

**TOWNSHIP OF FRANFORD
COUNTY OF SUSSEX, STATE OF NEW JERSEY**

ORDINANCE NO. 2023-006

AN ORDINANCE TO AMEND EXISTING CHAPTER 23 ENTITLED, "CANNABIS TRANSFER TAX"

BE IT ORDAINED by the Township Committee of the Township of Frankford, County of Sussex, State of New Jersey, that Chapter 23 entitled, "Cannabis Transfer Tax," be and hereby is amended as follows:

SECTION I.

- A. The title of Chapter 23 is hereby amended to read "Cannabis."
- B. There shall be new Articles I, II and III of Chapter 23 entitled, "Cannabis" as follows:

Chapter 23
Cannabis

Article I

Purpose; Definitions.

§ 23-1 PURPOSE OF CHAPTER.

Notwithstanding any Federal law to the contrary, this Chapter is enacted to regulate and govern the use of Cannabis and the number and types of permits issued in the Township pursuant to the New Jersey Cannabis Regulatory Enforcement Assistance and Marketplace Act, N.J.S.A. 24:6I-32 et seq. ("CREAMMA") (the "Act").

§ 23-2 DEFINITIONS.

As used in this Chapter, words and phrases shall have the same meanings they have in the Act and as follows:

CANNABIS

Shall mean 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 CREAMMA for use in cannabis products as set forth in that 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 Honig Act and N.J.S.A. 18A:40-12.22 et al.; marijuana as defined in N.J.S.A. 2C:35-2 and applied to any offense set forth in chapters 35, 35A, and 36 of Title 2C of the New Jersey Statutes, N.J.S.A. 2C:35B-1 et seq., or marijuana as defined in

N.J.S.A. 24:21-2 and applied to any offense set forth in the "New Jersey Controlled Dangerous Substances Act," N.J.S.A. 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." N.J.S.A. 4:28-6 et al.

CANNABIS CONSUMPTION AREA

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

CANNABIS CULTIVATOR

Shall mean any person or entity holding a Class 1 Cannabis Cultivator license issued by the State of New Jersey that grows, cultivates, or produces cannabis in the State of New Jersey, 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

Shall mean any person or entity holding a Class 6 Cannabis Delivery license issued by the State of New Jersey 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

Shall mean any person or entity holding a Class 4 Cannabis Distributor license issued by the State of New Jersey that transports cannabis in bulk intrastate from one licensed cannabis cultivator to another licensed cannabis cultivator, or transports 40 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

Shall mean a cannabis cultivator, a cannabis manufacturer, or a cannabis wholesaler. For the purposes of Township Code, "cannabis establishment" does not include cannabis retailers; not does it include Class 6 cannabis delivery service.

CANNABIS ITEM

Shall mean any usable cannabis, cannabis product, cannabis extract, and any other cannabis resin. "Cannabis item" does not include: any form of medical cannabis dispensed to registered qualifying patients pursuant to the Honig Act and N.J.S.A. 18A:40-12.22 et al. or hemp or a hemp product cultivated, handled, processed, transported, or sold pursuant to the "New Jersey Hemp Farming Act," N.J.S.A. 4:28-6 et al.

CANNABIS MANUFACTURER

Shall mean any person or entity holding a Class 2 Cannabis Manufacturer license issued by the State of New Jersey, 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

Shall mean any person or entity holding a Class 5 Cannabis license issued by the State of New Jersey 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

Shall mean any person or entity holding a Class 3 Cannabis Wholesaler license issued by the State of New Jersey 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.

COMMISSION or CRC

Shall mean the New Jersey Cannabis Regulatory Commission established pursuant to CREAMMA.

MANUFACTURE

Shall mean the drying, processing, compounding, or conversion of usable cannabis into cannabis products or cannabis resins. "Manufacture" does not include packaging or labeling.

MICROBUSINESS

Shall mean a person or entity license by the Cannabis Regulatory Commission as a cannabis cultivator, cannabis manufacturer, cannabis wholesaler, cannabis distributor, cannabis retailer, or cannabis delivery service that may only, with respect to its business

operations, and capacity and quantity of product:

- a. Employ no more than 10 employees;
- b. Operate a cannabis establishment occupying an area no more than 2,500 square feet, and in the case of a cannabis cultivator, grow cannabis on an area no more than 2,500 square feet measured on a horizontal plan and grow above that plane not higher than 24 feet;
- c. Possess no more than 1,000 cannabis plants each month, except that a cannabis distributor's possession of cannabis plants for transportation shall not be subject to this limit;
- d. Acquire each month, in the case of a cannabis manufacturer, no more than 1,000 pounds of usable cannabis;
- e. Acquire for resale each month, in the case of a cannabis wholesaler, no more than 1,000 pounds of usable cannabis, or the equivalent amount in any form of manufactured cannabis product or cannabis resin, or any combination thereof; and
- f. Acquire for retail sale each month, in the case of a cannabis retailer, no more than 1,000 pounds of usable cannabis, or the equivalent amount in any form of manufactured cannabis product or cannabis resin, or any combination thereof.

PUBLIC PLACE or QUASI-PUBLIC PLACE

Shall mean any place to which the public has access that is not privately owned; or any place to which the public has access where alcohol consumption is not allowed, including, but not limited to, a public street, road, thoroughfare, school, sidewalk, bridge, alley, plaza, park, playground, shopping area, public transportation facility, vehicle used for public transportation, parking lot, public library, or any other public building, structure, or area.

Article II

Consumption, Possession and Unregulated Sale

§ 23-3 PROHIBITION IN PUBLIC PLACES.

No person shall consume, use, smoke, vape, aerosolize, imbibe or possess in any open container any cannabis or cannabis product in or upon public or quasi-public place.

§ 23-4 PROHIBITION IN VEHICLES.

No person shall consume, use, smoke, vape, aerosolize, imbibe any cannabis or cannabis products in or upon any private vehicle while the vehicle is in motion or parked upon any such public or quasi-public place.

§ 23-5 PROHIBITION WHERE OTHER LAWS IN EFFECT.

No person shall smoke, vape, or aerosolize cannabis items in any place that any other law prohibits the smoking of tobacco, including N.J.S.A. 2C:33-13 and the "New Jersey Smoke-Free Air Act." (N.J.S.A. 26:3D-55 et seq.)

§ 23-6 PROHIBITION OF UNREGULATED SALE OF CANNABIS.

- a. No person shall sell cannabis in the Township of Frankford without a state license and a Township permit.
- b. No person shall gift cannabis in the Township of Frankford as part of a sale of another item or items.

§ 23-7 VIOLATIONS AND PENALTIES.

Any person who violates any provisions of this Chapter shall be subject to, upon conviction, a penalty as set forth in the General Penalty Ordinance Chapter 1, §1-5. The minimum penalty is hereby established in the amount of \$100.00. This Chapter may be enforced by the Zoning Officer, Code Enforcement Officer, or other official of the Township designated by the Township Committee.

Article III
Permitting and Regulation

§ 23-8 PURPOSE.

This Article is enacted to regulate and to implement the provisions of the Act. Permits granted pursuant to this Article shall be issued upon receipt of State License granted by the CRC.

§ 23-9 CLASSES PROHIBITED.

This chapter prohibits the issuing of permits for Classes 3, 5 and 6.

- a. The Township of Frankford shall not issue any permits for Classes 3, 5 and 6 as defined in § 23-2 of this chapter and further identified by the State of New Jersey.

§ 23-10 STATE AND TOWNSHIP LICENSES AND PERMITS REQUIRED.

- a. To operate any Class of permit within the Township, a State license and Township permit is required.

§ 23-11 ISSUANCE OF LICENSES AND PERMITS.

- a. All applications for licenses and permits, all licenses and permits issued and all proceedings under this chapter shall be in accordance with all applicable laws of the state.
- b. All licenses and permits required by this chapter shall be issued by the Committee, which shall also administer the provisions of this chapter.

- c. No person shall retail cannabis without having obtained a license in accordance with CREAMMA and a license or permit in accordance with the provisions of this chapter.

§ 23-12 MAXIMUM NUMBER OF PERMITS.

- a. Number. The maximum number of permits in the Township for each Class of license shall be one. The Township may issue up to one additional license for each Class for a microbusiness.
- b. Location of Permits. All permits shall be limited to the zones permitted in Chapter 30, Article XV, entitled, "Cannabis-Related Businesses," as the same may be amended from time to time.

§ 23-13 PERMIT FEES.

- a. The applicant shall submit all required nonrefundable fees for the application and year one of the conditional license pursuant to this chapter.
- b. The applicant shall submit all annual registration fees required in accordance with this chapter, which shall be refunded in the event the applicant does not receive a license.
- c. Fee.
 - 1. Application and Year One: \$2,500.
 - 2. Subsequent Annual Renewal Permit Fee: \$2,500.

§ 23-14 PERMIT PROCESS.

- a. Application. Persons wishing to obtain a permit for any Class of license authorized in this Chapter shall file a permit application with the Clerk, on a standardized form established by the Clerk and available in the Clerk's office. The Clerk shall establish a reasonable application period and deadline for all applications. An application shall be deemed incomplete, and shall not be processed by the Clerk until all documents and application fees are submitted. To be deemed complete, all applications shall be accompanied by the following:
 - 1. The applicant shall submit proof that the applicant has or will have lawful possession of the premises proposed for the cannabis retail store, which proof may consist of: a deed, a lease, a real estate contract contingent upon successful licensing, or a binding letter of intent by the owner of the premises indicating an intent to lease the premises to the entrant contingent upon successful licensing.
 - 2. The applicant shall submit an affidavit and documentary proof of compliance with all state and local laws regarding affirmative action, anti-discrimination and fair employment practices. The applicant shall also certify under oath that they will not and shall not discriminate based on race, color, religion (creed), gender, gender expression, age,

national origin (ancestry), disability, marital status, sexual orientation, or military status, in any of its activities or operations.

3. The location proposed for permitting by the applicant shall comply with all applicable municipal zoning laws and the location restrictions set forth in this Code.
4. The applicant shall submit, to the satisfaction of the Township Committee, proof of financial capability to open and operate the cannabis establishment for which the applicant is seeking a permit. Standards for proof of financial capability shall be determined by the Township's Chief Financial Officer.
5. In addition to complying with any State requirement related to good character and criminal background, any person proposed to have an ownership interest in the permit shall not have had any cannabis license or permit revoked for a violation affecting public safety in the State of New Jersey or a subdivision thereof within the preceding five years.
6. The applicant and the application shall otherwise comply with any and all qualification standards set forth in the State and Township laws or regulations.

§ 23-15 NOTIFICATION OF AWARD AND CONDITIONAL MUNICIPAL PERMIT.

Notwithstanding the foregoing application process, a notification of award and conditional municipal permit shall entitle the recipient applicant to pursue a State permit or license in the appropriate classification for up to 12 months, which may be extended in the Township Committee's discretion for an additional six months for good cause. No permit to operate shall be issued until the applicant has received a State permit and satisfied other prerequisites of municipal licensure.

§ 23-16 TERM OF PERMIT AND PERMIT AWARD.

- a. Any local permit issued pursuant to this chapter shall be valid for a period of one year from the date of issuance and shall be renewed in accordance with the provisions of this chapter.
- b. The Clerk may, at his/her/their discretion, adjust the renewal date of the local permit to correlate with an applicant's State licensing and renewal schedule.
- c. Renewal of any permit shall be governed by any code amendments, additional restrictions or changes in regulations adopted since the previous permit was issued or renewed.
- d. Transfer of ownership of any local permit or change of location of any permit or modification to expand a permitted premise shall be subject to approval by the Township Committee and Township Land Use Board. The appropriate escrows must be posted in order to review any application with the Township's Land Use Board.
- e. Except where the Clerk has received a complete renewal application along with the requisite fees, and has issued a permit renewal, it shall be unlawful for any person to

operate after the date of permit expiration.

§ 23-17 REVOCATION OF PERMIT OR LICENSES.

Any permit or license issued under this chapter may be suspended or revoked for violation of any provisions of the Township Code of Ordinances, or any applicable statute or any of the rules or regulations promulgated by the CRC. Suspension or revocation of a permit or license shall be in addition to any other penalty which may be imposed for a violation of Township ordinances. No refund will be issued by the Township for any suspended or revoked permit.

C. The provisions of existing Chapter 23 are herein recodified as Article IV, "Cannabis Transfer Tax," and the Sections therein redesignated §23-18 through 23-23.

SECTION II. Severability. Should any section, paragraph, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid for any reason by any Court of competent jurisdiction, such provision(s) shall be deemed severable and the remaining portions of this Ordinance shall remain in full force and effect.

SECTION III. Repealer. All ordinances or parts of ordinances or resolutions that are inconsistent with the provisions of this Ordinance are repealed to the extent of such inconsistency. Specifically, by way of example, but not by way of limitation, §285-8(A)(4) is repealed to the extent said Section is inconsistent with this Ordinance.

SECTION IV. This Ordinance shall take effect after final passage, adoption and publication according to law.

**TOWNSHIP OF FRANFORD
COUNTY OF SUSSEX, STATE OF NEW JERSEY**

ORDINANCE NO. 2023-006

AN ORDINANCE TO AMEND EXISTING CHAPTER 23 ENTITLED, "CANNABIS TRANSFER TAX"

NOTICE OF INTRODUCTION

NOTICE is hereby given that the foregoing Ordinance was introduced to pass on first reading at a meeting of the Committee of the Township of Frankford held on May 9, 2023 and ordered published in accordance with the law. Said Ordinance will be considered for final reading and adoption at a regular meeting of the Township Committee to be held on June 13, 2023 at 7:00 p.m. or as soon thereafter as the Township Committee may hear this Ordinance at the Municipal Building, 151 US Highway 206, Augusta, New Jersey, at which time all persons interested may appear for or against the passage of said Ordinance.

Lori Nienstedt, Administrator,
Municipal Clerk

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COUNTY OF SUSSEX, STATE OF NEW JERSEY**

ORDINANCE NO. 2023-006

AN ORDINANCE TO AMEND EXISTING CHAPTER 23 ENTITLED, "CANNABIS TRANSFER TAX"

NOTICE OF ADOPTION

The purpose of this Ordinance is to amend existing Chapter 23 entitled, "Cannabis Transfer Tax." This Chapter is enacted to regulate and govern the use of Cannabis and the number and types of permits issued in the Township pursuant to the New Jersey Cannabis Regulatory Enforcement Assistance and Marketplace Act, N.J.S.A. 24:6I-32 et seq. ("CREAMMA") (the "Act").

Notice is hereby given that the foregoing Ordinance was adopted on second reading after a public hearing at a meeting of the Mayor and Committee of the Township of Frankford, County of Sussex, State of New Jersey, held on the 13TH day of June, 2023.

Lori Nienstedt, MBA, RMC
Administrator, Municipal Clerk