



Mayor and Common Council Borough of Flemington

June 14, 2021

Council Meeting Room and Online

Call to Order (7:00 PM)

Executive Session (7:00 PM)

1. RESOLUTION 2021-124: ENTERING INTO EXECUTIVE SESSION FOR THE PURPOSE OF OBTAINING LEGAL ADVICE REGARDING THE AWARD OF A CONTRACT FOR SOLID WASTE COLLECTION

Work Session (7:15 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. OEM Report

1. A PROCLAMATION BY THE MAYOR OF FLEMINGTON BOROUGH HONORING OFFICE OF EMERGENCY MANAGEMENT COORDINATOR CPL. BRIAN MCNALLY AND FIRST DEPUTY DAVID GIULIANI

II. Mayor's Report

III. Council Members' Reports

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

V. Approval of Minutes

Motion To: **Approve Minutes: May 24, 2021 Regular Council Meeting**

Motion To: **Approve Minutes: May 24, 2021 Executive Session**

Consent Agenda

1. RESOLUTION 2021-125: AUTHORIZING THE DISPLAY OF PINK RIBBONS AT BOROUGH HALL FOR THE MONTH OF OCTOBER, 2021 TO COMMEMORATE BREAST CANCER AWARENESS MONTH
2. RESOLUTION 2021-126: AUTHORIZING THE RENEWAL OF PLENARY RETAIL DISTRIBUTION LIQUOR LICENSE NUMBER 1009-44-004-007 FOR FLEMINGTON CENTRAL LIQUORS, DBA LITTLE BROTHERS BEVERAGE, FOR THE TERM 2021-2022
3. RESOLUTION 2021-127: AUTHORIZING RENEWAL OF LIQUOR LICENSE 1009-32-003-014 FOR STAGECOACH LIQUORS, LLC FOR THE 2021-2022 TERM
4. RESOLUTION 2021-128: AUTHORIZING ROBERT MARTUCCI, P.E. TO SUBMIT AN APPLICATION TO THE STATE HISTORIC PRESERVATION OFFICE FOR THE DEWEY AVENUE IMPROVEMENT PROJECT
5. RESOLUTION 2021-129: AUTHORIZING ROBERT MARTUCCI, P.E., TO SUBMIT AN APPLICATION TO THE STATE HISTORIC PRESERVATION OFFICE FOR THE CORCORAN STREET IMPROVEMENT PROJECT
6. RESOLUTION 2021-130: AUTHORIZING ROBERT MARTUCCI, P.E., TO SUBMIT AN APPLICATION TO THE STATE HISTORIC PRESERVATION OFFICE FOR THE MAIN STREET FROM CHURCH STREET TO ROUTE 12 IMPROVEMENT PROJECT
7. RESOLUTION 2021-131: APPROVING SUBMISSION OF AN APPLICATION FROM STEPHEN K. MACDONALD TO THE NJ STATE FIREMEN'S ASSOCIATION

Regular Agenda

1. ORDINANCE 2021-13, SECOND READING: BOND ORDINANCE PROVIDING FOR IMPROVEMENTS FOR THE SEWER UTILITY BY AND IN THE BOROUGH OF FLEMINGTON, IN THE COUNTY OF HUNTERDON, STATE OF NEW JERSEY; APPROPRIATING \$250,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$200,000 BONDS OR NOTES OF THE BOROUGH TO FINANCE PART OF THE COST THEREOF
 2. ORDINANCE 2021-14, FIRST READING: AMENDING THE CODE OF THE BOROUGH OF FLEMINGTON TO SET FORTH CONDITIONS FOR CANNABIS RETAILERS AND CANNABIS CULTIVATORS LOCATING WITHIN CERTAIN DISTRICTS
 3. ORDINANCE 2021-15, FIRST READING: AN ORDINANCE AMENDING SECTION 2629 OF THE CODE OF THE BOROUGH OF FLEMINGTON REGARDING PARKING IN THE DOWNTOWN BUSINESS (DB) DISTRICT
 4. RESOLUTION 2021-132: AUTHORIZING THE MAYOR TO SIGN A 5-YEAR CONTRACT FOR SOLID WASTE COLLECTION WITH LMR DISPOSAL OF PHILLIPSBURG, NEW JERSEY AT A COST OF \$1,302,000.00
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5. RESOLUTION 2021-133: GRANTING APPROVAL TO SUBMIT A GRANT APPLICATION AND EXECUTE A GRANT AGREEMENT WITH THE NEW JERSEY DEPARTMENT OF TRANSPORTATION FOR THE WILLIAMS STREET ROADWAY IMPROVEMENT PROJECT
6. RESOLUTION 2021-134: GRANTING APPROVAL TO SUBMIT A GRANT APPLICATION AND EXECUTE A GRANT AGREEMENT WITH THE NEW JERSEY DEPARTMENT OF TRANSPORTATION FOR THE NORTH MAIN STREET ROADWAY IMPROVEMENT PROJECT
7. RESOLUTION 2021-135: AUTHORIZING THE PAYOUT OF \$5,910.50 TO THE RETIRED COURT ADMINISTRATOR FOR SICK AND VACATION TIME DUE
8. RESOLUTION 2021-136: RESCINDING RESOLUTION 2021-89 REGARDING PERSONAL TIME FOR EMPLOYEES WHO RECEIVED A COVID-10 DIAGNOSIS

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

VII. Attorney's Report

VIII. Payment of the Bills

Motion To: **Pay the Bills**

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

X. Adjournment

Motion To: **Adjourn**

Mayor and Common Council

38 Park Avenue
Flemington, NJ 08822

Meeting: 06/14/21 07:30 PM
Department: Clerk of the Borough
Category: Appointment
Prepared By: Sallie Graziano
Initiator: Sallie Graziano
Sponsors:

SCHEDULED

AGENDA ITEM 2021-4

DOC ID: 3514

**A Proclamation by the Mayor of Flemington Borough
Honoring Office of Emergency Management Coordinator Cpl.
Brian McNally and First Deputy David Giuliani**

WHEREAS, The COVID-19 pandemic hit the nation with force in early 2020, prompting a Declaration of a State of Emergency by New Jersey Governor Murphy on March 9 and by the Borough of Flemington on March 16; and

WHEREAS, Flemington Borough Office of Emergency Management Coordinator Cpl. Brian McNally and First Deputy David Giuliani took the lead in managing communications with residents, with Borough employees and with Borough merchants as schools and business were ordered closed; and

WHEREAS, OEM established procedures for employees and protocols for first-responders, and when the supply of personal protective equipment was running short, Flemington's OEM ensured adequate supplies for the Borough's first-responders and healthcare workers; and

WHEREAS, as the world turned virtual, Flemington's OEM kept things running smoothly, setting up systems for online-only meetings, Facebook Live chats, and assisting the Borough's Municipal Court in establishing online procedures; and

WHEREAS, businesses impacted by ever-changing restrictions found the OEM to be a valuable source of information, and the OEM's guidance enabled Council to adopt ordinances that allowed businesses in town to remain as open as possible throughout the pandemic; and

WHEREAS, while the COVID-19 case count continued to rise and events and circumstances changed daily, Flemington's OEM remained a source of clear guidance, handling fears and concerns with compassion and sensitivity; and

WHEREAS, Flemington Borough Office of Emergency Management Coordinator Cpl. Brian McNally and First Deputy David Giuliani led the Borough of Flemington through the ever-changing demands of the COVID-19 pandemic for 64 weeks, until the Borough's State of Emergency was lifted on June 4, 2021;

NOW, THEREFORE, BE IT PROCLAIMED that I, Betsy Driver, Mayor of the Borough of Flemington, recognize OEM Coordinator Cpl. Brian McNally and OEM First Deputy David Giuliani for their exemplary dedication to the Borough of Flemington in their handling of the COVID-19 pandemic.

Adopted: June 14, 2021

Attest:

Betsy Driver, Mayor

Sallie Graziano, Borough Clerk

Mayor and Common Council

38 Park Avenue
Flemington, NJ 08822

Meeting: 06/14/21 07:30 PM
Department: Clerk of the Borough
Category: Board Policy
Prepared By: Sallie Graziano

Initiator: Sallie Graziano
Sponsors:

SCHEDULED

RESOLUTION 2021-124

DOC ID: 3521

**Entering into Executive Session for the Purpose of Obtaining
Legal Advice Regarding the Award of a Contract for Solid
Waste Collection**

WHEREAS, the Common Council of the Borough of Flemington desires to obtain legal advice on matters related to awarding a contract for the collection of solid waste in the Borough; and

WHEREAS, an executive session for this discussion is justified under N.J.S.A. 10:4-12 (7), which cites:

pending or anticipated litigation or contract negotiation other than in subsection B. (4) herein in which the public body is, or may become, a party, or matters falling within the attorney-client privilege, to the extent that confidentiality is required in order for the attorney to exercise his ethical duties as a lawyer; and

WHEREAS, the minutes of said discussion will be made available as soon as it is deemed in the public's interest to do so; and

WHEREAS, the Borough Council may take official action on the items discussed in executive session upon completion of the executive session;

NOW, THEREFORE, BE IT RESOLVED that the Common Council of the Borough of Flemington go into executive session for the above-stated purpose.

Adopted: June 14, 2021

Attest:

Betsy Driver, Mayor

Sallie Graziano, Borough Clerk

Mayor and Common Council

38 Park Avenue
Flemington, NJ 08822

Meeting: 06/14/21 07:30 PM
Department: Clerk of the Borough
Category: Board Policy
Prepared By: Sallie Graziano
Initiator: Sallie Graziano
Sponsors:

SCHEDULED

RESOLUTION 2021-125

DOC ID: 3506

**Authorizing the Display of Pink Ribbons at Borough Hall for
the Month of October, 2021 to Commemorate Breast Cancer
Awareness Month**

WHEREAS, Dance for the Cure is a local, not-for-profit organization that gifts money to help women with breast cancer in Hunterdon, Somerset, and Middlesex counties; and

WHEREAS, this group is interested in expanding its Tie the Town Pink effort to Flemington Borough, since it has helped a great number of women in Flemington over the past 21 years; and

WHEREAS, the effort would comprise tying pink ribbons at Borough Hall on Oct. 1, 2021 to commemorate Breast Cancer Awareness Month in October; and

WHEREAS, the ribbons would be removed by the group on November 1, 2021;

NOW, THEREFORE, BE it RESOLVED that the Mayor and Council authorize the display of pink ribbons at Borough Hall for the month of October to commemorate Breast Cancer Awareness Month.

Adopted: June 14, 2021

Attest:

Betsy Driver, Mayor

Sallie Graziano, Borough Clerk

Mayor and Common Council

38 Park Avenue
Flemington, NJ 08822

Meeting: 06/14/21 07:30 PM
Department: Clerk of the Borough
Category: Board Policy
Prepared By: Sallie Graziano
Initiator: Sallie Graziano
Sponsors:

SCHEDULED

RESOLUTION 2021-126

DOC ID: 3504

Authorizing the Renewal of Plenary Retail Distribution Liquor License Number 1009-44-004-007 for Flemington Central Liquors, DBA Little Brothers Beverage, for the Term 2021-2022

**BOROUGH OF FLEMINGTON
COUNTY OF HUNTERDON**

WHEREAS, application has been received from Flemington Central Liquors, dba Little Brothers Beverage, to Renew Plenary Retail Distribution Liquor License (1009-44-004-007); and

WHEREAS, said application is complete and accompanied by the required fees, affidavits, and tax clearance certificate from the New Jersey Division of Taxation; and

WHEREAS, no written objection to the renewal of this license was 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, as follows:

1. That the license as referenced above be renewed for the 2020-2021 license year and that the Borough Clerk be directed to forward a certified copy of this Resolution to the Division of Alcoholic Beverage Control, Department of Law and Public Safety, for processing, and to the applicants; and;
2. That the Borough Clerk be authorized to issue the 2021-2022 license to the proper holder.
3. This Resolution shall take effect immediately.

Adopted: June 14, 2021

ATTEST:

By: _____
Sallie Graziano, RMC, Borough Clerk

By: _____
Betsy Driver, Mayor

CERTIFICATION

I, Sallie Graziano, RMC, Clerk of the Borough of Flemington do hereby certify the foregoing to be a true and correct copy of a Resolution adopted by the Borough Council on June 14, 2021.

Sallie Graziano, RMC, Borough Clerk

Mayor and Common Council

38 Park Avenue
Flemington, NJ 08822

Meeting: 06/14/21 07:30 PM
Department: Clerk of the Borough
Category: Board Policy
Prepared By: Sallie Graziano
Initiator: Sallie Graziano
Sponsors:

DOC ID: 3512

SCHEDULED

RESOLUTION 2021-127

Authorizing Renewal of Liquor License 1009-32-003-014 for Stagecoach Liquors, LLC for the 2021-2022 Term

**BOROUGH OF FLEMINGTON
COUNTY OF HUNTERDON**

WHEREAS, application has been received from Stagecoach Liquors, LLC for renewal of the Plenary Retail consumption license with Broad C (1009-32-003-014); and

WHEREAS, said application is complete and accompanied by the required fees, affidavits, and tax clearance certificate from the New Jersey Division of Taxation; and

WHEREAS, no written objection to the renewal of this license was received by the Borough Clerk; and

WHEREAS, Stagecoach Liquors received a special ruling from the director of the Division of Alcoholic Beverage Control pursuant to NJSA 33: 1-12.18 authorizing renewal of the license for the 2021-22 and 2022-23 terms;

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

1. That the license as referenced above be issued for the 2021-22 license term and that the Borough Clerk be directed to forward a certified copy of this Resolution and the renewal application and accompanying fee to the Division of Alcoholic Beverage Control, Department of Law and Public Safety for processing, and to the applicants; and;
2. That the Borough Clerk be authorized to issue the 2021-2022 license to the proper holder with the effective date of July 1, 2021.
3. This Resolution shall take effect immediately.

Adopted: June 14, 2021

Attest:

Betsy Driver, Mayor

Sallie Graziano, RMC, Borough Clerk

CERTIFICATION

I, Sallie Graziano, RMC, Clerk of the Borough of Flemington do hereby certify the foregoing to be a true and correct copy of a Resolution adopted by the Borough Council on June 14, 2021.

Sallie Graziano, RMC, Borough Clerk

Mayor and Common Council

38 Park Avenue
Flemington, NJ 08822

Meeting: 06/14/21 07:30 PM
Department: Clerk of the Borough
Category: Board Policy
Prepared By: Sallie Graziano
Initiator: Sallie Graziano
Sponsors:

SCHEDULED

RESOLUTION 2021-128

DOC ID: 3508

**Authorizing Robert Martucci, P.E. to Submit an Application to
the State Historic Preservation Office for the Dewey Avenue
Improvement Project**

WHEREAS, the Borough of Flemington has employed the services of Robert Martucci, P.E., of Martucci Engineering LLC, for the preparation of construction documents for the Dewey Avenue Improvement Project; and

WHEREAS, these plans require approval by the State Historic Preservation Office.

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council of the Borough of Flemington hereby authorize Robert Martucci, P.E., to submit the application for the Dewey Avenue Improvement Project and fully support the application being made to the State Historic Preservation Office for approval.

Adopted: June 14, 2021

Attest:

Betsy Driver, Mayor

Sallie Graziano RMC, Borough Clerk

CLERK'S CERTIFICATION

I, Sallie Graziano, Borough Clerk of the Borough of Flemington in the County of Hunterdon in the State of New Jersey, do hereby certify that the foregoing is a correct and true copy of a resolution adopted on June 14, 2021, by the Mayor and Council of the Borough of Flemington in the County of Hunterdon in the State of New Jersey.

Sallie Graziano, RMC, Borough Clerk

Mayor and Common Council

38 Park Avenue
Flemington, NJ 08822

Meeting: 06/14/21 07:30 PM
Department: Clerk of the Borough
Category: Board Policy
Prepared By: Sallie Graziano

Initiator: Sallie Graziano
Sponsors:

SCHEDULED

RESOLUTION 2021-129

DOC ID: 3509

**Authorizing Robert Martucci, P.E., to Submit an Application
to the State Historic Preservation Office for the Corcoran
Street Improvement Project**

WHEREAS, the Borough of Flemington has employed the services of Robert Martucci, P.E., of Martucci Engineering LLC, for the preparation of construction documents for the Corcoran Street Improvement Project; and

WHEREAS, these plans require approval by the State Historic Preservation Office.

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council of the Borough of Flemington hereby authorize Robert Martucci, P.E., to submit the application for the Corcoran Street Improvement Project and fully support the application being made to the State Historic Preservation Office for approval.

Adopted: June 14, 2021

Attest:

Betsy Driver, Mayor

Sallie Graziano, RMC, Borough Clerk

CLERK'S CERTIFICATION

I, Sallie Graziano, Borough Clerk of the Borough of Flemington in the County of Hunterdon in the State of New Jersey, do hereby certify that the foregoing is a correct and true copy of a resolution adopted on June 14, 2021 by the Mayor and Council of the Borough of Flemington in the County of Hunterdon in the State of New Jersey.

Sallie Graziano, RMC, Borough Clerk

Mayor and Common Council

38 Park Avenue
Flemington, NJ 08822

Meeting: 06/14/21 07:30 PM
Department: Clerk of the Borough
Category: Board Policy
Prepared By: Sallie Graziano
Initiator: Sallie Graziano
Sponsors:

SCHEDULED

RESOLUTION 2021-130

DOC ID: 3510

**Authorizing Robert Martucci, P.E., to Submit an Application
to the State Historic Preservation Office for the Main Street
from Church Street to Route 12 Improvement Project**

WHEREAS, the Borough of Flemington has employed the services of Robert Martucci, P.E., of Martucci Engineering LLC, for the preparation of construction documents for the Main Street from Church Street to Route 12 Improvement Project; and

WHEREAS, these plans require approval by the State Historic Preservation Office.

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council of the Borough of Flemington hereby authorize Robert Martucci, P.E., to submit the application for the Main Street from Church Street to Route 12 Improvement Project and fully support the application being made to the State Historic Preservation Office for approval.

Adopted: June 14, 2021

Attest:

Betsy Driver, Mayor

Sallie Graziano, RMC, Borough Clerk

CLERK'S CERTIFICATION

I, Sallie Graziano, Borough Clerk of the Borough of Flemington in the County of Hunterdon in the State of New Jersey, do hereby certify that the foregoing is a correct and true copy of a resolution adopted on June 14, 2021, by the Mayor and Council of the Borough of Flemington in the County of Hunterdon in the State of New Jersey.

Sallie Graziano, RMC, Borough Clerk

Mayor and Common Council

38 Park Avenue
Flemington, NJ 08822

Meeting: 06/14/21 07:30 PM
Department: Clerk of the Borough
Category: Board Policy
Prepared By: Sallie Graziano

Initiator: Sallie Graziano
Sponsors:

SCHEDULED

RESOLUTION 2021-131

DOC ID: 3516

**Approving Submission of an Application from Stephen K.
MacDonald to the NJ State Firemen's Association**

BOROUGH OF FLEMINGTON
COUNTY OF HUNTERDON

WHEREAS, Stephen K. MacDonald has met the necessary qualifications to make an application to the New Jersey State Firemen's Association; and

WHEREAS, the application requires that the Governing Body approve the application and authorize the Municipal Clerk to sign the application to the New Jersey State Firemen's Association.

NOW THEREFORE BE IT RESOLVED, by the Mayor and Common Council of the Borough of Flemington, County of Hunterdon, State of New Jersey, that approval is granted for the Clerk to sign the application for Stephen K. MacDonald to apply to the New Jersey State Firemen's Association.

Approved: June 14, 2021

ATTEST:

Betsy Driver, Mayor

Sallie Graziano, Borough Clerk

Mayor and Common Council

38 Park Avenue
Flemington, NJ 08822

Meeting: 06/14/21 07:30 PM
Department: Clerk of the Borough
Category: Financial Approval
Prepared By: Sallie Graziano

SCHEDULED

Initiator: Sallie Graziano
Sponsors:

RESOLUTION 2021-132

DOC ID: 3517

Authorizing the Mayor to Sign a 5-Year Contract for Solid Waste Collection with LMR Disposal of Phillipsburg, New Jersey at a Cost of \$1,302,000.00

WHEREAS, the Borough of Flemington advertised, and subsequently received bids, for the Borough of Flemington Solid Waste and Recyclable Materials Collection Service; and

WHEREAS, The Borough of Flemington has advertised for solid waste and recyclable collection for a contract period of 1 (one), 2 (two), 3 (three), or 5(five) years with two options: option 1, no bulk collection; and option 2, bulk collection with stickers 4 times a year; and

WHEREAS, The Borough of Flemington opened sealed bids on May 11, 2021; and

WHEREAS, three bids were received as follows:

Option	Republic		LMR Disposal		Central Jersey Disposal	
1. Once A Week Pick Up/ Twice Monthly Recycling w/ Carts, Containers. No Bulk Items	Yearly Cost	Total Contract	Yearly Cost	Total Contract	Yearly Cost	Total Contract
One Year	No Bid	No Bid	\$388,400.00	\$388,400.00	No Bid	No Bid
Two Years	No Bid	No Bid	\$301,000.00	\$602,000.00	No Bid	No Bid
Three Years	No Bid	No Bid	\$272,666.67	\$818,000.00	No Bid	No Bid
Five Years	\$221,640.00	\$1,108,200.00	\$248,600.00	\$1,243,000.00	\$285,000.00	\$1,425,000.00
Unit Price per additional Cart	\$80.00		\$45.00		\$75.00	
Option	Republic		LMR Disposal		Central Jersey Disposal	
2. Once A Week Pick Up/ Twice Monthly Recycling w/ Carts, Containers. Bulk Items 4X/Year	Yearly Cost	Total Contract	Yearly Cost	Total Contract	Yearly Cost	Total Contract
One Year	No Bid	No Bid	\$400,000.00	\$400,000.00	No Bid	No Bid
Two Years	No Bid	No Bid	\$313,500.00	\$627,000.00	No Bid	No Bid
Three Years	No Bid	No Bid	\$284,666.67	\$854,000.00	No Bid	No Bid
Five Years	No Bid	No Bid	\$260,400.00	\$1,302,000.00	\$299,800.00	\$1,499,000.00
Unit Price per additional Cart	\$80.00		\$45.00		\$75.00	

WHEREAS, Robert Martucci, P.E. Borough Engineer and Tara St. Angelo, Esq. Borough Attorney have reviewed the submitted bids and determined that LMR Disposal LLC P.O. Box 309 Phillipsburg, New Jersey 08865 submitted the lowest responsive bid in the amount of \$1,302,000.00 (\$260,400.00 per year) For Option 2 - Five Year contract; and

WHEREAS, the Borough has reserved the right to award either a 1 (one) year, 2 (two) 3 (three) year or 5 (five) year contract with either option 1, with no bulk collection or option 2, bulk collection 4 times a year with stickers; and

WHEREAS, the Borough has appropriated sufficient funds to award the bid in the amount of \$1,302,000.00 for a 5-year contract;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of

Flemington that the Contract for the Borough of Flemington Solid Waste and Recyclable Materials Collection Service be and is hereby awarded to LMR Disposal LLC, P.O. Box 309, Phillipsburg, New Jersey 08865 for their Bid of \$1,302,000.00, for a 5 Year Contract subject to the following conditions:

1. The Contract is awarded as a unit price bid Contract and final payment will be based upon the actual quantity utilized at the stipulated yearly price of \$260,400.00 for the 5-year contract with option 2 bulk collection 4 times a year.

Adopted: June 14, 2021

Attest:

Betsy Driver, Mayor

Sallie Graziano, Borough Clerk

Mayor and Common Council

38 Park Avenue
Flemington, NJ 08822

Meeting: 06/14/21 07:30 PM
Department: Clerk of the Borough
Category: Board Policy
Prepared By: Sallie Graziano
Initiator: Sallie Graziano
Sponsors:

SCHEDULED

RESOLUTION 2021-133

DOC ID: 3520

**Granting Approval to Submit a Grant Application and
Execute a Grant Agreement with the New Jersey Department
of Transportation for the William Street Roadway
Improvement Project**

WHEREAS, William Street is in need of Improvement; and

WHEREAS, Robert Martucci, P.E., Borough of Flemington Engineer, has prepared a cost estimate for improvements to this road;

NOW, THEREFORE, BE IT RESOLVED that the Council of the Borough of Flemington formally approves the grant application for the above-stated project.

BE IT FURTHER RESOLVED that the Mayor and Clerk are hereby authorized to submit an electronic grant application identified as MA-2022- Flemington Borough-00328 to the New Jersey Department of Transportation on behalf of the Borough of Flemington.

BE IT FURTHER RESOLVED that the Mayor and Clerk are hereby authorized to sign the grant agreement on behalf of the Borough of Flemington and that their signatures constitute acceptance of the terms and conditions of the grant agreement and approve the execution of the grant agreement.

Certified as a true copy of the Resolution adopted by the Council
On this 14th day of June 2021

Sallie Graziano, RMC

My signature and the Clerk's seal serve to acknowledge the above resolution and constitute acceptance of the terms and conditions of the grant agreement and approve the execution of the grant agreement as authorized by the resolution above.

ATTEST and AFFIX SEAL

Sallie Graziano, RMC

Betsy Driver, Mayor

Mayor and Common Council

38 Park Avenue
Flemington, NJ 08822

Meeting: 06/14/21 07:30 PM
Department: Clerk of the Borough
Category: Board Policy
Prepared By: Sallie Graziano

Initiator: Sallie Graziano
Sponsors:

SCHEDULED

RESOLUTION 2021-134

DOC ID: 3519

**Granting Approval to Submit a Grant Application and
Execute a Grant Agreement with the New Jersey Department
of Transportation for the North Main Street Roadway
Improvement Project**

WHEREAS, North Main Street is in need of Improvement; and

WHEREAS, Robert Martucci, P.E., Borough of Flemington Engineer, has prepared a cost estimate for improvements to this road;

NOW, THEREFORE, BE IT RESOLVED that the Council of the Borough of Flemington formally approves the grant application for the above-stated project.

BE IT FURTHER RESOLVED that the Mayor and Clerk are hereby authorized to submit an electronic grant application identified as MA-2022- Flemington Borough-00327 to the New Jersey Department of Transportation on behalf of the Borough of Flemington.

BE IT FURTHER RESOLVED that the Mayor and Clerk are hereby authorized to sign the grant agreement on behalf of the Borough of Flemington and that their signatures constitute acceptance of the terms and conditions of the grant agreement and approve the execution of the grant agreement.

Certified as a true copy of the Resolution adopted by the Council
On this 14th day of June 2021

Sallie Graziano, RMC

My signature and the Clerk's seal serve to acknowledge the above resolution and constitute acceptance of the terms and conditions of the grant agreement and approve the execution of the grant agreement as authorized by the resolution above.

ATTEST and AFFIX SEAL

Sallie Graziano, RMC

Betsy Driver, Mayor

Mayor and Common Council

38 Park Avenue
Flemington, NJ 08822

Meeting: 06/14/21 07:30 PM
Department: Clerk of the Borough
Category: Financial Approval
Prepared By: Sallie Graziano

Initiator: Sallie Graziano
Sponsors:

SCHEDULED

RESOLUTION 2021-135

DOC ID: 3518

Authorizing the Payout of \$5,910.50 to the Retired Court Administrator for Sick and Vacation Time Due

WHEREAS, Court Administrator Susan Fleming retired from the Borough of Flemington effective May 1, 2021; and

WHEREAS, it has been determined that she is due the following accumulated leave pay:

56	Vacation Hours from 2020
35	Vacation Hours from 2021 (prorated)
70	Sick Hours from 2020
23.3	Sick Hours from 2021 (prorated)
184.30	Total Hours
\$32.07	Hourly Rate
\$5,910.50	Total Due

BE IT RESOLVED By the Mayor and Council of the Borough of Flemington that the Chief Financial Officer be authorized to pay \$5,910.50 on the next payroll to Susan Fleming for the sick and vacation time that she is due.

Adopted: June 14, 2021

Attest:

Betsy Driver, Mayor

Sallie Graziano, Borough Clerk

Mayor and Common Council

38 Park Avenue
Flemington, NJ 08822

Meeting: 06/14/21 07:30 PM
Department: Clerk of the Borough
Category: Board Policy
Prepared By: Sallie Graziano

Initiator: Sallie Graziano
Sponsors:

SCHEDULED

RESOLUTION 2021-136

DOC ID: 3505

Rescinding Resolution 2021-89 Regarding Personal Time for Employees who Received a COVID-10 Diagnosis

WHEREAS, pursuant to Resolution 2021-89 adopted on April 12, 2021, the Council authorized reimbursement of employee personal time up to 10 days if they received a documented COVID-19 diagnosis during the 2021 calendar year; and

WHEREAS, pursuant to Executive Order 244, Governor Murphy lifted the Public Health Emergency related to the COVID-19 pandemic effective June 4, 2021; and

WHEREAS, the Borough of Flemington's Office of Emergency Management also lifted the local public health emergency effective June 4, 2021; and

WHEREAS, Mayor and Council of the Borough of Flemington have deemed it in the best interest of the Borough to rescind Resolution 2021-89 retroactive to June 4, 2021; and

WHEREAS, employees requiring time off of work due to a COVID-19 diagnosis connected to exposure in the course of their employment duties may be eligible for worker's compensation benefits and should file the required claims under such circumstances;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Flemington that Resolution 2021-89 is hereby rescinded effective June 4, 2021.

Adopted:

Attest:

Betsy Driver, Mayor

Sallie Graziano, Borough Clerk

Mayor and Common Council

38 Park Avenue
Flemington, NJ 08822

Meeting: 06/14/21 07:30 PM
Department: Clerk of the Borough
Category: Bond Ordinance
Prepared By: Sallie Graziano

Initiator: Sallie Graziano
Sponsors:

INTRODUCED

ORDINANCE 2021-13

DOC ID: 3502

**Second Reading: Bond Ordinance Providing for
Improvements for the Sewer Utility by and in the Borough of
Flemington, in the County of Hunterdon, State of New Jersey;
Appropriating \$250,000 Therefor and Authorizing the
Issuance of \$200,000 Bonds or Notes of the Borough to
Finance Part of the Cost Thereof**

**BE IT ORDAINED AND ENACTED BY THE BOROUGH COUNCIL OF THE BOROUGH
OF FLEMINGTON, IN THE COUNTY OF HUNTERDON, STATE OF NEW JERSEY (not
less than two-thirds of all members thereof affirmatively concurring) AS FOLLOWS:**

SECTION 1. The improvements or purposes described in Section 3 of this bond ordinance are hereby authorized as a general improvements or purposes to be undertaken by the Borough of Flemington, in the County of Hunterdon, State of New Jersey (the "Borough"). For the said improvements or purposes stated in Section 3, there is hereby appropriated the sum of \$250,000, which sum includes \$50,000 as the amount of down payment for said improvement or purpose required by the Local Bond Law, N.J.S.A. 40A:2-1 et seq. (the "Local Bond Law"). Said down payment is now available therefor by virtue of a provision or provisions in a previously adopted budget or budgets of the Borough for down payment or for capital improvement purposes.

SECTION 2. For the financing of said improvements or purposes described in Section 3 hereof and to meet the part of said \$250,000 appropriation not provided for by application hereunder of said down payment, negotiable bonds of the Borough are hereby authorized to be issued in the principal amount of \$200,000 pursuant to the Local Bond Law. In anticipation of the issuance of said bonds and to temporarily finance said improvements or purposes, negotiable notes of the Borough in a principal amount not exceeding \$200,000 are hereby authorized to be issued pursuant to and within the limitations prescribed by the Local Bond Law.

SECTION 3. (a) The improvements hereby authorized and purposes for the financing of which said bonds or notes are to be issued are improvements for the Sewer Utility including, but not limited to, acquisition of a non-passenger pick-up truck and a backhoe, and assessment of sewer inflow and infiltration processes and alternatives at various locations throughout the Borough and associated capital repairs and improvements to the sewer systems associated therewith; and also including all engineering and design work, surveying, construction planning, preparation of plans and specifications, permits, bid documents, construction inspection and contract administration, and all work, materials, equipment, labor and appurtenances necessary therefor or incidental thereto.

(b) The estimated maximum amount of bonds or notes to be issued for said improvement or purpose is \$200,000.

(c) The estimated cost of said improvement or purpose is \$250,000, the excess thereof over the said estimated maximum amount of bonds or notes to be issued therefor, being the amount of \$50,000, is the down payment for said improvement or purpose.

SECTION 4. In the event the United States of America, the State of New Jersey, the County of Hunterdon, and/or a private entity make a contribution or grant in aid to the Borough, for the improvement and purpose authorized hereby and the same shall be received by the Borough prior to the issuance of the bonds or notes authorized in Section 2 hereof, then the amount of such bonds or notes to be issued shall be reduced by the amount so received from the United States of America, the State of New Jersey, the County of Hunterdon, and/or a private entity. In the event, however, that any amount so contributed or granted by the United States of America, the State of New Jersey, the County of Hunterdon and/or a private entity, shall be received by the Borough after the issuance of the bonds or notes authorized in Section 2 hereof, then such funds shall be applied to the payment of the bonds or notes so issued and shall be used for no other purpose.

SECTION 5. All bond anticipation notes issued hereunder shall mature at such times as may be determined by the Chief Financial Officer of the Borough, provided that no note shall mature later than one (1) year from its date or otherwise authorized by the Local Bond Law. The notes shall bear interest at such rate or rates and be in such form as may be determined by the Chief Financial Officer. The Chief Financial Officer shall determine all matters in connection with the notes issued pursuant to this bond ordinance, and the signature of the Chief Financial Officer upon the notes shall be conclusive evidence as to all such determinations. All notes issued hereunder may be renewed from time to time in accordance with the provisions of the Local Bond Law. The Chief Financial Officer is hereby authorized to sell part or all of the notes from time to time at public or private sale and to deliver them to the purchaser thereof upon receipt of payment of the purchase price and accrued interest thereon from their dates to the date of delivery thereof. The Chief Financial Officer is directed to report in writing to the governing body at the meeting next succeeding the date when any sale or delivery of the notes pursuant to this bond ordinance is made. Such report must include the principal amount, the description, the interest rate, and the maturity schedule of the notes so sold, the price obtained and the name of the purchaser.

SECTION 6. The Capital Budget of the Borough is hereby amended to conform with the provisions of this bond ordinance to the extent of any inconsistency herewith. In the event of any such inconsistency, a resolution in the form promulgated by the Local Finance Board showing full detail of the amended Capital Budget and capital programs as approved by the Director of the Division of Local Government Services, New Jersey Department of Community Affairs will be on file in the office of the Clerk and will be available for public inspection.

SECTION 7. The following additional matters are hereby determined, declared, recited and stated:

(a) The improvement or purpose described in Section 3 of this bond ordinance is not a current expense and is an improvement which the Borough may lawfully

undertake as a general improvement, and no part of the cost thereof has been or shall be specially assessed on property specially benefited thereby.

(b) The average period of usefulness of said improvement or purpose within the limitations of the Local Bond Law, according to the reasonable life thereof computed from the date of the said bonds authorized by this bond ordinance, is 7.55 years.

(c) The Supplemental Debt Statement required by the Local Bond Law has been duly made and filed in the Office of the Clerk of the Borough and a complete executed duplicate thereof has been filed in the Office of the Director of the Division of Local Government Services, New Jersey Department of Community Affairs, and such statement shows that the gross debt of the Borough as defined in the Local Bond Law is increased by the authorization of the bonds or notes provided for in this bond ordinance by \$200,000 and the said bonds or notes authorized by this bond ordinance will be within all debt limitations prescribed by said Local Bond Law.

(d) An aggregate amount not exceeding \$60,000 for items of expense listed in and permitted under section 20 of the Local Bond Law is included in the estimated cost indicated herein for the purpose or improvement hereinbefore described.

SECTION 8. The full faith and credit of the Borough are hereby pledged to the punctual payment of the principal of and the interest on the bonds or notes authorized by this bond ordinance. The bonds or notes shall be direct, unlimited obligations of the Borough, and the Borough shall be obligated to levy *ad valorem* taxes upon all the taxable real property within the Borough for the payment of the bonds or notes and the interest thereon without limitation as to rate or amount.

SECTION 9. The Borough hereby declares the intent of the Borough to issue the bonds or bond anticipation notes in the amount authorized in Section 2 of this bond ordinance and to use proceeds to pay or reimburse expenditures for the costs of the purposes described in Section 3 of this bond ordinance. This Section 9 is a declaration of intent within the meaning and for purposes of Treasury Regulations §1.150-2 or any successor provisions of federal income tax law.

SECTION 10. The Borough Chief Financial Officer is hereby authorized to prepare and to update from time to time as necessary a financial disclosure document to be distributed in connection with the sale of obligations of the Borough and to execute such disclosure document on behalf of the Borough. The Borough Chief Financial Officer is further authorized to enter into the appropriate undertaking to provide secondary market disclosure on behalf of the Borough pursuant to Rule 15c2-12 of the Securities and Exchange Commission (the "Rule") for the benefit of holders and beneficial owners of obligations of the Borough and to amend such undertaking from time to time in connection with any change in law, or interpretation thereof, provided such undertaking is and continues to be, in the opinion of a nationally recognized bond counsel, consistent with the requirements of the Rule. In the event that the Borough fails to comply with its undertaking, the Borough shall not be liable for any monetary damages, and the remedy shall be limited to specific performance of the undertaking.

SECTION 11. The Borough covenants to maintain the exclusion from gross income under section 103(a) of the Code of the interest on all bonds and notes issued under this ordinance.

SECTION 12. This bond ordinance shall take effect twenty (20) days after the first publication thereof after final adoption, as provided by the Local Bond Law.

ADOPTED ON FIRST READING

DATED: May 24, 2021

SALLIE GRAZIANO,
Borough Clerk

ADOPTED ON SECOND READING

DATED: June 14, 2021

SALLIE GRAZIANO,
Borough Clerk

APPROVAL BY THE MAYOR ON THIS ____ DAY OF _____, 2021.

BETSY DRIVER
Mayor

Mayor and Common Council

38 Park Avenue
Flemington, NJ 08822

Meeting: 06/14/21 07:30 PM
Department: Clerk of the Borough
Category: Council Ordinance
Prepared By: Sallie Graziano

Initiator: Sallie Graziano
Sponsors:

SCHEDULED

ORDINANCE 2021-14

DOC ID: 3513

**First 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 1st 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: June 28, 2021

Attest:

Betsy Driver, Mayor

Mayor and Common Council

38 Park Avenue
Flemington, NJ 08822

Meeting: 06/14/21 07:30 PM
Department: Clerk of the Borough
Category: Council Ordinance
Prepared By: Sallie Graziano

Initiator: Sallie Graziano
Sponsors:

SCHEDULED

ORDINANCE 2021-15

DOC ID: 3522

First Reading: An Ordinance Amending Section 2629 of the Code of the Borough of Flemington Regarding Parking in the Downtown Business (DB) District

Borough of Flemington, Hunterdon County

WHEREAS, The Borough seeks to encourage occupancy of existing buildings in the Downtown Business District with active uses; and

WHEREAS, provision of adequate parking on small lots can serve as a barrier to occupancy of existing buildings; and

WHEREAS, Section 2629 of the code of the Borough of Flemington includes duplicative language in Subsection F that the Borough desires to eliminate; and

WHEREAS, the Council introduced this ordinance on June 14, 2021; and

WHEREAS, the Borough Planning Board has determined that the proposed amendments are consistent with the goals and objectives of the Borough's Master Plan Reexamination adopted on August 26, 2015; and

WHEREAS, upon notice duly provided pursuant to N.J.S.A. 40:55D-62.1, the Council held a public hearing on this ordinance on _____;

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Flemington, the County of Hunterdon, that Chapter 26 of the Code of the Borough of Flemington (the "Code"), entitled "Zoning," is hereby amended and supplemented as follows:

Section 1. Chapter 26 Zoning, Section 2629 Parking: Number of Spaces is amended and supplemented as follows (additions are shown as thus; deletions are shown as ~~thus~~);

A. Unchanged.

B. Unchanged.

C. *For nonresidential developments, off street parking spaces shall be provided in accordance with the following and Chapter 26, Table 26.2 in this section.*

(1) *In the Downtown Business (DB) District, off-street parking shall not be required for uses occupying existing floor area in existence as of the date of adoption of this Ordinance and that meet the following criteria:*

- a. The use is permitted in the DB district, excluding office uses (office uses are not subject to the exemption);*
 - b. The use does not require a variance relief pursuant to N.J.S.A. 40:55d-70d.*
- D. Unchanged.
- E. Unchanged.
- F. When, in the judgment of the local approving authority, on-street parking is available, then only that proportion of the parking requirement which is not available on the street shall be provided **on site or** in off-street parking facilities. A length of 23 feet per on-street parking space shall be used in calculating the number of available on-street parking spaces.
- G. Shared Parking. Where an applicant persuasively demonstrates that 2 or more parking generators have complementary parking demand as demonstrated using accepted shared parking analyses, the approving authority may permit an appropriate reduction in the required total number of parking spaces.

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. 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 5. 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: June 28, 2021

Attest:

Betsy Driver, Mayor

Sallie Graziano, Borough Clerk