. Medical Cannabis Cultivators shall comply with the CUMA and all regulations promulgated by the New Jersey Cannabis Regulatory Commission.

c. Only one Cannabis Cultivator shall be permitted to locate within the Downtown II Business District. However, in no event shall more than 2 Cannabis Cultivators be permitted to locate within the Borough. This limitation shall be inclusive of Medical Cannabis Cultivators.

d. Site Plan Approval and Conditional Use Approval by the Planning Board shall be required, with notice of any public hearing provided in accordance with N.J.S.A. 40:55D-12.

e. No Cannabis Cultivator or Medical Cannabis Cultivator shall be permitted to operate within 200 feet of any exclusively single-family residential zoning district of the Borough (i.e. the Single Family Residential (SF) District, Transition Residential (TR) District, or Townhouse Residential (TR) District) or an exclusively single-family residential zoning district of any adjacent municipality.

**SECTION 8.** Section 2622(C) of the Code governing uses in the Professional Office District shall be deleted in its entirety and replaced with the following:

Conditional Uses Permitted. The purpose of this section is to set forth the requirements and procedures applicable to conditional uses, in accordance with N.J.S.A. 40:55D-67. The following uses may be permitted when authorized as a conditional use by the

Planning Board, including site plan approval and (if necessary) a conditional use variance approval pursuant to N.J.S.A. 40:55D-70(d)(3):

1. Public and private nonprofit day school

2. Cannabis Cultivator or Medical Cannabis Cultivator meeting the following criteria:

a. No certificate of occupancy or other business license for a Cannabis Cultivator or Medical Cannabis Cultivator to operate within the Borough shall be granted or renewed without such evidence as may be required by the Borough Clerk's office to determine that the operator maintains all valid State of New Jersey licenses and approvals, and that all such licenses and/or approvals remain in good standing.

b. Cannabis Cultivators shall comply with the Recreational Cannabis Act and all regulations promulgated by the New Jersey Cannabis Regulatory Commission. Medical Cannabis Cultivators shall

c. Only one Cannabis Cultivator shall be permitted to locate within the Professional Office District. However, in no event shall more than 2 Cannabis Cultivators be permitted to locate within the Borough. This limitation shall be inclusive of Medical Cannabis Cultivators.

d. Site Plan Approval and Conditional Use Approval by the Planning Board shall be required, with notice of any public hearing provided in accordance with N.J.S.A. 40:55D-12.

e. No Cannabis Cultivator or Medical Cannabis Cultivator shall be permitted to operate within 200 feet of any exclusively single-family residential zoning district of the Borough (i.e. the Single Family Residential (SF) District, Transition Residential (TR) District, or Townhouse Residential (TR) District) or an exclusively single-family residential zoning district of any adjacent municipality.

**SECTION 9.** Section 2623(D) of the Code governing conditional uses in the Village Artisan Shopping (VAS) District shall be amended as follows (Additions indicated in boldface and italics *thus*; deletions indicated with strike-through ~~thus~~):

Conditional Uses Permitted. ***The purpose of this section is to set forth the requirements and procedures applicable to conditional uses, in accordance with N.J.S.A. 40:55D-67.*** The following uses may be permitted when authorized as a conditional use by the Planning Board, ***including site plan approval and (if necessary) a conditional use variance approval pursuant to N.J.S.A. 40:55D-70(d)(3):***

1. No change.

2. No change.
3. No change.
4. **Cannabis Retailer, Medical Cannabis Dispensary or Alternative Treatment Center meeting the following criteria:**
  - a. **No certificate of occupancy or other business license for a Cannabis Retailer, Medical Cannabis Dispensary or Alternative Treatment Center to operate within the Borough shall be granted or renewed without such evidence as may be required by the Borough Clerk's office to determine that the operator maintains all valid State of New Jersey licenses and approvals, and that all such licenses and/or approvals remain in good standing.**
  - b. **Cannabis Retailers shall comply with the Recreational Cannabis Act and all regulations promulgated by the New Jersey Cannabis Regulatory Commission. Medical Cannabis Dispensaries and Alternative Treatment Centers shall comply with the CUMA and all regulations promulgated by the New Jersey Cannabis Regulatory Commission.**
  - c. **Only one Cannabis Retailer shall be permitted to locate within the Village Artisan Shopping District. However, in no event shall more than 2 Cannabis Retailers be permitted to locate within the Borough. This limitation is inclusive of Medical Cannabis Dispensaries and Alternative Treatment Centers.**
  - d. **Site Plan Approval and Conditional Use Approval by the Planning Board shall be required, with notice of any public hearing provided in accordance with N.J.S.A. 40:55D-12.**
  - e. **Permitted hours of operation shall be between 9:00 am and 9:00 pm.**
  - f. **Cannabis Consumption Areas shall be permitted subject to the following conditions:**
    - (1) **No Cannabis Retailer shall be permitted to operate a Consumption Area within 200 feet of any exclusively single-family residential zoning district of the Borough (i.e. the Single Family Residential (SF) District, Transition Residential (TR) District, or Townhouse Residential (TR) District) or an exclusively single-family residential zoning district of any adjacent municipality.**
    - (2) **If cannabis will be consumed by smoking or vaping, the Cannabis Retailer must comply with the New Jersey Smoke-Free Air Act (N.J.S.A. 26:3D-55 et seq.) and associated regulations (N.J.A.C. 8:6-1.1 et seq.).**

**(3) Only cannabis items purchased on-site at the Cannabis Retailer shall be consumed within the Consumption Area.**

**(4) The Cannabis Retailer must possess a valid Consumption Area endorsement from the State of New Jersey pursuant to the Recreational Cannabis Act.**

**(5) Each licensed Cannabis Retailer may operate only one Cannabis Consumption Area.**

**(6) The Cannabis Consumption Area shall comply with the definition set forth in Section 2601.1 and be either (a) an indoor, structurally enclosed area of the licensed Cannabis Retailer that is separate from the area in which retail sales of cannabis items occur or (b) an exterior structure on the same premises as the retailer, either separate from or connected to the retailer.**

**g. Drive thru facilities are not permitted**

**5. Cannabis Cultivator or Medical Cannabis Cultivator meeting the following criteria:**

**a. No certificate of occupancy or other business license for a Cannabis Cultivator or Medical Cannabis Cultivator to operate within the Borough shall be granted or renewed without such evidence as may be required by the Borough Clerk's office to determine that the operator maintains all valid State of New Jersey licenses and approvals, and that all such licenses and/or approvals remain in good standing.**

**b. Cannabis Cultivators shall comply with the Recreational Cannabis Act and all regulations promulgated by the New Jersey Cannabis Regulatory Commission. Medical Cannabis Cultivators shall comply with the CUMA and all regulations promulgated by the New Jersey Cannabis Regulatory Commission.**

**c. Only one Cannabis Cultivator shall be permitted to locate within the Village Artisan District. However, in no event shall more than 2 Cannabis Cultivators be permitted to locate within the Borough. This limitation shall be inclusive of Medical Cannabis Cultivators.**

**d. Site Plan Approval and Conditional Use Approval by the Planning Board shall be required, with notice of any public hearing provided in accordance with N.J.S.A. 40:55D-12.**

**e. No Cannabis Cultivator or Medical Cannabis Cultivator shall be permitted to operate within 200 feet of any exclusively single-family residential**



***zoning district of the Borough (i.e. the Single Family Residential (SF) District, Transition Residential (TR) District, or Townhouse Residential (TR) District) or an exclusively single-family residential zoning district of any adjacent municipality.***

**SECTION 10.** Section 2624(D) of the Code governing conditional uses in the Highway Retail (HR) District shall be amended as follows (Additions indicated in boldface and italics *thus*; deletions indicated with strike-through ~~thus~~):

Conditional Uses Permitted. ***The purpose of this section is to set forth the requirements and procedures applicable to conditional uses, in accordance with N.J.S.A. 40:55D-67.*** The following uses may be permitted when authorized as a conditional use by the Planning Board, ***including site plan approval and (if necessary) a conditional use variance approval pursuant to N.J.S.A. 40:55D-70(d)(3):***

1. No change.
2. No change.
3. No change.
4. No change.
5. No change.
6. ***Cannabis Retailer, Medical Cannabis Dispensary or Alternative Treatment Center meeting the following criteria:***
  - a. ***No certificate of occupancy or other business license for a Cannabis Retailer, Medical Cannabis Dispensary or Alternative Treatment Center to operate within the Borough shall be granted or renewed without such evidence as may be required by the Borough Clerk's office to determine that the operator maintains all valid State of New Jersey licenses and approvals, and that all such licenses and/or approvals remain in good standing.***
  - b. ***Cannabis Retailers shall comply with the Recreational Cannabis Act and all regulations promulgated by the New Jersey Cannabis Regulatory Commission. Medical Cannabis Dispensaries and Alternative Treatment Centers shall comply with the CUMA and all regulations promulgated by the New Jersey Cannabis Regulatory Commission.***
  - c. ***Only two Cannabis Retailers shall be permitted to locate within the Highway Retail District. However, in no event shall more than 2 Cannabis Retailers be permitted to locate within the Borough. This limitation shall be inclusive of Medical Cannabis Dispensaries and Alternative Treatment Centers.***

**d. Site Plan Approval and Conditional Use Approval by the Planning Board shall be required, with notice of any public hearing provided in accordance with N.J.S.A. 40:55D-12.**

**e. Maximum permitted hours of operation shall be between 9:00 am and 9:00 pm.**

**f. Cannabis Consumption Areas shall be permitted subject to the following conditions:**

**(1) No Cannabis Retailer shall be permitted to operate a Consumption Area within 200 feet of any exclusively single-family residential zoning district of the Borough (i.e. the Single Family Residential (SF) District, Transition Residential (TR) District, or Townhouse Residential (TR) District) or an exclusively single-family residential zoning district of any adjacent municipality.**

**(2) If cannabis will be consumed by smoking or vaping, the Cannabis Retailer must comply with the New Jersey Smoke-Free Air Act (N.J.S.A. 26:3D-55 et seq.) and associated regulations (N.J.A.C. 8:6-1.1 et seq.).**

**(3) Only cannabis items purchased on-site at the Cannabis Retailer shall be consumed within the Consumption Area.**

**(4) The Cannabis Retailer must possess a valid Consumption Area endorsement from the State of New Jersey pursuant to the Recreational Cannabis Act.**

**(5) Each licensed Cannabis Retailer may operate only one Cannabis Consumption Area.**

**(6) The Cannabis Consumption Area shall comply with the definition set forth in 2601.1 and be either (a) an indoor, structurally enclosed area of the licensed Cannabis Retailer that is separate from the area in which retail sales of cannabis items occur or (b) an exterior structure on the same premises as the retailer, either separate from or connected to the retailer.**

**g. Drive thru facilities are not permitted.**

**7. Cannabis Cultivator and Medical Cannabis Cultivator meeting the following criteria:**

**a. No certificate of occupancy or other business license for a Cannabis Cultivator or Medical Cannabis Cultivator to operate within the Borough shall be granted or renewed without such evidence as may be required by the Borough**

**Clerk's office to determine that the operator maintains all valid State of New Jersey licenses and approvals, and that all such licenses and/or approvals remain in good standing.**

**b. Cannabis Cultivators shall comply with the Recreational Cannabis Act and all regulations promulgated by the New Jersey Cannabis Regulatory Commission. Medical Cannabis Cultivators shall comply with CUMA and all regulations promulgated by the New Jersey Cannabis Regulatory Commission.**

**c. Only one Cannabis Cultivator shall be permitted to locate within the Highway Retail District. However, in no event shall more than 2 Cannabis Cultivators be permitted to locate within the Borough. This limitation shall be inclusive of Medical Cannabis Cultivators.**

**d. Site Plan Approval and Conditional Use Approval by the Planning Board shall be required, with notice of any public hearing provided in accordance with N.J.S.A. 40:55D-12.**

**e. No Cannabis Cultivator or Medical Cannabis Cultivator shall be permitted to operate within 200 feet of any exclusively single-family residential zoning district of the Borough (i.e. the Single Family Residential (SF) District, Transition Residential (TR) District, or Townhouse Residential (TR) District) or an exclusively single-family residential zoning district of any adjacent municipality.**

**SECTION 11.** Chapter 35, entitled "Taxation" is hereby created as follows:

Article I Cannabis Transfer Tax

**§ 35-1 Purpose.**

It is the purpose of this article to implement the provisions of the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act, P.L. 2021, c. 16 (approved February 22, 2021) and The Jake Honig Compassionate Use Medical Marijuana Cannabis Act, P.L. 2009, c. 307 (approved January 18, 2010), amended by P.L. 2019, c. 153 (approved July 2, 2019), codified at N.J.S.A. 24:6I-1 et seq., which authorizes the governing body of a municipality to adopt an ordinance imposing a transfer tax on cannabis products, 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.

**§ 35-2 Definitions.**

The definitions set forth in the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (P.L. 2021, c. 16) and the Jake Honig

Compassionate Use Medical Marijuana Cannabis Act (N.J.S.A. 24:6I-1 et seq.) are incorporated herein and shall have the same meaning.

**§ 35-3 Medical Cannabis Transfer Tax.**

There is hereby established a medical cannabis transfer tax in the Borough of Flemington, which shall be fixed at a uniform percentage rate of 2% on the purchase price of any medical cannabis dispensed by a Medical Cannabis Dispensary in the Borough, including medical cannabis that is furnished by the Dispensary to a medical cannabis handler for delivery to a registered qualifying patient or the patient's caregiver, and 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.

**§ 35-4 Adult Use Cannabis Transfer and User Tax.**

1. There is hereby established a transfer tax at a uniform percentage rate not to exceed two percent (2%) of the receipts from each sale by a cannabis cultivator; two percent (2%) of the receipts from each sale by a cannabis manufacturer; one percent (1%) of the receipts from each sale by a cannabis wholesaler; and two percent (2%) 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.

(2) There is hereby established a user tax at the equivalent transfer tax rates on any concurrent license holder, as permitted by section 33 of P.L. 2021 , c. 16, operating more than 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 imposed pursuant to paragraph (1) of this subsection, from the license holder's establishment that is located in the Borough to any of the other license holder's establishments, whether located in the Borough or another municipality.

**§ 35-5 Administration of Cannabis Transfer Tax**

(1) The transfer tax or user tax set forth in Sections 35-3 and 35-4 shall be paid to the Borough no later than February 1<sup>st</sup> of each year with a report certified as true and accurate by the Chief Financial Officer, Comptroller, or other similarly situated person showing the gross revenues for the Cannabis Establishment for each month of the preceding year. The Borough may require that the Cannabis Establishment obtain a financial report from an independent accountant certifying as to the annual revenues for the preceding year.

(2) Every cannabis establishment required to collect a transfer tax or user tax imposed pursuant to this section shall be personally liable for the transfer tax or user tax imposed, collected, or required to be collected under this section.

(3) The Borough shall enforce the payment of delinquent transfer or user taxes imposed pursuant to this section in the same manner as provided for municipal real property taxes, including the accrual of interest. In the event that the transfer tax or user tax imposed pursuant to this section is not paid as and 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. 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. The Borough 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 cannabis establishment's premises. The lien shall be enforced as a municipal lien in the same manner as all other municipal liens are enforced.

**SECTION 12.** All Ordinances or parts of Ordinances inconsistent herewith are repealed as to such inconsistencies.

**SECTION 13.** If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

**SECTION 14.** The Borough Clerk is hereby directed, upon adoption of this ordinance after public hearing, to publish notice of the passage thereof and to file a copy of this ordinance with the Hunterdon County Planning Board as required by N.J.S.A. 40:55D-16.

**SECTION 15.** This Ordinance shall take effect upon final passage, publication, and filing with the Hunterdon County Planning Board, all in accordance with the law.

Introduced: June 14, 2021

Adopted:

Attest:

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Betsy Driver, Mayor

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Sallie Graziano, Borough Clerk

**Mayor and Common Council**

38 Park Avenue  
Flemington, NJ 08822

Meeting: 07/12/2021 07:30 PM  
Department: Clerk of the Borough  
Category: Council Ordinance  
Prepared By: Sallie Graziano

Initiator: Sallie Graziano  
Sponsors:

**INTRODUCED**

**ORDINANCE 2021-16**

DOC ID: 3511

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**Second Reading: An Ordinance to Amend Chapter 25 of the Code of the Borough of Flemington Entitled "Collection of Solid Waste"**

**Flemington Borough, Hunterdon County**

**WHEREAS**, the Borough of Flemington, at its regular meeting of June 14, 2021 authorized the execution of a contract for solid waste collection; and

**WHEREAS**, the Borough of Flemington intends to revise the Solid Waste Collection Ordinance in a response to increases in solid waste and recycling collection, disposal, and processing costs and to be consistent with the current contract for solid waste collection.

NOW THEREFORE BE IT ORDAINED BY THE BOROUGH COUNCIL OF THE BOROUGH OF FLEMINGTON, COUNTY OF HUNTERDON AND STATE OF NEW JERSEY as follows:

**SECTION 1.** CHAPTER 25 OF THE CODE OF THE BOROUGH OF FLEMINGTON, ENTITLED, "COLLECTION OF SOLID WASTE" IS AMENDED AS FOLLOWS (additions are shown as *thus*; deletions are shown as ~~thus~~):

§ 25-1 INTENT AND PURPOSE. Unchanged.

§ 25-2 DEFINITIONS. Unchanged.

§ 25-3 COLLECTION DAYS ESTABLISHED.

- a. Waste collection shall be made from residents on Thursday of each week during the hours of 7:00 a.m. and 5:00 p.m., prevailing time. When a collection day falls on a federal holiday, collections will be made on the following day. In case of an emergency such as a hurricane, snowstorm or other act of God which prevents the collection on a collection day, collections will be made on the following day.
- b. Residents shall not place garbage curbside any earlier than 3:00 p.m. the day preceding the scheduled collection.
- c. ~~Totes Can(s) and bags~~ *Totes* have to be taken off the street no later than noon of the day after collection.

§ 25-4 WASTE RECEPTACLES.

- a. Residents and occupants shall place all waste *and recycling* to be collected in ~~receptacles~~

Flemington Borough provided Totes.

- b. ~~Residents and owners shall furnish the receptacles for the transportation of waste from dwelling units to the contractor's vehicles.~~ ***The Borough shall furnish 96-gallon Totes for the transportation of waste/recycling from dwelling units to the contractor's vehicles. No other cans, bags or resident-owned receptacles will be emptied.***
- c. ~~Receptacles for residents shall be (i) of metal or plastic, sufficiently strong for the intended purpose, equipped with close fitting lids and have a capacity of not more than 30 gallons, or (ii) plastic bags designed for use in the collection and disposal of waste with a capacity of not more than 30 gallons. A receptacle used by a resident when filled shall not weigh in excess of 25 pounds and be capable of being handled by one person;~~
- d. Receptacles for occupants ***of multi-family apartment buildings*** shall be dumpsters which shall be watertight, constructed of metal or plastic and equipped for handling by motorized equipment. The number of receptacles, size and placement for Flemington Arms, Herman E. Kapp, Hunter Hills, Hunterdon Mews, Madison Arms, Prospect Hills and Regional Court Apartments shall be based on annual tonnage reports, needs of the occupants, limitations set forth by the owners of each individual complex and maximum allowable collection per the Borough of Flemington.

#### § 25-5 PLACEMENT OF WASTE FOR COLLECTION.

- a. Waste to be collected from a resident shall be placed by such resident ***along curb line and not obstructed by parked vehicles, snow, brush, leaves etc. for automatic pick up by Borough contractor*** ~~on his property within three feet of the curb or street line thereof,~~ from 3:00 p.m. the day preceding collection. A resident shall remove their waste/***recycle receptacles-Totes*** and any other trash left behind no later than 12:00 noon the day following collection.
- b. Owners shall place ~~receptacles~~ ***Totes*** for the collection of waste/***recycling*** from occupants at such accessible locations ***for automatic pickup by Borough contractor*** within the multi-family complexes as directed by the sanitation commissioner of the Borough.
- c. ~~Residents shall place no more than ten cans and/or bags of garbage curbside for collection.~~ ***shall not place any other cans, bags or resident-owned Totes out for pickup.***
- d. Residents shall place no more than two bulk items curbside for collection ***on 4 days/year as designated by Borough Council.*** ~~of Acceptable materials which are the following: bicycles, nonmetal furniture [dressers, chairs, tables, sofas, beds (except steel frame beds)]; carpeting~~

and matting (must be rolled and tied), lawn furniture, nonmetal toys, old doors, windows, screens, tools and mattresses (mattresses must be wrapped in plastic), glass tables and mirrors (must be covered in newspaper and taped to avoid breakage), single items from home repair (for example, a small vanity or single plumbing fixture). Items from construction renovations will not be collected.

- e. ***Bulk items shall have stickers attached that must be purchased by the resident from either the Borough or the borough contractor. No bulk items will be collected without a purchased sticker. Stickers are available for purchase by packets of four at \$40.00 per pack.***
- f. Tenants vacating a property and/or property owners with an excess of 10 bags and two bulk ***items shall place Borough Tote and two bulk items out on designated pickup days*** for curbside collection ***and*** must make arrangements with an outside contractor to have the additional ***bulk items or waste*** removed and they shall not place these additional items curbside for regular waste collection.]

**§ 25-6 ALL WASTE TO BE COLLECTED BY CONTRACTORS.**

- a. The Borough awards contracts to contractors for the collection of waste from residents and occupants.
- b. Residents shall dispose of all waste generated by them by placing same for collection by the residential contractor in the manner and at the time herein set forth. Residents shall ~~not~~ ***may*** dispose of waste through ~~any~~ other waste collectors ~~except the residential contractor.~~ ***or self-transport to the Hunterdon County Transfer Station.***
- c. Owners and occupants shall dispose of all waste generated by occupants by placing same for collection by the multi-family complex contractor in the manner and at the times herein set forth. Owners and occupants shall not dispose of waste through any waste collector except the multi-family complex contractor, provided, however, an owner of a multi-family complex may, upon ten days prior written notice to the Borough Clerk, terminate collections by the multi-family complex collector.
- d. Tenants vacating a property and/or property owners with an excess of ~~10 bags~~ ***waste or recycling that does not fit in the Borough provided Tote*** and ***an excess of*** two bulk items for curbside collection must make arrangements with an outside contractor to have the additional items removed and they shall not place these additional items curbside for regular waste collection.



§ 25-7 (RESERVED)

§ 25-8 (RESERVED)

§ 25-9 PROHIBITIONS. Unchanged.

§ 25-10 SEVERABILITY. Unchanged.

§ 25-11 PENALTY.

For violation of any provision, section or subsection of this chapter, the following shall be enforced by the property maintenance inspector or police for the following offense:

- a. \$50.00 penalty for placing garbage curbside before 3:00 p.m. on the day preceding scheduled pickup.
- b. \$25.00 penalty per can/bag over the ~~ten~~ allowed. *Borough provided Tote.*
- c. \$30.00 penalty per bulk item over two allowed. *The same penalty shall apply for any bulk items left on the curb on days other than the four days per year allotted for bulk pick up.*
- d. \$25.00 penalty for not taking ~~cans and bags~~ *the Borough- provided Tote* off the street by noon of the day after collection.
- e. When a tenant/occupant and/or property owner violates the maximum allowance of ~~10 bags~~ *1 Borough-provided Tote* and two bulk items placed curbside for collection, the property owner will be fined per the above penalties; a placard will be placed on the door of the dwelling and a letter will be sent overnight delivery instructing the property owner they have 24 hours from receipt of the notice to remove all of the remaining debris. Failure to remove within the twenty-four-hour period will result in a contractor selected by the Borough of Flemington to remove the debris and all costs will become a lien on the property.

§ 25-12 SEPARATE VIOLATIONS. Unchanged.

§ 25-13 RECYCLING AND SOLID WASTE.

§ 25-13.1 **Definitions.** Unchanged.

§ 25-13.2 **Municipal Recycling Coordinator.** Unchanged.

§ 25-13.3 **Source Separation.** Unchanged.

§ 25-13.4 **Residential Dwelling Compliance Requirement.** Unchanged.

§ 25-13.5 **Residential Dwelling Complexes Compliance Requirement.** Unchanged.

§ 25-13.6 **Nonresidential Establishment Compliance Requirements.** Unchanged.

§ 25-13.7 **New Developments of Multi-Family Residential Units and Commercial, Institutional, or Industrial Properties.** Unchanged.

§ 25-13.8 **Prohibition of the Collection of Solid Waste Mixed with Recyclable Materials.** Unchanged.

§ 25-13.9 **Solid Waste Transporter Requirements.** Unchanged.

§ 25-13.10 **Proof of Provision of Solid Waste and Recycling Collection Services.** Unchanged.

§ 25-13.11 **Enforcement.** Unchanged.

**SECTION 2.** All Ordinances or parts of Ordinances inconsistent herewith are repealed as to such inconsistencies.

**SECTION 3.** If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

**SECTION 4.** This Ordinance shall take effect upon final passage, publication, and filing with the Hunterdon County Planning Board, all in accordance with the law.

Introduced: June 28, 2021

**Mayor and Common Council**

38 Park Avenue  
Flemington, NJ 08822

Meeting: 07/12/21 07:30 PM  
Department: Clerk of the Borough  
Category: Board Policy  
Prepared By: Sallie Graziano  
Initiator: Sallie Graziano  
Sponsors:

**SCHEDULED**

**RESOLUTION 2021-142**

DOC ID: 3530

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**Authorizing an Interlocal Agreement with Flemington-Raritan  
Regional School District for Special Class III Law  
Enforcement Officers**

*An Agreement between the Flemington-Raritan Regional School District (the School District), 50 Court St., Flemington, NJ and the Borough of Flemington (the Municipality), 38 Park Ave., Flemington, NJ.*

**WHEREAS**, the School District and Municipality desire to provide the services of Class III Special Law Enforcement Officers ("Class III SLEOs") assigned to the School District; and

**WHEREAS**, the Uniform Shared Services and Consolidations Act, N.J.S.A. 40A:65-1, et seq. authorizes local governmental entities to enter into an agreement, among other things, for the sharing of services; and

**WHEREAS**, both parties recognize the potential benefits of this program to the citizens of the Municipality and to the students and staff of the School District; and

**WHEREAS** the Municipality has, by Ordinance 2019-20, created the position of Class III SLEO; and

**WHEREAS**, it is in the best interests of the School District and the Municipality to establish this program;

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Flemington that the Municipality shall employ and assign to the School District one Class III SLEO to perform law enforcement duties at certain Flemington-Raritan Regional School District schools, as set forth in the attached Memorandum of Understanding.

Adopted:

Attest:

\_\_\_\_\_  
Betsy Driver, Mayor

\_\_\_\_\_  
Sallie Graziano, RMC, Borough Clerk

**Mayor and Common Council**

38 Park Avenue  
Flemington, NJ 08822

Meeting: 07/12/21 07:30 PM  
Department: Clerk of the Borough  
Category: Appointments  
Prepared By: Sallie Graziano

Initiator: Sallie Graziano  
Sponsors:

**SCHEDULED**

**RESOLUTION 2021-143**

DOC ID: 3525

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**Appointing Robert Martucci, PE, to the Joint Position of  
Flemington Borough Business Administrator / Borough  
Engineer**

**WHEREAS** in order to provide assistance to elected officials in insuring the proper administration of the affairs of the municipality as well as providing for the efficient and effective administration and management of the resources of the municipal organization it is necessary to create the position of Borough Administrator and to assign to this position those duties, responsibilities and authority that are necessary to accomplish the proper administration of the affairs of the municipality.; and

**WHEREAS**, under the authority of N.J.S.A. 40A:60-7, Flemington Borough adopted Ordinance 2021-1 creating the position of Business Administrator; and

**WHEREAS**, the Borough advertised the position and received numerous applications in response; and

**WHEREAS**, on May 24, 2021, Council interviewed Robert Martucci, PE, the Borough Engineer, for the joint position of Business Administrator and Borough Engineer; and

**WHEREAS**, Mr. Martucci is a strong candidate for the position;

**NOW THEREFORE BE IT RESOLVED** by the Mayor and Common Council of the Borough of Flemington, County of Hunterdon, State of New Jersey, that Robert Martucci, PE, currently the Borough Engineer, be hired to the joint position of Business Administrator/ Borough Engineer at an annual salary of \$120,000 per year for the joint position, according to the terms of the attached contract.

**BE IT FURTHER RESOLVED** that the Mayor and Clerk are authorized to sign any documents required in connection with this appointment.

Adopted: July 12, 2021

Attest:

\_\_\_\_\_  
Betsy Driver, Mayor

\_\_\_\_\_  
Sallie Graziano, Borough Clerk

**Mayor and Common Council**

38 Park Avenue  
Flemington, NJ 08822

Meeting: 07/12/21 07:30 PM  
Department: Clerk of the Borough  
Category: Financial Approval  
Prepared By: Sallie Graziano

**SCHEDULED**

Initiator: Sallie Graziano  
Sponsors:

**RESOLUTION 2021-144**

DOC ID: 3529

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**Authorizing an Animal Control Contract with Advanced  
Animal Control for Aug. 1, 2021 through July 31, 2023**

BOROUGH OF FLEMINGTON  
COUNTY OF HUNTERDON

**WHEREAS**, the Local Public Contracts Law (N.J.S.A. 40A:11-1 et seq.) requires that a Resolution authorizing the award of a contract for professional services without competitive bidding must be publicly advertised and an agreement to retain the services of an animal control officer is a professional service as defined in said statute; and

**WHEREAS**, the Borough of Flemington has a need to acquire animal control services beginning Aug. 1, 2021 as a non-fair and open contract pursuant to the provisions of N.J.S.A. 19:44A-20.5 as appropriate; and

**WHEREAS**, Advanced Animal Control of Titusville, NJ, has submitted a proposal for the period of Aug. 1, 2021 through July 31, 2022 at an all-inclusive rate of \$15,528; and for the period of Aug. 1, 2022 through July 31, 2023 at an all-inclusive rate of \$15,768;

**WHEREAS**, Carolyn Murphy of Advanced Animal Control has completed and submitted a Business Entity Disclosure Certification which certifies that she has not made any reportable contributions to a political or candidate committee in the Borough of Flemington in the previous one (1) year, and that the contract will prohibit Advanced Animal Control from making any reportable contributions through the term of the contract.

**NOW THEREFORE BE IT RESOLVED** by the Mayor and Common Council of the Borough of Flemington, County of Hunterdon, State of New Jersey that Advanced Animal Control of Titusville, NJ be awarded a contract to perform all services related to animal control from Aug. 1, 2021 through July 31, 2022 at an all-inclusive rate of \$15,528; and from Aug. 1, 2022 through July 31, 2023, at an all-inclusive rate of \$15,768.

**IT IS FURTHER RESOLVED** that the Mayor of the Borough of Flemington is hereby authorized to enter into said agreement with Advanced Animal Control; and

**IT IS FURTHER RESOLVED** that notice of this Resolution shall be published in the Hunterdon County Democrat as required by law; and

**IT IS FURTHER RESOLVED** that the Business Disclosure Entity Certification and the Determination of Value be placed on file with this Resolution; and

**IT IS FURTHER RESOLVED** that the Chief Financial Officer has certified that funds are available.

Adopted: July 12, 2021

Attest:

\_\_\_\_\_  
Betsy Driver, Mayor

\_\_\_\_\_  
Sallie Graziano, Borough Clerk

**Mayor and Common Council**

38 Park Avenue  
Flemington, NJ 08822

Meeting: 07/12/21 07:30 PM  
Department: Clerk of the Borough  
Category: Board Policy  
Prepared By: Sallie Graziano

Initiator: Sallie Graziano  
Sponsors:

**SCHEDULED**

**RESOLUTION 2021-145**

DOC ID: 3533

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**Granting Approval to Formally Solicit Requests for Quotes in  
the Application and Implementation Process for an  
Environmental Protection Agency Brownfields Assessment  
Grant**

WHEREAS, the Borough of Flemington has seen a variety of industries and development practices over the past 300 years; and

WHEREAS, the impacts of such activities on the natural environment, including potential redevelopment sites within the Borough of Flemington, are not fully realized; and

WHEREAS, the United States Environmental Protection Agency has Brownfields Assessment Grant funding available; and

WHEREAS, it is in the Borough's interest to better understand potential contaminated sites within its Borough limits; and

WHEREAS, this information is also often helpful to redevelopers who want to know in advance of any environmental mitigation needs; and

WHEREAS, the Borough does not have the internal capacity to apply for and administer such an application, grant, or study; and

WHEREAS, the US EPA does include funding for consulting services as part of the grant; and

WHEREAS, it is in the Borough's interest to better understand the potential monetary and non-monetary costs of a brownfields assessment study;

NOW, THEREFORE, BE IT RESOLVED that the Council of the Borough of Flemington formally approves the public posting of a Request for Quotes solicitation for assistance with the application and implementation for a U.S. Environmental Protection Agency Brownfields Assessment Grant.

Adopted:

Attest:

\_\_\_\_\_  
Betsy Driver, Mayor

\_\_\_\_\_  
Sallie Graziano, Borough Clerk

**Mayor and Common Council**

38 Park Avenue  
Flemington, NJ 08822

Meeting: 07/12/21 07:30 PM  
Department: Clerk of the Borough  
Category: Board Policy  
Prepared By: Sallie Graziano  
Initiator: Sallie Graziano  
Sponsors:  
DOC ID: 3532

**SCHEDULED**

**RESOLUTION 2021-146**

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**Recognizing the Five-Year Anniversary of Lone Eagle  
Brewing**

WHEREAS, Lone Eagle Brewing, which opened in July 2016, is celebrating its fifth anniversary; and

WHEREAS, Lone Eagle's beers have won numerous awards and the brewery has become an anchor in the burgeoning Stangl Road area, drawing tourists and visitors to Flemington; and

WHEREAS, the brewery has drawn on resources within the Flemington community for its supplies, and tapped the talents of students at Hunterdon County Polytech to build the benches and tables visitors to the brewery enjoy; and

WHEREAS, Lone Eagle Brewing embraced the challenge of serving the public during the COVID-19 pandemic, instituting online ordering and pickup, delivery service and an expanded outdoor seating area where people can congregate; and

WHEREAS, the brewery has undertaken a multi-year expansion that includes a new production facility that will allow it to increase production and provide a wider selection of beer;

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council of the Borough of Flemington congratulate Lone Eagle Brewing co-owners Todd Becker and Bob King on the brewery's fifth anniversary and thank them for their dedication and generosity to the Flemington community.

Adopted:

Attest:

\_\_\_\_\_  
Betsy Driver, Mayor

\_\_\_\_\_  
Sallie Graziano, Borough Clerk



**Mayor and Common Council**

38 Park Avenue  
Flemington, NJ 08822

Meeting: 07/12/21 07:30 PM  
Department: Clerk of the Borough  
Category: Board Policy  
Prepared By: Sallie Graziano

Initiator: Sallie Graziano  
Sponsors:

**SCHEDULED**

**RESOLUTION 2021-147**

DOC ID: 3531

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**Authorizing an On-Premises Merchandise Draw Raffle for the  
Flemington Lions Club to be Held on August 14, 2021 (Rain  
Date September 11, 2021), and an Off-Premises 50-50 Raffle  
to be Held on October 16, 2021**

**WHEREAS** applications have been received by the Borough of Flemington to grant an Off-Premises 50/50 Raffle License and an On-Premises Merchandise Draw Raffle; and

**WHEREAS** no objection has been received by the Borough Clerk;

**NOW, THEREFORE BE IT RESOLVED** by the Mayor and Common Council of the Borough of Flemington, County of Hunterdon, State of New Jersey that an On-Premises Merchandise Draw Raffle License be granted:

**TO:** Flemington Lions Club

**BENEFIT:** Charitable projects

**DATE:** August 14, 2021 (Rain Date September 11, 2021)

**LOCATION:** 71 Main Street, Flemington, N.J.

**TIME:** 5:00 PM - 8:00 PM

**BE IT FURTHER RESOLVED** that an Off-Premises 50/50 Raffle License be granted:

**TO:** Flemington Lions Club

**BENEFIT:** Charitable projects

**DATE:** October 16, 2021

**LOCATION:** 42 Stangl Road, Flemington, N.J.

**TIME:** 6:00 PM - 9:00 PM

Adopted:

Attest:

\_\_\_\_\_  
Betsy Driver, Mayor

\_\_\_\_\_  
Sallie Graziano, Borough Clerk

**Mayor and Common Council**

38 Park Avenue  
Flemington, NJ 08822

Meeting: 07/12/21 07:30 PM  
Department: Clerk of the Borough  
Category: Financial Approval  
Prepared By: Sallie Graziano

Initiator: Sallie Graziano  
Sponsors:

**SCHEDULED**

**RESOLUTION 2021-148**

DOC ID: 3534

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**Authorizing the Chief Financial Officer to Purchase a  
Backhoe for the Sewer Department from Jesco, Inc., Under  
Sourcewell Contract 032119 in the Amount of \$130,024.96**

WHEREAS, the Borough of Flemington has received a quote from Jesco, Inc. under the Sourcewell Contract # 032119 for the purchase of a 2020 JD 310SL HL Backhoe for the Sewer Department, and

WHEREAS, it has been determined by the Sewer Department that the quote meets the needs of the Department.

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council of the Borough of Flemington authorize the Chief Financial Officer to process a purchase order in the amount of \$130,024.96 to Jesco, Inc. for the purchase of the backhoe.

BE IT FURTHER RESOLVED that the Chief Financial Officer certifies that funds are available in Sewer Department Capital account C-08-113-000.

Adopted: July 12, 2021

Attest:

\_\_\_\_\_  
Betsy Driver, Mayor

\_\_\_\_\_  
Sallie Graziano, Borough Clerk

**Mayor and Common Council**

38 Park Avenue  
Flemington, NJ 08822

Meeting: 07/12/21 07:30 PM  
Department: Clerk of the Borough  
Category: Financial Approval  
Prepared By: Sallie Graziano

Initiator: Sallie Graziano  
Sponsors:

**SCHEDULED**

**RESOLUTION 2021-149**

DOC ID: 3535

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**Authorizing the Purchase of a 2022 Ford Super Duty F250 for  
the Sewer Department in the Amount of \$43,099.98, from  
National Auto Fleet Group Under Sourcewell Contract  
120716-NAF**

WHEREAS, the Borough of Flemington has received a quote from National Auto Fleet Group under the Sourcewell Contract # 120716-NAF for the purchase of a 2022 Ford Super Duty F250 for the Sewer Department, and

WHEREAS, it has been determined by the Sewer Department that the quote meets the needs of the Department.

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council of the Borough of Flemington authorize the Chief Financial Officer to process a purchase order in the amount of \$43,099.98 to EH National Auto Fleet Group for the purchase of the Ford Super Duty F250.

BE IT FURTHER RESOLVED that the Chief Financial Officer certifies that funds are available in Sewer Department Capital account C-08-113-000.

Adopted:

Attest:

\_\_\_\_\_  
Betsy Driver, Mayor

\_\_\_\_\_  
Sallie Graziano, Borough Clerk