

**ALPINE MAYOR AND COUNCIL
REGULAR MEETING
Wednesday, June 23, 2021 @ 7:30 P.M.
Borough Hall -100 Church Street**

CALL TO ORDER/ PUBLIC ANNOUNCEMENT/PLEDGE OF ALLEGIANCE

The Mayor and Council, Borough of Alpine, convened for this Regular Meeting on Wednesday, June 23, 2021 at 7:30 P.M. in the Alpine Borough Hall. The Public Announcement was read and the Pledge of Allegiance recited.

In accordance with the provisions of the Open Public Meetings Law the notice of this regular meeting of the Alpine Mayor and Council held on Wednesday, June 23, 2021 at 7:30 PM has met the requirements of the law by being published as part of the annual meeting notice in The Record, posted continuously on the bulletin board of the lobby of the Borough Hall and a copy filed in the office of the Borough Clerk

ROLL CALL

Paul Tomasko, Mayor	Present	Vicki Frankel, Council President	Present
Gayle Gerstein, Councilwoman	Present	Laurence Shadek, Councilman	Present
Arthur Frankel, Councilman	Present	Scott Bosworth, Councilman	Present
Steven Cohen, Councilman	Present		

Staff Present on Dais: Borough Attorney Russ Huntington, Borough Engineer Perry Frenzel, Municipal Clerk Stephanie Wehmann

PUBLIC COMMENTS None

REPORT OF THE FINANCE COMMITTEE Mayor Tomasko offered the report for this month:

Bank of New Jersey Current Operating Account \$3,053,411.83

Resolution #141:6'2021: Approval of Bills and Claims

OFFERED BY: Councilman Cohen **SECONDED BY:** Councilwoman Frankel
at the regular meeting of the Alpine Mayor and Council held on Wednesday, June 23, 2021 to approve the bills and claims, a copy of which are appended.

VOTE: Ayes: Bosworth, Cohen, A. Frankel, V. Frankel, Gerstein, Shadek **MOTION APPROVED**

Resolution #142:6'2021: Return of Bonds and Escrow

OFFERED BY: Councilman Cohen **SECONDED BY:** Councilwoman Frankel
at the regular meeting of the Alpine Mayor and Council held on Wednesday, June 23, 2021 to approve the return of the following bonds and escrow subject to review and approval by the Borough Engineer.

<u>Block/Lot</u>	<u>Name</u>	<u>Type</u>	<u>Amount</u>
Alpine Scout Camp 39.01/12.12	Universal Television, LLC Fazelli, Harry	Film Permit Tree Bond	\$1,735.08 \$1,500.00

VOTE: Ayes: Bosworth, Cohen, A. Frankel, V. Frankel, Gerstein, Shadek **MOTION APPROVED**

**Resolution #143:6'2021 Refund of 2020 Property Tax Overpayment – Alpine Fun, Inc.
Block 11 Lot 2.09**

OFFERED BY: Councilman Cohen **SECONDED BY:** Councilwoman Frankel
At this regular meeting of the Alpine Mayor and Council, County of Bergen, State of New Jersey held on June 23, 2021

WHEREAS, a State Tax Court judgment was granted on April 20, 2021 from the Tax Court of New Jersey reducing the assessment on the following:

Block	Lot	Owner's Name	Original Assessment	Reduced Assessment	Year	Refund Due
-------	-----	-----------------	------------------------	-----------------------	------	------------

These minutes have been approved by the Mayor & Council.

11	2.09	Alpine Fun, Inc.	\$11,747,300	\$9,250,000	2020	\$18,954.51
----	------	------------------	--------------	-------------	------	-------------

WHEREAS, the reduction in assessment was not recorded in time for the 2020 assessment records for the above referenced property and was billed at the higher assessed value for 2020, resulting in an overbilling, and

WHEREAS, an overpayment was made for the tax year isted above and therefore should be refunded to the owner made payable to:

Alpine Fun, LLC, 25 Pendergast Ct., (a/k/a 34 Tamcrest Ct.) P.O. Box 1008, Alpine, NJ 07620

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Alpine, County of Bergen, State of New Jersey, hereby authorize the Borough Treasurer to issue a refund for the tax overpayment.

VOTE: Ayes: Bosworth, Cohen, A. Frankel, V. Frankel, Gerstein, Shadex **MOTION APPROVED**

Tax Assessor’s Report. Report on file in the Borough Clerk’s Office.

MAYOR’S REPORT

- Former employee and resident Alice Parsells letter read: *“It is with gratitude that I would like to compliment Borough Clerk Stephanie Wehmann. Stephanie extended herself to help honor my son, Tom Parsells, on Memorial Day 2021. I sincerely appreciate the contact and efforts that honor our servicemen. One more example of what makes Alpine a very special community.”*
- The Borough is receipt of the first trunch of the American Recover Act funds. This cannot go into this year’s budget but will favorable impact next year’s surplus and the year after. The amount is \$96,000 this year and the same next year.
- Appreciation also expressed for Municipal Clerk Wehmann who chaired the Safety Committee meeting yesterday attended by the Mayor, Police Chief Belcolle, Risk Manager Eifert and his assistant.
- Planning Board met yesterday and determined Ordinance #807 is not out of keeping with the Borough Master Plan paving the way for final adoption this evening.
- Environmental Commission meets tomorrow.

REPORTS OF THE STANDING COMMITTEES

Administration Department Councilman Bosworth – no report

Building Department Mayor Tomasko reported 56 scheduled inspections, 1 fence permit, 7 tree permits, 2 soil moving applications, 4 zoning review applications and 8 miscellaneous. The rest of the report is on file.

Department of Public Works Councilman Frankel advised report is on file.

Fire Department Councilwoman Gerstein advised statistics on file.

Police Department Councilwoman Frankel advised 4 summonses issued, 5 MVA with 4 injuries and the rest of the report is on file.

Resolution #144:6’2021: Accepting the Reports of the Standing Committees

OFFERED BY: Councilwoman Frankel **SECONDED BY:** Councilwoman Gerstein

at the regular meeting of the Alpine Mayor and Council held on Wednesday, June 23, 2021 to accept the reports of the Standing Committees.

VOTE: Ayes: Bosworth, Cohen, A. Frankel, V. Frankel, Gerstein, Shadex **MOTION APPROVED**

BOARD OF EDUCATION LIAISON’S REPORT Councilman Shadex reported:

- Graduations held today at Alpine School (4PM) and Tenafly High School (6PM). The Alpine School salutatorian was Samantha Park and the valedictorian was Francesca Casagrande.
- Alpine Board of Education President Phil Simotas advised
 - o the school is in very good financial shape.
 - o The School Business Administrator reached out to the D.P.W. Supervisor regarding maintenance of the soccer field. The Mayor noted the field has been heavily used and DPW has limited manpower and resources to address.

BOROUGH ATTORNEY’S REPORT Brief updates will be deferred to closed session.

BOROUGH ENGINEER’S REPORT Mr. Frenzel report included updates on the following:

- **2021 Riverside Cooperative Road Improvement Program** [Grant Court, Margo Way, Old Dock Road, portion of Haring Lane] Preconstruction conference held today with D&L Paving who has successfully worked with the town in the past. Tentative start date scheduled for August 12, 2021
- **2019 NJS DOT Municipal Aid Road Improvement Program – Allison Road**. Work started by AJM Contractors, Inc. today with the first step being replacement of damaged concrete curbing.
- **2020 NJS DOT Municipal Aid Road Improvement Program – Cambridge Way**. Work delayed to allow replacement of water main by SUEZ. Their work began June 7. Major portion is completed. Work continues on individual tie-ins. They should finish well ahead of schedule. Intent is to bid this job paving in early August for award at that month’s Mayor and Council meeting so paving can proceed in September providing sufficient time for the Suez trench work to settle.
- **2021 NJS DOT Municipal Aid Road Improvement Program – Marie Major Drive**. Grant approval was received. Project deferred to next year due to multiple projects already in progress this year.
- **2021 NJS DOT Municipal Aid Road Improvement Program – Glen Goin Drive**. Applications are to be filed before July 1, 2021. Engineer’s office on track for submission prior to due date. Amount requested \$214,000.00

Mayor Tomasko commended Mr. Frenzel on the efficiency of this morning’s pre-construction meeting.

UNFINISHED BUSINESS

Capital Bond Ordinance 807: Prohibiting the Operation of any Class of Cannabis Business

Public Hearing: Opened to the public for comments and, being none, closed.

Resolution #145:6’2021: Adoption Ordinance #807

OFFERED BY: Councilwoman Gerstein **SECONDED BY:** Councilman Cohen

at the regular meeting of the Alpine Mayor and Council held on Wednesday, June 23, 2021

BE IT RESOLVED, by the Mayor and Council of the Borough of Alpine in the County of Bergen and State of New Jersey, that an Ordinance entitled:

AN ORDINANCE BY THE BOROUGH OF ALPINE IN THE COUNTY OF BERGEN, STATE OF NEW JERSEY PROHIBITING THE OPERATION OF ANY CLASS OF CANNABIS BUSINESSES WITHIN ITS GEOGRAPHICAL BOUNDARIES AND AMENDING SECTION 220-22 OF THE ALPINE MUNICIPAL CODE ENTITLED “USES PROHIBITED IN ALL ZONES”

does hereby pass its second and final reading and is hereby adopted and Notice of same be published according to law.

VOTE: Ayes: Bosworth, Cohen, A. Frankel, V. Frankel, Gerstein, Shadek **MOTION APPROVED**
{Ordinance 807 appended to these minutes in its entirety.}

NEW BUSINESS

CONSENT AGENDA RESOLUTIONS Resolutions #146:6’2021 - #150:6’2021

1a. Resolution #146:6’2021 Approval of Minutes Regular Meeting May 26, 2021

OFFERED BY: Councilman Frankel **SECONDED BY:** Councilwoman Gerstein

at a regular meeting of the Mayor and Council of the Borough of Alpine held on Wednesday, June 23, 2021 to approve the minutes of the regular meeting held on May 26, 2021.

VOTE: Ayes: Bosworth, Cohen, A. Frankel, V. Frankel, Gerstein, Shadek **MOTION APPROVED**

1b. Resolution #147:6’2021 Approval of Minutes Executive Session Meeting May 26, 2021

OFFERED BY: Councilman Frankel **SECONDED BY:** Councilwoman Gerstein

at a regular meeting of the Mayor and Council of the Borough of Alpine held on Wednesday, June 23, 2021 to approve the minutes of the regular meeting held on May 26, 2021.

VOTE: Ayes: Bosworth, Cohen, A. Frankel, V. Frankel, Gerstein, Shadek **MOTION APPROVED**

These minutes have been approved by the Mayor & Council.

2. Resolution #148:6'2021: Introduction Ordinance #808: To Amend Chapter 209 of the Municipal Code Entitled "Vehicles and Traffic"

OFFERED BY: Councilman Frankel **SECONDED BY:** Councilwoman Gerstein

at a regular meeting of the Mayor and Council of the Borough of Alpine held on Wednesday, June 23, 2021

BE IT RESOLVED, by the Mayor and Council of the Borough of Alpine, in the County of Bergen and State of New Jersey, that an Ordinance entitled:

AN ORDINANCE TO AMEND CHAPTER 209 OF MUNICIPAL CODE OF THE BOROUGH OF ALPINE ENTITLED "VEHICLES AND TRAFFIC"

pass on first reading and remain on file with the Clerk for public inspection until public hearing thereon and further consideration thereof, which hearing shall be held in the Borough Hall, 100 Church Street, Alpine, New Jersey on July 28, 2021 at 7:30 p.m. prevailing time, or as soon thereafter as the matter can be heard, at which time and place all persons interested in said Ordinance will be heard.

The Borough Clerk is hereby directed to publish a summary of said Ordinance ten days prior to the date fixed for further consideration for final passage together with the Notice of Hearing thereon in the The Record according to law.

BE IT FURTHER RESOLVED, that a copy of said Ordinance shall be posted on the bulletin board in the lobby of the Borough Hall and copies shall be made available to the members of the public who shall request the same.

VOTE: Ayes: Bosworth, Cohen, A. Frankel, V. Frankel, Gerstein, Shadok **MOTION APPROVED**

3. Resolution #149:6'2021: Approval to Submit Grant Application and Execute a Grant Contract with the New Jersey Department of Transportation for the FY 2022 NJDOT Municipal Aid Project – Glen Goin Drive

OFFERED BY: Councilman Frankel **SECONDED BY:** Councilwoman Gerstein

at a regular meeting of the Mayor and Council of the Borough of Alpine held on Wednesday, June 23, 2021

WHEREAS, The New Jersey Department of Transportation has made funding available to Counties and Municipalities through grant applications through the Municipal Aid Program, and

WHEREAS, the Borough of Alpine, Bergen County intends to apply for funds through this program for Glen Goin Drive.

NOW, THEREFORE, BE IT RESOLVED that the Council of the Borough of Alpine 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-GLEN GOIN DRIVE-__ __ __ __ __ for Alpine Borough to the New Jersey Department of Transportation;

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

VOTE: Ayes: Bosworth, Cohen, A. Frankel, V. Frankel, Gerstein, Shadok **MOTION APPROVED**

4. Resolution #150:6'2021: Continued Support of the Northern Valley Greenway Project

OFFERED BY: Councilman Frankel **SECONDED BY:** Councilwoman Gerstein

at a regular meeting of the Mayor and Council of the Borough of Alpine held on Wednesday, June 23, 2021

WHEREAS, the six Northern Valley towns of Closter, Cresskill, Demarest, Northvale, Norwood and Tenafly are home to approximately eight miles of a continuous and underutilized segment of the former Erie Lackawanna, now CSX Northern Branch; and

WHEREAS, in 1966 the Erie Railroad terminated its commuter passenger service, and diminished operational and maintenance responsibilities along said corridor; and

WHEREAS, the consolidation of Erie Lackawanna and Penn Central into Conrail in 1976, the Northern Branch fell under the control of Conrail, and

WHEREAS, in the late 1970's freight service to New York State was discontinued after Continental Can Company in Piermont closed, and

WHEREAS, after the breakup of Conrail in 1999 the Northern Branch was divided and CSX Transportation, Inc. (CSX) was given the northern section; and

WHEREAS, after many studies and impact statements regarding the use of light rail north to Tenafly and Cresskill, it was decided in 2013 to have the terminus station at the Englewood Hospital and medical Center, with necessary rail infrastructure extending just past the southern border of Tenafly; and

WHEREAS, freight rail service provided by CSX has been partially and fully discontinued within the borders of the six Northern Valley Towns as evidenced by removal of track, ties, signals and at grade crossing equipment, the loss of shippers, and an increase of neglect; and

WHEREAS, the proposed Northern Valley Green Way will link up at the New York State line in the town of Orangetown with the Joseph P. Clarke Rail-Trail as a segment of the Hudson River Valley Greenway system. The Joseph B. Clarke Rail-Trail also links to the Piermont, South Nyack, and Nyack Rover system, and connects Sparkill Park, The Piermont Erie Railroad Pier, Tallman State Park, Bike Route 9, and via the bike and walk path of the Mario Cuomo Bridge will enable access to New York's extensive network of non-motorized transportation, and recreational networks on the eastern side of the Hudson River; and

WHEREAS, the corridor forms a superior connection between and among communities to this cooperative effort, and enhances the linkage of residential communities, commercial and business sites, schools, civic, institutional and recreational lands and waters; and

WHEREAS, the Mayors and Councils of the six Northern Valley Towns passed appropriate resolutions in early 2017 to authorize the Northern Valley rail-trail project and the formation of an inter-local "GREEN WAY" Planning Committee; and

WHEREAS, other Northern Valley towns' Mayors and Councils have subsequently also passed similar resolutions of support for the Northern Valley Greenway (NVG) initiative; and

WHEREAS, The New Jersey Department of Transportation of Bicycle and Pedestrian Programs has sponsored and funded an official Technical Planning Assistance Study that did not identify any potential fatal flaws with the project's objective; and

WHEREAS, the NVG Planning Committee has successfully established and developed working relationships with local, county, regional and state stakeholders, acquired letters of support from numerous state and federal elected officials and established strong public support for the project; and

WHEREAS, the County of Bergen has incorporated the Northern Valley Greenway as a visionary opportunity in the Bergen County Parks Master Plan and has been an active participant on the NVG Planning Committee; and

WHEREAS, the towns of the Northern Valley, along with the County of Bergen, State of New Jersey and local organizations have been engaged with the Northern Valley Greenway Planning Committee in the planning and evaluation of non-motorized inter-urban transportation, public health and public recreational access and these municipal and non-profit organizations have been working cooperatively on this proposal; and

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council of the Borough of Alpine hereby declare that it is their intention to continue to work cooperatively with the other towns of the Northern Valley and other stakeholder organizations in supporting the efforts of the Northern Valley Greenway Planning Committee to pursue reuse of the corridor as a "Green Way": to accommodate non-motorized, public access facility for recreation and transportation use; and

BE IT FURTHER RESOLVED that they Mayor and Council of the Borough of Alpine intend to work cooperatively with the towns of the Northern Valley and other governmental, municipal and non-municipal stakeholders in the planning, design, grant-writing, and other activities necessary to advance corridor reuse; and

BE IT FURTHER RESOLVED that the Mayor and Council of the Borough of Alpine recognize the amount of work such an undertaking involves and as such hereby restate their agreement with and continued support of the interlocal "Northern Valley Greenway Planning Committee" ("Committee"), whose official membership consists of mayoral appointees from the six Northern Valley towns and a representative of the County of Bergen. Each of the six towns and the County of Bergen will have an equal vote on committee actions and decisions with tie votes decided by the NVG Team Leader. The Committee may invite representatives of other stakeholder organizations to join the Committee. The Committee shall meet regularly, keep records, work with other stakeholders and serve as a forum for

coordinating municipal, county, state, federal and regional agency activities. The Committee will be an advisory Committee to plan and coordinate the undertaking with the Borough Council maintaining responsibility to take any necessary action, expend any money, enter into any contract or incur any liability. The Committee shall not be authorized to enter into contracts, expend money, maintain a budget, approve expenditures, or incur any liability on behalf of the Borough. With Committee approval, the NVG Team Leader may sign memorandums of understandings to further the Committee's goals for investigation purposes within the restrictions mentioned elsewhere in this paragraph.

BE IT FURTHER RESOLVED that the Borough of Alpine recognized that the County of Bergen is considering passing a supporting resolution and that the other towns in the Northern Valley are considering renewing their supporting resolutions and the Borough of Alpine encourages those entities to do so and is willing to enter into a memorandum of understanding with those that pass such resolutions.

VOTE: Ayes: Bosworth, Cohen, A. Frankel, V. Frankel, Gerstein, Shadek **MOTION APPROVED**

End of Consent Agenda

Bergen County Community Development Representatives

Mayors Appointment: B.C. Community Development Regional Committee Representative

Mayor Tomasko appointed the following representative to serve on the Community Development Committee for the term of one-year coinciding with the fiscal year July 1, 2021 through June 30, 2022: **Councilman Steven Cohen**. Although not required Mayor Tomasko invited Council to affirm his appointee along with theirs.

Resolution#151:6'2020: Authorizing Annual Appointment of Municipal Representatives to the Bergen County Community Development Regional Committee FY 2021-2022 Covering Period July 1, 2021 through June 30, 2022

OFFERED BY: Councilwoman Gerstein **SECONDED BY:** Councilman Shadek

at the regular meeting of the Mayor and Council of the Borough of Alpine held on Wednesday, June 23, 2021

WHEREAS, the Municipality of Borough of Alpine has entered into a three-year Cooperative Agreement with the County of Bergen as provided under the Interlocal Services Act N.J.S.A. 40A:8a-1 et seq. and Title 1 of the Housing and Community Development Act of 1974 for the Program Years 2021, 2022, and 2023 covering the period July 1, 2021 – June 30, 2024 per resolution dated June 24, 2020; and

WHEREAS, said Agreement requires that the Municipal Council appoint a representative and that the Mayor appoint a representative for the FY 2021-2022 term starting July 1, 2021 and ending on June 30, 2022.

NOW, THEREFORE, BE IT RESOLVED that the Municipal Council hereby appoints **Council President Vicki Frankel** as its representative and that the Mayor hereby appoints **Councilman Steven Cohen** as the Mayor's representative to serve on the Community Development Regional Committee for FY 2021-2022; and

BE IT FURTHER RESOLVED that an original, certified copy of this resolution be immediately emailed and sent via postage to Robert G. Esposito, Director; Bergen County Division of Community Development; One Bergen County Plaza, Fourth Floor; Hackensack, New Jersey 07601, resposito@co.bergen.nj.us as soon as possible and no later than Friday, July 30, 2021.

VOTE: Ayes: Bosworth, Cohen, A. Frankel, V. Frankel, Gerstein, Shadek **MOTION APPROVED**

Resolution #152:6'2020: Appointing Representative to Bergen County Open Space Trust Regional Advisory Committee

OFFERED BY: Councilman Frankel **SECONDED BY:** Councilwoman Gerstein

at the regular meeting of the Mayor and Council of the Borough of Alpine held on Wednesday, June 23, 2021

WHEREAS, the Borough of Alpine has entered into a Cooperative Agreement with the County of Bergen as provided under the Interlocal Services Act NJSA 40A:8A-1 et. seq. to participate in the Bergen County Open Space, Recreation, Farmland and Historic Trust Fund; and

WHEREAS, said Agreement requires that one Municipal Representative be appointed by the Governing Body of the community to be part of the Community Development Regional Committee for the term of one-year coinciding with the fiscal year July 1, 2021 through June 30, 2022.

NOW, THEREFORE BE IT RESOLVED, that the governing body hereby appoints **Council President Vicki Frankel** as its representative to participate on the Open Space Trust Regional Committee.

AND BE IT FURTHER RESOLVED, that a copy of this resolution be sent to the Executive Director of the Bergen County Open Space Fund.

VOTE: Ayes: Bosworth, Cohen, A. Frankel, V. Frankel, Gerstein, Shadek **MOTION APPROVED**

COMMUNICATIONS: WRITTEN AND ORAL None

Resolution#153:6'2021: Executive Session A Resolution providing for a Meeting Not Open to the Public in Accordance with the Provisions of the New Jersey Open Public Meetings Act, N.J.S.A. 10:4-12.

OFFERED BY: Councilman Shadek **SECONDED BY:** Councilwoman Gerstein

at a regular meeting of the Mayor and Council of the Borough of Alpine held on Wednesday, June 23, 2021

WHEREAS, the Mayor and Council of the Borough of Alpine is subject to certain requirements of the Open Public Meetings Act, N.J.S.A. 10:4-6, et seq.; and

WHEREAS, the Open Public Meetings Act, N.J.S.A. 10:4-12, provides that an Executive Session, not open to the public, may be held for certain specified purposes when authorized by Resolution; and

WHEREAS, it is necessary for the Mayor and Council of the Borough of Alpine to discuss in a session not open to the public certain matters relating to the item or items authorized by N.J.S.A. 10:4-12b subsection designated below:

(b)(7) Matters Relating to Litigation, Negotiations and the Attorney-Client Privilege:

- 1) Affordable Housing 2) Schoolhouse Lane

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Alpine, assembled in public session on Wednesday, December 16, 2020, that an Executive Session closed to the public shall be held for the discussion of matters relating to the specific items designated above; and

BE IT FURTHER RESOLVED, that the deliberations conducted in closed session may be disclosed to the public upon the determination of the Borough Council that the public interest will no longer be served by such confidentiality.

Vote: Ayes: Bosworth, Cohen. A. Frankel V. Frankel, Gerstein, Shadek **MOTION APPROVED**

Mayor and Council convened the Executive Session at 7:45 PM, reconvened in public session at 7:58 PM and immediately adjourned.

ADJOURNMENT

OFFERED BY: Councilwoman Frankel **SECONDED BY:** Councilwoman Gerstein

and approved by all to adjourn the regular meeting of the Mayor and Council of the Borough of Alpine, held on Wednesday June 23, 2021 at 7:58 P.M.

Respectfully submitted,

Stephanie Wehmann
Municipal Clerk

**BOROUGH OF ALPINE
ORDINANCE NO. 807**

**AN ORDINANCE BY THE BOROUGH OF ALPINE IN THE COUNTY OF BERGEN, STATE OF NEW JERSEY
PROHIBITING THE OPERATION OF ANY CLASS OF CANNABIS BUSINESSES WITHIN ITS GEOGRAPHICAL
BOUNDARIES AND AMENDING SECTION 220-22 OF THE ALPINE MUNICIPAL CODE ENTITLED “USES PROHIBITED
IN ALL ZONES”**

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 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, 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, the Mayor and Council of the Borough of Alpine has determined that, due to present uncertainties regarding the potential future impacts that allowing one or more classes of cannabis business might have on New Jersey municipalities in general, and on the Borough of Alpine in particular, it is at this time necessary and appropriate, and in the best interest of the health, safety and welfare of the Borough of Alpine’s residents and members of the public who visit, travel, or conduct business in the Borough of Alpine, to amend the Borough of Alpine’s zoning regulations to prohibit all manner of marijuana-related land use and development within the geographic boundaries of the Borough of Alpine; and

WHEREAS, officials from two prominent non-profit organizations that have been established for the purpose of advising New Jersey municipalities on legal matters such as have been presented by the Act (those organizations being the New Jersey State League of Municipalities and the New Jersey Institute of Local Government Attorneys) have strongly urged that, due to the complexity and novelty of the Act; the many areas of municipal law that are or may be implicated in decisions as to whether or to what extent cannabis or medical cannabis should be permitted for land use purposes or otherwise regulated in any particular municipality; and the relatively short duration in which the Act would allow such decisions to be made before imposing an automatic authorization of such uses in specified zoning districts subject to unspecified conditions, the most prudent course of action for all municipalities, whether or not generally in favor of cannabis or medical cannabis land development and uses, would be to prohibit all such uses within the Act’s 180-day period in order to ensure sufficient time to carefully review all aspects of the Act and its impacts;

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

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, cannabis distributors or cannabis delivery services are hereby prohibited from operating anywhere in the Borough of Alpine, except for the delivery of cannabis items and related supplies by a delivery service.
2. The Alpine Municipal Code is hereby amended by adding to the list of prohibited uses, the following:

“All classes of cannabis establishments or cannabis distributors or cannabis delivery services as said terms are defined in section 3 of P.L. 2021, c. 16, but not the delivery of cannabis items and related supplies by a delivery service.”

- (a) The Police Department, Division of Code Enforcement, and the Zoning Officer, as applicable, are charged with enforcing this section.
- (b) Any person violating this chapter shall be subject to the maximum fines and penalties established under N.J.S.A. 40:49-5 and any subsequent amendments to the statute and the Alpine Municipal Code Chapter 1-17 entitled General Penalty.
3. Any article, section, paragraph, subsection, clause, or other provision of the Alpine Municipal Code inconsistent with the provisions of this ordinance is hereby repealed to the extent of such inconsistency.
4. If any section, paragraph, subsection, clause, or provision of this ordinance shall be adjudged by a court of competent jurisdiction to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause, or provision so adjudged, and the remainder of this ordinance shall be deemed valid and effective.
5. This ordinance shall take effect upon its passage and publication and filing with the County of Bergen Planning Board, and as otherwise provided for by law.

Adopted June 23, 2021