

## ORDINANCE NO. 2021-09

### AN ORDINANCE OF THE TOWNSHIP OF FRELINGHUYSEN, WARREN COUNTY, NEW JERSEY PERMITTING CANNABIS CULTIVATION AND MANUFACTURING IN THE ROM ZONE ONLY, AND OTHERWISE PROHIBITING THE OPERATION OF ANY CLASS OF CANNABIS BUSINESS WITHIN FRELINGHUYSEN TOWNSHIP

**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 Distributor license, for businesses involved in transporting cannabis plants in bulk from one 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, and

**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 and distributors, but not the time of operation of delivery services, and establishing civil penalties for the violation of any such regulations; and

**WHEREAS**, section 31b of the Act requires municipalities that wish to prohibit or regulate one or more classes of cannabis-related activities do so only pursuant to an ordinance enacted pursuant to the specific authority to do so by section 31b, and invalidates any ordinance prohibiting one or more types of cannabis-related activities within the jurisdiction of the municipality enacted prior to February 22, 2021 as null and void, 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, but not to prohibit the delivery of cannabis items and related supplies by a delivery service; and

**WHEREAS**, section 31b of the Act also stipulates, however, that any municipal regulation or prohibition must be enacted 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**, at the conclusion of the initial and any subsequent five-year period following a failure to enact local regulations or prohibitions, the municipality shall again have 180 days to adopt an ordinance regulating or prohibiting cannabis businesses, but any such ordinance would be prospective only and would not apply to any cannabis business already operating within the municipality; and

**WHEREAS**, section 40 of the Act permits a municipality to adopt an ordinance imposing a transfer tax on the sale of cannabis or cannabis items by a cannabis establishment that is located in the municipality on receipts from the sale of cannabis by a cannabis cultivator to another cannabis cultivator; receipts from the sale of cannabis items from one cannabis establishment to another cannabis establishment; receipts from the retail sales of cannabis items by a cannabis retailer to retail consumers who are 21 years of age or older; or any combination thereof and to set its own rate or rates, but in no case exceeding: two percent of the receipts from each sale by a cannabis cultivator; two percent of the receipts from each sale by a cannabis manufacturer; one percent of the receipts from each sale by a cannabis wholesaler; and two percent of the receipts from each sale by a cannabis retailer; and

**WHEREAS**, the Mayor and Committee have determined that it is appropriate at this time to authorize cannabis cultivation and manufacturing, but that due to present uncertainties regarding the potential future impacts that allowing and regulating other classes of cannabis business might have on New Jersey municipalities in general, and on the Township of Frelinghuysen in particular, it is at this time necessary and appropriate to amend the Township of Frelinghuysen's zoning regulations to prohibit all manner of marijuana-related land use and development within the geographic boundaries of the Township of Frelinghuysen except for cultivation and manufacturing as specifically provided for herein.

**NOW THEREFORE, BE IT ORDAINED**, by the Mayor and Committee of the Township of Frelinghuysen, in the County of Warren, State of New Jersey, as follows:

**SECTION 1.** Pursuant to section 31b of the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (P.L. 2021, c. 16), all cannabis establishments, are hereby prohibited from locating and conducting business in Frelinghuysen except as provided herein and subject to the number, time, manner and land use restrictions set forth herein, as may be amended from time to time.

**SECTION 2.** The cultivation, manufacturing and sale of cannabis and cannabis products to another licensed cannabis-related business (but not to consumers) shall be permitted as a conditional use in the ROM Research, Office and Manufacturing zoning district.

**SECTION 3.** The Frelinghuysen Land Development Ordinance is hereby amended by adding a new Section LDO-105.1 thereto, to read as follows:

**§ LDO-105.1 Cannabis Businesses Prohibited; Exception.**

B. Cannabis cultivation, manufacturing, production, wholesaling, distribution, testing, retail and delivery facilities are prohibited in all zone districts, except that cannabis cultivation and manufacturing facilities may be allowed in the ROM Research, Office and Manufacturing District as a conditional use under N.J.S.A. 40:55D-67 (see Section 601P for standards).

**SECTION 4.** Section 200 of the Land Development Ordinance entitled "Definitions and Descriptions" is amended to add the following definitions:

"Cannabis" means all parts of the plant *Cannabis sativa* L., whether growing or not, the seeds thereof, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds, except those containing resin extracted from the plant, which are cultivated and, when

applicable, manufactured in accordance with P.L. 2016, c. 16 for use in cannabis products as set forth in this act, but shall not include the weight of any other ingredient combined with cannabis to prepare topical or oral administrations, food, drink, or other product. "Cannabis" does not include: medical cannabis dispensed to registered qualifying patients pursuant to the "Jake Honig Compassionate Use Medical Cannabis Act," P.L.2009, c.307 (C.24:61-1 et al.) and P.L.2015, c.158 (C.1SA:40-12.22 et al.); marijuana as defined in N.J.S.2C:35-2 and applied to any offense set forth in chapters 35, 35A, and 36 of Title 2C of the New Jersey Statutes, or P.L.2001, c.114 (C.2C:35B- 1 et seq.), or marihuana as defined in section 2 of P.L.1970, c.226 (C.24:21-2) and applied to any offense set forth in the "New Jersey Controlled Dangerous Substances Act," P.L.1970, c.226 (C.24:21-1 et al.); or hemp or a hemp product cultivated, handled, processed, transported, or sold pursuant to the "New Jersey Hemp Farming Act," P.L.2019, c.238 (C.4:28-6 et al.).

"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.

"Cannabis delivery service" means any licensed person or entity that provides courier services for consumer purchases of cannabis items and related supplies fulfilled by a cannabis retailer in order to make deliveries of the cannabis items and related supplies to that consumer, and which services include the ability of a consumer to purchase the cannabis items directly through the cannabis delivery service, which after presenting the purchase order to the cannabis retailer for fulfillment, is delivered to that consumer.

"Cannabis distributor" means any licensed person or entity that transports cannabis in bulk intrastate from one licensed cannabis cultivator to another licensed cannabis cultivator, or transports cannabis items in bulk intrastate from any one class of licensed cannabis establishment to another class of licensed cannabis establishment, and may engage in the temporary storage of cannabis or cannabis items as necessary to carry out transportation activities.

"Cannabis establishment" means a cannabis cultivator, a cannabis manufacturer, a cannabis wholesaler, or a cannabis retailer.

"Cannabis manufacturer" means any licensed person or entity that processes cannabis items in this State by purchasing or otherwise obtaining usable cannabis, manufacturing, preparing, and packaging cannabis items, and selling, and optionally transporting, these items to other cannabis manufacturers, cannabis wholesalers, or cannabis retailers, but not to consumers.

"Cannabis retailer" means any licensed person or entity that purchases or otherwise obtains usable cannabis from cannabis cultivators and cannabis items from cannabis manufacturers or cannabis wholesalers, and sells these to consumers from a retail store, and may use a cannabis delivery service or a certified cannabis handler for the off-premises delivery of cannabis items and related supplies to consumers. A cannabis retailer shall also accept consumer purchases to be fulfilled from its retail store that are presented by a cannabis delivery service which will be delivered by the cannabis delivery service to that consumer.

"Cannabis wholesaler" means any licensed person or entity that purchases or otherwise obtains, stores, sells or otherwise transfers, and may transport, cannabis items for the purpose of resale or other transfer to either another cannabis wholesaler or to a cannabis retailer, but not to consumers.

"Medical cannabis organizations" means any person or entity licensed, or an applicant for a license, to operate as medical cannabis cultivator, medical cannabis manufacturer, medical cannabis dispensary, clinical registrant or an alternative treatment center under the Jake Honig Compassionate Use Medical Cannabis Act, P.L. 2009, c. 307 (c. 24:61-1 et al).

**SECTION 5.** Section 405 of the Land Development Ordinance is amended by adding a new subsection A(8) thereto, to read as follows:

A. Permitted Principal Uses on the Land and in Buildings.

... 8. Cannabis cultivation and cannabis manufacturing facilities as a conditional use under N.J.S.A. 50:55D-67 (See Section 601(P) for standards).

B. Accessory Uses Permitted.

...10. Storage, packaging, distribution and testing of cannabis and cannabis products by a cannabis cultivator or cannabis manufacturer incident to cultivation and manufacturing activities licensed by the State of New Jersey.

...11. Renewable or sustainable energy equipment for use in conjunction with the licensed activities of a cannabis cultivator or cannabis manufacturer, including but not limited to roof or ground-mounted solar arrays, battery storage and associated mechanical and electrical equipment.

**SECTION 6.** Section 601 of the Land Development Ordinance is hereby amended by adding a new subsection (P) thereto, to read as follows:

...P. Cannabis Cultivation and Manufacturing

1. A cannabis cultivation and/or manufacturing facility use shall be permitted in the ROM District provided the following conditions, to the extent not inconsistent with State law or regulation, are met:

a. The facility shall meet all of the requirements for licensure by the New Jersey Cannabis Regulatory Commission and/or the New Jersey Department of Health.

b. Enclosed building: All cultivation, manufacturing, storage and distribution activities shall take place within enclosed building or greenhouse structures. The facility shall be the sole occupant of its building.

c. Fencing: All structures utilized for any cultivation, manufacturing, storage or distribution of cannabis shall be enclosed by a fence at least seven feet high.

d. Security: All structures shall be designed, using safety and security barriers, to prevent the unlawful and unauthorized entry into the structures as prescribed by State law.

1. There shall be controlled access to the site, with 24/7 on-site video monitoring of the exterior and interior of the facility, which video shall be retained and stored for the period prescribed by State law, but in no case shall such video be retained and stored for less than 30 days.

2. Plans and reports depicting or describing access and security details information concerning the facility shall be deemed and protected as confidential security documents, exempt from disclosure as public records.

e. There shall be no direct sales to the public from the property. Nothing herein shall permit the retail sale of cannabis or marijuana products, the dispensing of cannabis or marijuana product, or the direct point sale or distribution of marijuana products except to other cannabis businesses licensed by the State.

f. Noise: Cannabis cultivation and manufacturing facilities shall operate in compliance with state and local noise laws and regulations, except in emergency situations requiring the use of a backup generator.

g. Odor: Cannabis cultivation and manufacturing operations shall utilize available technology to filter and recirculate air, so that odors are not discernable by a reasonable person beyond the property line.

h. Location: One thousand (1,000) linear feet measured from the lot line of the school or college/university facility to the nearest portion of the building containing a cannabis use. The subsequent approval of a school or any other facility in proximity to the cannabis use shall not render any existing cannabis business a nonconforming use.

i. Emergency power: Cannabis cultivation and manufacturing operations shall have a backup generator, capable of maintaining at a minimum all electronic security systems in the event of a power failure.

j. Signs: Cannabis cultivation and manufacturing facilities shall only be permitted to have one sign, displaying the site address only, in compliance with sign requirements for the ROM Zone.

k. Lighting: No light generated by any cannabis cultivation and manufacturing activities shall result in measurable light changes at the nearest property boundary to each structure.

l. Consumption: No cannabis or cannabis product shall be smoked, eaten or otherwise consumed on the premises of any cannabis cultivation or manufacturing facility.

**SECTION 7. Coordination of Safety and Security Measures.** Any applicant for a cannabis cultivation or cannabis manufacturing facility shall coordinate with the Township Committee or its designee regarding the measures to be taken to ensure the security of the facility and the safety of the public and facility employees. Such measures may include, but are not limited to, facility access controls, surveillance systems, and site lighting consistent with the requirements of State law.

**SECTION 8. Inspection:** Subject to the requirements and limitations of state law, the Township of Frelinghuysen shall have the reasonable right to inspect the premises of any approved cannabis cultivation or cannabis manufacturing facility during its regular hours of operation to ensure compliance with local ordinances and regulations.

**SECTION 9. Public Nuisance Declared:** Operation of any prohibited or unpermitted cannabis business establishment within the municipality in violation of the provisions of this Chapter is hereby declared a public nuisance and shall be abated pursuant to all available remedies.

**SECTION 10. Enforcement:** Violations of the provisions and requirements set forth or referenced herein may be enforced in any manner the Township of Frelinghuysen deems appropriate, including but not limited to bringing an appropriate ordinance enforcement action. When an ordinance enforcement action is brought, the General Penalty provisions of Township Code, as amended from time to time, shall apply. In addition to any other remedies, the Township may institute proceedings for injunction, mandamus, abatement or other appropriate remedies to prevent, enjoin, abate or remove any violations of this ordinance. The rights and remedies provided herein are civil in nature. The imposition of a fine shall not exempt the violator from compliance with the provisions of this ordinance.

**SECTION 11. Governing Body Approval of Applications:** Whenever the Cannabis Regulatory Commission established by the Act (the "Commission") forwards to the Township of Frelinghuysen any application for initial licensing or renewal of an existing license for any cannabis establishment, distributor, or delivery service pursuant to section 19 of the Act or for a cannabis consumption area pursuant to section 28 of P.L.2019, c.153 (C.24:6I-21), or otherwise solicits the position of the Township on any matter related to cannabis-related activities within the Township, or upon the request of an applicant for or holder of such license, the Township Committee shall determine whether the application complies with the Township's restrictions on the number of cannabis establishments, distributors, or delivery services, and on their location, manner, or times of operation, and promptly inform the Commission, applicant for or holder of a license whether the application complies with same and whether it either approves or denies each application or other request for municipal authorization forwarded to it. Notwithstanding the forgoing, nothing herein shall prohibit any elected or appointed official or employee from expressing their opinions or views on cannabis-related matters in their personal or individual official capacity, or endorsing an applicant for or holder of a license issued by the Commission, provided that such official shall not represent that their opinions or views



are those of the Township unless based on a duly adopted ordinance or resolution of the Township Committee, or other action of a majority of the Township Committee.

**SECTION 12. Transfer Tax Imposed.** There is hereby imposed a transfer tax of two percent on receipts from the sale of cannabis by a cannabis cultivator to another cannabis cultivator; receipts from the sale of cannabis items from one cannabis manufacturer to another cannabis establishment; and receipts from the retail sales of cannabis items by a cannabis retailer to retail consumers who are 21 years of age or older; and a tax of one percent of the receipts from each sale by a cannabis wholesaler. Such tax shall be collected or paid, and remitted to the municipality by the cannabis establishment from the cannabis establishment purchasing or receiving the cannabis or cannabis item, or from the consumer at the point of sale, on behalf of the municipality by the cannabis retailer selling the cannabis item to that consumer. The transfer tax shall be stated, charged, and shown separately on any sales slip, invoice, receipt, or other statement or memorandum of the price paid or payable, or equivalent value of the transfer, for the cannabis or cannabis item. No cannabis establishment required to collect a transfer tax imposed hereunder shall advertise or hold out to any person or to the public in general, in any manner, directly or indirectly, that the transfer tax or user tax will not be separately charged and stated to another cannabis establishment or the consumer, or that the transfer tax will be refunded to the cannabis establishment or the consumer.

**SECTION 13. Tax Liability.** Every cannabis establishment required to collect a transfer tax imposed by ordinance shall be personally liable for the transfer tax or user tax imposed, collected, or required to be collected under this section. Any cannabis establishment shall have the same right with respect to collecting the transfer tax from another cannabis establishment or the consumer as if the transfer tax was a part of the sale and payable at the same time, or with respect to non-payment of the transfer tax or user tax by the cannabis establishment or consumer, as if the transfer tax was a part of the purchase price of the cannabis or cannabis item, or equivalent value of the transfer of the cannabis or cannabis item, and payable at the same time; provided, however, that the chief fiscal officer of the Township shall be joined as a party in any action or proceeding brought to collect the transfer tax or user tax.

**SECTION 14. Collection of Taxes and Lien.** All revenues collected from a transfer tax imposed by ordinance pursuant to this section shall be remitted to the chief financial officer in the manner prescribed herein. The chief financial officer shall collect and administer any transfer tax imposed by ordinance pursuant to this chapter. The Township may enforce the payment of delinquent taxes or transfer fees imposed by ordinance pursuant to this section in the same manner as provided for municipal real property taxes. In the event that the transfer tax imposed by ordinance 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 Township 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 15. Administration of Transfer Tax.** The Township Committee shall have the authority to adopt and promulgate rules and regulations relating to any matter pertaining to the administration and enforcement of the transfer tax provisions of this ordinance. The chief financial officer is charged with the administration and enforcement of the provisions of the transfer tax provisions of this ordinance, and is empowered to enforce rules and regulations relating to any matter pertaining to the administration and enforcement of this ordinance, including provisions for the reexamination and corrections of declarations and returns, and of payments alleged or found to be incorrect, or as to which an overpayment is claimed or found to have occurred, and to prescribe forms necessary for the administration of this chapter. Should a cannabis establishment fail or refuse to provide adequate information to the chief financial officer to determine the amount of tax due, the chief financial officer may use information provided to the chief financial officer from other sources (i.e., the Commission or Department of Treasury) to determine the amount of tax liability.

15.1 It shall be the duty of the chief financial officer to collect and receive the taxes, fines, and penalties imposed by this chapter. It shall also be the duty of the chief financial officer to keep a record showing the date of such receipt. The chief financial officer is authorized to enter into agreements with the State of New Jersey to obtain information to facilitate administration of the tax, subject to the approval of same by the Township Committee.

15.2 The chief financial officer is hereby authorized to examine the books, papers and records of any taxpayer to verify the accuracy of any declaration or return, or if no declaration or return was filed, to ascertain the tax due. Every taxpayer is hereby directed and required to give to the chief financial officer, or to any agent designated by him/her, the means, facilities and opportunity for such examinations and investigations, as are hereby authorized.

**SECTION 16. Recordkeeping.** Taxpayers liable for the transfer tax are required to keep such records as will enable the filing of true and accurate returns or the tax and such records shall be preserved for a period of not less than three (3) years from the filing date or due date, whichever is later, in order to enable the chief financial officer or any agent designated by the chief financial officer to verify the correctness of the declarations or returns filed. If records are not available in the municipality to support the returns which were filed or which should have been filed, the taxpayer will be required to make them available to the chief financial officer either by producing them at a location in the Township or by paying for the expenses incurred by the chief financial officer or his agent in traveling to the place where the records are regularly kept.

**SECTION 17. Returns.** All cannabis establishments operating in the Township are required to file a transfer tax return with the chief financial officer to report their sales during each calendar quarter and the amount of tax in accordance with the provisions of this chapter. Returns shall be filed and payments of tax imposed for the preceding calendar quarter shall be made on or before the last day of April, July, October, and January, respectively. A taxpayer who has overpaid the transfer tax, or who believes it is not liable for the tax, may file a written request on an amended tax return with the chief financial officer for a refund or a credit of the tax. For amounts paid as a result of a notice asserting or informing a taxpayer of an underpayment, a written request for a refund shall be filed with the chief financial officer within two (2) years of the date of the payment.

**SECTION 18. Confidentiality.** The returns filed by taxpayers, and the records and files of the chief financial officer respecting the administration of the transfer tax, shall be considered confidential and privileged and neither the Township nor any employee or agent engaged in the administration thereof or charged with the custody of any such records or files, nor any former officer or employee, nor any person who may have secured information therefrom, shall divulge, disclose, use for their own personal advantage, or examine for any reason other than a reason necessitated by the performance of official duties any information obtained from the said records or files or from any examination or inspection of the premises or property of any person. Neither the chief financial officer nor any employee engaged in such administration or charged with the custody of any such records or files shall be required to produce any of them for the inspection of any person or for use in any action or proceeding except when the records or files or the facts shown thereby are directly involved in an action or proceeding under the provisions of the State Uniform Tax Procedure Law or of the tax law affected, or where the determination of the action or proceeding will affect the validity or amount of the claim of the Township under the tax provisions of this Ordinance.

**SECTION 19. Audit and Assessment.** The chief financial officer may initiate an audit by means of an audit notice. If, as a result of an examination conducted by the chief financial officer, a return has not been filed by a taxpayer or a return is found to be incorrect and transfer taxes are owed, the chief financial officer is authorized to assess and collect any tax due. If no return has been filed and tax is found to be due, the tax actually due may be assessed and collected with or without the formality of obtaining a return from the taxpayer. Deficiency assessments (i.e., where a taxpayer has filed a return but is found to owe additional tax) shall include taxes for up to three (3) years to the date when the deficiency is assessed. Where no return was filed, there shall be no limit to the period of assessment.

Upon proposing an assessment, the chief financial officer shall send the taxpayer an interim notice by certified mail, return receipt requested, which advises the taxpayer of additional taxes that are due. Should the taxpayer wish to dispute the assessment administratively by requesting a hearing with the chief financial officer, it must do so within thirty (30) days of the date of such interim notice. If, after the chief financial officer sends an interim notice, a taxpayer fails to timely request a hearing with the Chief financial officer or requests a hearing and after conducting a hearing, the chief financial officer determines

that the taxes are due, the chief financial officer shall send the taxpayer by certified mail, return receipt requested, a final notice. Should the taxpayer wish to dispute the assessment set forth in the final notice, he or she must initiate an appeal in the New Jersey Tax Court within ninety (90) days after the mailing of any final notice regarding a decision, order, finding, assessment, or action hereunder.

**SECTION 20. Time Limitations.** The following periods of limitations shall apply to suits for collection of taxes: When a return has been filed but no tax paid, any suit brought to recover the tax due and unpaid shall be filed within two (2) years after the return was due or filed, whichever is later. Where no return was filed or a fraudulent return was filed, there shall be no limits to file suit for the collection of taxes. Where, before the expiration of the time prescribed in this section for the filing a lawsuit against the taxpayer, both the chief financial officer and the taxpayer have consented in writing to its extension after such time, the suit may be filed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

**SECTION 21. Hearings.** Any person who receives an interim notice from the chief financial officer may within thirty (30) days after the date of an interim notice, request a hearing with the chief financial officer. Any person who fails to request a chief financial officer's hearing in a timely manner waives the right to administratively contest any element of the assessment. The chief financial officer shall accept payments of disputed tax amounts under protest pending appeals; however, any request for refund of such monies must be filed in accordance with this section.

**SECTION 22. Appeals.** Any aggrieved taxpayer may, within ninety (90) days after the mailing of any final notice regarding a decision, order, finding, assessment, or action hereunder, or publication of any rule, regulation or policy of the chief financial officer, appeal to the Tax Court pursuant to the jurisdiction granted by N.J.S.A. 2B:13-2a(3) to review actions or regulations of municipal officials by filing a complaint in accordance with the New Jersey Court Rule 8:3-1. The appeal provided by this section shall be the exclusive remedy available to any taxpayer for review of a final decision of the chief financial officer in respect to a determination of liability for the tax imposed by this chapter.

**SECTION 23. Operational Requirements.** A cannabis cultivation or manufacturing facility issued a permit or license by the State of New Jersey and operating in Frelinghuysen Township under this Ordinance shall at all times comply with the following operational requirements:

a. A cannabis facility shall comply with the Land Development Ordinance, the Construction Code and the Township Code, including but not limited to its property maintenance provisions, at all times.

b. The facility must hold at all times a valid license or permit issued by the State of New Jersey to undertake cannabis cultivation and manufacturing activities at the permitted property. A State issued license is valid only for the

location identified on the license and until the expiration date printed on the license and cannot be transferred to another location in the Township without a new application. The State issued license shall be prominently displayed inside the permitted premises in a location where it can be easily viewed by law enforcement and administrative authorities.

c. Cultivation and manufacturing operations shall be conducted solely within the permitted premises on the permitted property. No cultivation or manufacturing facility shall be permitted to operate from a moveable, mobile or transitory location, except for the permitted and transportation of cannabis and cannabis products to and from the facility pursuant to the terms of the State license or permit.

d. No person under the age of 18 shall be permitted to enter into the permitted premises without a parent or legal guardian.

e. A cannabis cultivation or manufacturing facility shall at all times maintain a security system that meets State law requirements, and shall also include:

1. Security surveillance cameras installed to monitor all entrances along with the interior and exterior of the permitted premises;

2. Burglary alarm systems which are professionally monitored and operated 24 hours a day, 7 days a week;

3. All security recordings and documentation shall be preserved for at least 30 days and made available to law enforcement upon request for inspection.

f. All cannabis in whatever form stored at the permitted premises shall be kept in a secure manner and shall not be visible from outside the permitted premises, nor shall it be grown, processed, exchanged, displayed or dispensed outside the permitted premises.

g. The amount of cannabis on the permitted property and under the control of the permit holder, owner or operator of the facility shall not exceed the amount permitted by the State license.

h. Cannabis offered for sale and distribution must be packaged and labeled in accordance with State law.

i. No pictures, photographs, drawings, or other depictions of cannabis or cannabis paraphernalia shall appear on the outside of any permitted premises nor be visible outside of the permitted premises on the permitted property.

j. The words "marijuana," "cannabis" and any other words used or intended to convey the presence or availability of marijuana shall not appear on the outside of the permitted premises nor be visible outside of the permitted

premises on the permitted property.

k. Sales to the public, public consumption, or use of cannabis, alcohol, cannabis or other controlled substances on the permitted premises is prohibited.

l. The facility's operation and design shall minimize any impact to adjacent uses, including the control of any odor such that no odor is detectable beyond the permitted property. No facility shall be operated in a manner creating noise, dust, vibration, glare, fumes, or odors beyond the boundaries of the property on which the facility is operated; or creating any other nuisance that hinders the public health, safety and welfare of the residents of the Township of Frelinghuysen.

m. No person operating or employed by a cannabis cultivation or manufacturing facility shall provide or otherwise make available cannabis to any person who is not legally authorized to possess same under state law.

n. All necessary building, electrical, plumbing and mechanical permits must be obtained for any part of the permitted premises in which electrical, wiring, lighting or watering devices that support the cultivation, growing, harvesting or testing of cannabis are located.

o. The owner and operator of a cannabis cultivation or manufacturing facility shall use lawful methods in controlling and disposing of waste or by-products from any activities allowed under the State license or permit.

p. Cannabis may be transported within the Township under this ordinance by a company licensed to do so by the State, and to effectuate its purpose, only:

1. In a manner consistent with all applicable State laws and rules, as amended;

2. In a secure manner designed to prevent the loss of the cannabis;

3. Using vehicles that do not have exterior markings including the words "marijuana," "cannabis," or any similar or slang words; pictures or other renderings of the cannabis plant; advertisements for cannabis or for its sale, transfer, cultivation, delivery, transportation or manufacture; or any other word, phrase or symbol indicating or tending to indicate that the vehicle is transporting cannabis.

q. No vehicle may be used for the ongoing or continuous storage of cannabis, but may only be used incidental to, and in furtherance of, the transportation of cannabis and cannabis products.

**SECTION 24.** Any article, chapter, section, paragraph, subsection, clause, or other provision of the Code inconsistent with the provisions of this ordinance is hereby repealed to the extent of such inconsistency.

**SECTION 25.** In case, for any reason, any portion or provision of this Ordinance shall be held to be unconstitutional or invalid, the same shall not affect any other portion or provision of this Ordinance, except so far as the portion or provision so declared unconstitutional or invalid shall be severed from the remainder or any portion thereof.

**SECTION 26.** This ordinance shall take effect twenty (20) days following final passage, approval, and publication as required by law.

ATTEST:

TOWNSHIP OF FRELINGHUYSEN

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DONNA ZILBERFARB, Clerk

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CHRISTOPHER STRACCO, Mayor

**NOTICE**

Notice is hereby given that the foregoing Ordinance was reintroduced and passed on first reading at the regular meeting of the Frelinghuysen Township Committee held on July 14, 2021 and will be considered for final reading and adoption at the meeting of the Frelinghuysen Township Committee to be held on August 18, 2021 at the Municipal Building, 210 Main Street, Johnsonburg, New Jersey at which time and place all interested parties may appear for or against the passage of said Ordinance.

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DONNA ZILBERFARB, Clerk