

A REGULAR MEETING OF THE MAYOR AND COUNCIL OF THE BOROUGH OF ANDOVER, COUNTY OF SUSSEX, STATE OF NEW JERSEY WAS HELD ON MONDAY, June 12th, 2023 AT THE BOROUGH HALL BEGINNING AT 7:00 P.M.

PRESENT: Mayor Morgan, Council Members: Dennison, Hoag, Smith, Lane, and Delfing.

ABSENT: Mr. Mallon

Mayor Morgan called the meeting to order with a salute to the flag and in accordance with the Open Public Meetings Act by advertising notice of meeting in the N.J. Herald, posting copy of notice in the Borough Hall and on the Borough website.

The Save My Life Program presented by *Medical Essential Diagnostics* representative Eboni S. was explained for its services available to municipal employees and emergency response. Program flyer and pens were provided to the public. The Municipal Clerk signed up for more information.

MINUTES:

A MOTION was made by Mrs. Delfing, seconded by Mr. Hoag to approve the minutes of the meeting held on April 17th, 2023 as presented. Upon roll call the following votes were cast: AYES: Hoag, Smith, Lane and Delfing. NAYS: None. ABSTAIN: Dennison. Motion carried.

The minutes of the meeting held on May 8th, 2023 were tabled.

A MOTION was made by Mrs. Delfing, seconded by Mr. Hoag to approve the minutes of the special meeting held on May 15th, 2023 as presented. Upon roll call the following votes were cast: AYES: Hoag, Smith, Lane and Delfing. NAYS: None. ABSTAIN: Dennison. Motion carried.

OFFICIALS REPORTS:

CFO – No Treasurer’s Report

A MOTION was made by Mr. Dennison, seconded by Mrs. Delfing to accept the following reports as listed below with the addition of Water Reports. Upon roll call the following votes were cast: AYES: Dennison, Hoag, Smith, Lane, and Delfing. NAYS: None. ABSTAIN: None. Motion carried.

Joint Court report for April, Board of Health report for 4/1/23 - 4/30/23 with public outreach information, Lakeland Emergency Squad March report, and Water Department Reports: Operators report for May, Agra results for 05/12/23 with Well 1 & 2 reports

CORRESPONDENCE: The following was presented to the Council and placed on file:

Sussex County Board of Commissioners dated 05/15/23 re: Certification for Emergency Rescue Squad Contribution

Sussex County Division of Engineering dated 5/25/23 re: CR-613 –Traffic Safety & Speed Limit Study

Sussex County Chamber of Commerce dated 05/25/23 re: 2023 membership invitation

Weiner Law Group for Andover Twp. dated 05/17/23 re: 2023 Master Plan Re-Examination Report

State of NJ DEP Div. of Water Supply dated 06/01/2023 re: Lead Service Line Replacement Law: Upcoming Submissions Reminder

NJDEP of Agriculture dated 06/02/2023 re: Spotted Lantern Fly Program

AUDIENCE PARTICIPATION: None.

REPORTS OF SPECIAL COMMITTEE:

SWAC & SC Water Quality Management: The Minutes from 02/14/2023 were reviewed.

Sussex County Agricultural Development Board: Open Space minutes from 03/20/2023 were reviewed.

Borough Land Sale: Final land sale closing report was reviewed.

Cannabis Review Committee: The committee met last week and were updated on pending matters. Review of ordinances being considered this evening were a result of that meeting.

REPORTS OF STANDING COMMITTEES:

Administrative & Executive:

The estimate for General Code was presented for approval.

A MOTION was made by Mrs. Delfing, seconded by Mr. Hoag to approve estimate AN0940 est. 3 estimated between \$2460.00 and \$3015.00. Upon roll call the following votes were cast: AYES: Dennison, Hoag, Smith, Lane, and Delfing. NAYS: None. ABSTAIN: None. Motion carried.

Celebration of Public Events:

Mr. Lane reported that Memorial Day went well. There was a brief discussion to send Brantley Mallon a get-well gift after his injury.

Finance:

Mr. Dennison did not have a report. The Mayor stated that last month he was asked to find information on CD's and that each month we do not address that it costs money. Mr. Dennison stated he will start on that tomorrow.

Parks & Playgrounds:

Mr. Hoag reported that three sign estimates have been received. EM Signs for \$1000, Signarama for \$792.00 and Signs Etc. for 1044.25. The specs were reviewed. Based on the review of materials, work and other considerations the following decision was made:

A MOTION was made by Mr. Hoag, seconded by Mr. Lane to approve the estimate provided by EM Signs. Upon roll call the following votes were cast: AYES: Dennison, Hoag, Smith, Lane, and Delfing. NAYS: None. ABSTAIN: None. Motion carried.

The Mayor asked who will install these signs. There was some discussion regarding replacing them on existing posts. Mr. Lane reminded the Council that the ABFD would like a sign on the gate in the park prohibiting parking in front of it. Mr. Smith reported that the concrete skim coat on the retaining wall along Route 517 is falling off. He stated he will get an estimate for that work. He continued to state that he could get an estimate for a concrete pad for a pavilion at Sunset Vista Park. The Mayor continued his report by stating the gazebo in the mini park at the corner of Route 206 & Route 517 needs to be addressed. The gazebo needs to be power washed, stained and overgrowth needs to be addressed.

Public Bldgs. & Grounds:

Mr. Smith reported that there is an issue with carpenter bees wood bore bees that he has taken care of. The fire inspection notice is being addressed. A contractor will be contacting the Municipal Clerk to do repairs.

Public Safety:

Mrs. Delfing reported on the recent medi-vac that took place in the Borough. Celebrations committee will make sure to send a get-well message to the family from the governing body.

Streets & Roads:

Mr. Hoag reported that the road grants for Maple and Smith are in the works. The design plan for Maple is being submitted. The application for Smith Street is being submitted this year. The Municipal Clerk mentioned that the payment for the tree that fell on Lakeview Avenue has been received. The Mayor reported that that tree company has permission to shut down Lakeview when they bring a crane in to address the other trees. The Mayor continued to report that he approved a sign to be installed on Morris Sussex Turnpike on the Route 206 side prohibiting large trucks from entering that road. The Borough has taken measures with the Municipal Engineer to solve the issue by installing additional signage in other areas, but that requires approval from other parties such as the County Engineer and NJDOT, not to mention neighboring municipalities. The response from all other parties has been slow coming.

Water Utility:

Mr. Smith reported that the utility is working well. The Mayor reported that in May there was an extra 75,000 gallons, but with the dry spell it should be expected.

OLD BUSINESS: The Lead Grant Assistance Program (LGAP) guidelines were presented. Andover will not be applying.

NEW BUSINESS:

Liquor License: Renewal Discussion

Liquor License #1901-33-001-10 held by and in the name of JJ8789 LLC dba Crossed Keys, 136 Main was forwarded letters from the Borough Attorney addressing the active renewal application in conjunction with in active observation of the premise. The Borough Attorney did provide notice that a special condition may be considered at this meeting. No one was present on behalf the license holder at this meeting. The Council would like to schedule a special hearing to determine if special condition shall be placed on this license renewal. The Clerk will advise the Municipal Attorney. A notice will be sent to the license holder.

Proclamation: Lynn Delfing – Council resignation. The following proclamation was presented:

WHEREAS, Council member Lynn Delfing has served Andover Borough selflessly for over 27 years; and

WHEREAS, she is deserving of appreciation and considerable thanks for her distinguished work as a member of the Andover Borough Council; and

WHEREAS, she has devoted herself to the interests and concerns of the residents of Andover Borough and has shown model citizenry through her dedication to its advancement; and

WHEREAS, this proclamation serves as a reminder that although she is retiring, she will always be remembered as a valued member of our community; and

WHEREAS, the Mayor and Council of the Borough of Andover wish to extend their gratitude for Lynn Delfing's commitment and service to this municipality; and

NOW, THEREFORE, I, JOHN A. MORGAN, MAYOR OF THE BOROUGH OF ANDOVER, SUSSEX COUNTY, NEW JERSEY, DO HEREBY RECOGNIZE AND CONGRATULATE:

Lynn Delfing

For her outstanding service to the Borough of Andover and extend to her our deepest appreciation for her dedication and wishing her the best in all of her future endeavors.

RESOLUTIONS:

Escrow/Rental Reimbursement: *Resolution #R-2023-37*

A MOTION was made by Mr. Smith, seconded by Mr. Lane to approve reimbursement. Upon roll call the following votes were cast: AYES: Dennison, Hoag, Smith, and Lane. NAYS: None. ABSTAIN: Delfing. Motion carried.

ORDINANCE:

Review and discussion of the following proposed ordinance amendments and updates:

Cannabis Permitting

New Chapter 95 – Municipal Cannabis Permit

Chapter 95 – adding new chapter - AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF ANDOVER, COUNTY OF SUSSEX AND STATE OF NEW JERSEY TO ADD A NEW CHAPTER 95, ENTITLED “MUNICIPAL CANNABIS PERMIT”

ORDINANCE:

Cannabis Permit Fee

Ordinance #2023-18

A MOTION was made by Mr. Smith seconded by Mr. Hoag to approve the first reading and introduction of “**AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF ANDOVER, COUNTY OF SUSSEX AND STATE OF NEW JERSEY TO ADD A NEW CHAPTER 95, ENTITLED “MUNICIPAL CANNABIS PERMIT”**”. Upon roll call the following votes were cast: AYES: Dennison, Hoag, Smith, Lane, and Delfing. NAYS: None. ABSTAIN: None. Motion carried.

AN ORDINANCE TO AMEND SECTION 66-4, ENTITLED “MISCELLANEOUS FEES AND CHARGES” OF THE CODE OF CHAPTER 66, ENTITLED “FEES” OF THE CODE THE BOROUGH OF ANDOVER, COUNTY OF SUSSEX AND STATE OF NEW JERSEY.

BE IT ORDAINED by the Borough Council of the Borough of Andover, in the County of Sussex and State of New Jersey, as follows:

SECTION 1. Paragraph (I) of Section 66-4, entitled “Miscellaneous fees and charges”, of Chapter 66, entitled “Fees”, of the Code of the Borough of Andover, County of Sussex, State of New Jersey, is amended to read as follows:

- I. Municipal Cannabis Permit Fee. (Per Chapter 95)
 1. Initial permit fee: \$5,000
 2. Permit renewal fee: \$5,000
 3. Reinstatement fee: \$1,000

4. Transfer fee: \$500

SECTION 2. If any article, section, subsection, paragraph, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance and they shall remain in full force and effect.

SECTION 3. In the event of any inconsistencies between the provisions of this Ordinance and any prior ordinance of the Borough, the provisions hereof shall be determined to govern. All other ordinances of the Borough are hereby ratified and confirmed, except where inconsistent with the terms hereof.

SECTION 4. This Ordinance shall take effect upon final passage and publication in accordance with the laws of the State of New Jersey following the required 20-day period after adoption, as set forth in N.J.S.A. 40:69A-181(b).

Chapter 66 Fee – Cannabis Permit Fees

Chapter 66 – amending submission - AN ORDINANCE TO AMEND SECTION 66-4, ENTITLED “MISCELLANEOUS FEES AND CHARGES” OF THE CODE OF CHAPTER 66, ENTITLED “FEES” OF THE CODE THE BOROUGH OF ANDOVER, COUNTY OF SUSSEX AND STATE OF NEW JERSEY”

Cannabis Permitting Process:

Ordinance #2023-19

A MOTION was made by Mr. Lane, seconded by Mr. Dennison to approve the first reading and introduction of “**AN ORDINANCE TO AMEND SECTION 66-4, ENTITLED “MISCELLANEOUS FEES AND CHARGES” OF THE CODE OF CHAPTER 66, ENTITLED “FEES” OF THE CODE THE BOROUGH OF ANDOVER, COUNTY OF SUSSEX AND STATE OF NEW JERSEY”**”. Upon roll call the following votes were cast: AYES: Dennison, Hoag, Smith, Lane, and Delfing. NAYS: None. ABSTAIN: None. Motion carried.

AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF ANDOVER, COUNTY OF SUSSEX AND STATE OF NEW JERSEY TO ADD A NEW CHAPTER 95, ENTITLED “MUNICIPAL CANNABIS PERMIT”.

BE IT ORDAINED by the Borough Council of the Borough of Andover, in the County of Sussex and State of New Jersey, as follows:

SECTION 1. A new Chapter, entitled “Municipal Cannabis Permit”, shall be added to the Code of the Borough of Andover, County of Sussex, State of New Jersey, and shall read as follows:

Chapter 95, Municipal Cannabis Permit.

§ 95-1 Definitions.

The definitions set forth in § 134-66.4 are incorporated by reference herein.

§ 95-2 Permit required. No cannabis establishment business shall operate within the Borough without a permit as required by this chapter.

§ 95-3 Limitation Regarding Permits for Cannabis Retailers. There shall be no more than a combined total of two active, inactive and/or suspended permits for cannabis retailers at any given time.

§ 95-4 Permit requirements. A cannabis establishment seeking a permit from the Borough to operate under the class of license awarded by the state shall submit to the Borough Clerk a complete and signed application in a form prescribed by the Borough for a municipal cannabis permit (the "application"), which shall include the following attachments:

- a. Documentary proof that the State has awarded the cannabis establishment an annual license which is valid for the period of the requested permit and has not expired or been revoked;
- b. Sworn statement by the owner of the cannabis establishment that the cannabis establishment is currently in compliance with all requirements and conditions of its site plan approval and with all applicable laws and ordinances pertaining to its business;
- c. If applicable, proof that the cannabis establishment is in compliance with the Borough's liability insurance requirements (see Chapter 89); and
- d. Required permit fee.

§ 95-5 Review period. The Borough shall have up to 20 days from receipt of a completed application to review it and issue a written determination in the form of a permit, if approved, or a denial letter citing the reason(s) for the denial and including steps to cure any deficiencies capable of cure within 30 days after the date of the denial letter.

§ 95-6 Denials. A cannabis establishment that is denied a permit will have 30 days, unless extended by the Borough in its sole discretion, within which to correct any curable deficiencies cited in the Borough's denial letter and to resubmit an amended application solely with respect to those deficiencies cited in the denial letter. The Borough will then have up to 20 days from receipt of the amended application within which to review the amended portions of the application. At the conclusion of this review period, the Borough will once again issue a written determination in the form of a permit or a final determination of denial citing the final reason(s) for denial of a permit.

§ 95-7 Permit fee. The initial permit fee for each cannabis establishment under the provisions of this chapter is set forth in Section 66-4(l).

§ 95-8 Permit terms; renewals; transfers.

- a. Any 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. The Borough may adjust the renewal date of the permit to correlate with a cannabis establishment's state licensing and renewal schedule. The permit shall in no case be pro-ratable or reduced.
- b. Renewal of any permit shall be governed by and subject to any Code amendments, additional restrictions or changes in regulations adopted since the previous permit was issued or renewed.
- c. Transfer of ownership. 10 days after transfer of ownership in whole or in part, of the cannabis establishment, the cannabis establishment shall notify the Borough in writing of such transfer and include the names, addresses and percentage ownership interests in the cannabis establishment of the persons and/or entities from which and to which the transfer is made. Without limitation, transfer of any share, membership or partnership interest in a cannabis establishment shall

constitute a transfer of ownership governed by this chapter. In the event of a transfer of ownership, the cannabis establishment shall submit proof of approval by the appropriate State licensing agency of the transfer within 10 days after agency approval. Failure to comply with the requirements of this section within the 10-day deadline (as may be extended by the Borough for up to an additional 20 days), the permit shall be suspended and be deemed inactive and shall not be reinstated until the cannabis establishment files the documentation and proofs required by this section with the Borough Clerk, accompanied by a reinstatement fee of \$1,000.

- d. A transfer in location of any permit or modification to expand a permitted facility shall require State approval, site plan approval from the Planning Board and a certificate of zoning compliance from the Zoning Officer. Proof thereof, together with transfer fee of \$500 must be submitted to the Borough Clerk before the transfer or expansion can be effective.

§ 95-9 Permit renewal fees.

- a. The annual renewal fee for each cannabis establishment permit under the provisions of this chapter is set forth in Section 66-4(l).
- b. A permit shall not be assigned or transferred and shall remain with the cannabis establishment to whom it is issued.

§ 95-10 Investigations; sanctions; penalties.

- a. Any permit issued pursuant to this chapter may be suspended or revoked by the Borough for any violation of any provision of this chapter or for the violation of any provision of N.J.S.A. 24:6I-31, et seq., including amendments or additions thereto, or of any of the rules and regulations promulgated by the State or the Borough.
- b. **Investigations.** Procedures for investigation of permit violations and for suspension, revocation, or other sanctions as a result of any such violation shall be as determined by the Borough. Penalties for such violations shall be assessed as follows:
 1. First offense: \$50 per violation per day;
 2. Second offense: \$100 per violation per day; and
 3. Third offense: \$250 per violation per day; and including summary suspension.
- c. **Summary suspension.** When the Borough has reasonable grounds to believe that a cannabis establishment has engaged in deliberate and willful violation of any applicable law or regulation, or that the public health, safety, and/or general welfare has been jeopardized and requires emergency action, the Borough may enter a summary order for the immediate suspension of such cannabis establishment's permit pending further investigation. The Borough shall convene a review panel consisting of the Mayor, two members of the Council and the Borough Administrator or his/her designee. The hearing will occur within 30 days after the date of the order. If the review panel shall find that the suspension is justified, the review panel will recommend to the Borough Council consequences including but not limited to the revocation of the permit or the reinstatement of the permit upon meeting prescribed conditions including payment of a \$1,000 reinstatement fee and suspension for a period of up to six months. If the panel finds insufficient basis for suspension, then a report of that finding shall be given to the Administrator and suspension shall be rescinded.
- d. **Inactive permits.** Following the commencement of retail sales of cannabis and cannabis products, the Borough may suspend or revoke any permit if the premises

has been closed to the public or unoccupied by the cannabis retailer for at least 30 consecutive days.

- e. **State license.** The Borough may suspend or revoke any permit if the corresponding State license for the subject location is expired, surrendered, suspended, or revoked. The cannabis establishment shall immediately notify the Borough in writing upon the cannabis establishment's receipt of notice that its State license has expired, has been surrendered, suspended or revoked.
- f. Any action taken by the Borough pursuant to this chapter shall be reported to the applicable State agency in accordance with reporting protocols established by such agency.

§ 95-11 Conspicuous posting of permit. The holder of each permit issued by the Borough under this chapter shall display the permit certificate conspicuously in the cannabis establishment.

§ 95-12 Compliance with other requirements. The issuance of a permit per this chapter shall not be construed as verification by the Borough that the cannabis establishment has complied with other applicable legal requirements such as and including the requirement, if applicable, of the issuance of a certificate of occupancy for the cannabis establishment's business.

§ 95-13 Violations and penalties. Any person violating any of the provisions of this chapter shall be subject to a fine of up to \$2,500 per offense, 90 days imprisonment or both. Each day a violation occurs shall be deemed to be a separate offense.

SECTION 2. If any article, section, subsection, paragraph, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance and they shall remain in full force and effect.

SECTION 3. In the event of any inconsistencies between the provisions of this Ordinance and any prior ordinance of the Borough, the provisions hereof shall be determined to govern. All other ordinances of the Borough are hereby ratified and confirmed, except where inconsistent with the terms hereof.

SECTION 4. This Ordinance shall take effect upon final passage and publication in accordance with the laws of the State of New Jersey following the required 20-day period after adoption, as set forth in N.J.S.A. 40:69A-181(b).

AUDIENCE PARTICIPATION: None.

MOTION TO PAY THE BILLS:

A MOTION was made by Mr. Hoag, seconded by Mr. Lane to approve the following Resolution: BE IT RESOLVED by the Governing Body to approve the payment of all vouchers on the bill listed June 12, 2023, submitted by the Chief Financial Officer for payment. Upon roll call the following votes were cast: AYES: Dennison, Hoag, Smith, Lane, and Delfing. NAYS: None. ABSTAIN: None. Motion carried.

MOTION TO ADJOURN:

The Mayor adjourned the meeting.


Beth Brothman
Municipal Clerk