

TOWNSHIP OF FRANKLIN

O-6-21

**ORDINANCE OF THE TOWNSHIP OF FRANKLIN, COUNTY OF GLOUCESTER,
STATE OF NEW JERSEY,
PROHIBITING THE OPERATION OF CLASSES 5, AND 6
OF CANNABIS BUSINESSES WITHIN ITS GEOGRAPHICAL BOUNDARIES
AND AMENDING SECTION OF THE FRANKLIN CODE**

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 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 Township Committee of the Township of Franklin 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 Township of Franklin in particular, it is at this time necessary and appropriate, and in the best interest of the health, safety and welfare of Township of Franklin’s residents and members of the public who visit, travel, or conduct business in Township of Franklin to amend Township of Franklin’s zoning regulations to prohibit the following marijuana-related land use and development within the geographic boundaries of Township of Franklin: Class 5 – Cannabis Retailer; Class 6 – Cannabis Delivery.

NOW THEREFORE, BE IT ORDAINED, by the Township Committee of the Township of Franklin, in the County of Gloucester, 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), Classes 5 and 6 are hereby prohibited from operating anywhere in Township of Franklin.

2. Section ____ of the FRANKLIN CODE__ is hereby amended by adding to the list of prohibited uses, the following: “Classes 5 and 6 of cannabis establishments 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.”

3. Any article, section, paragraph, subsection, clause, or other provision of the FRANKLIN 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 Township of Franklin Planning Board, and as otherwise provided for by law.

ATTEST:

TOWNSHIP OF FRANKLIN

Barbara Freijomil, Clerk

John Bruno, Mayor

CERTIFICATION

I, Barbara Freijomil, Clerk of the Township of Franklin, County of Gloucester, do here certify that the foregoing Ordinance was introduced at the Regular Meeting of the Township of Franklin held on March 23, 2021 and thereafter duly advertised in the legal newspaper of the Township at least seven (7) days prior to it being considered for final passage and adoption at a subsequent meeting to be held on April 27, 2021 at which time any person interested therein will be given an opportunity to be heard.

Barbara Freijomil, Municipal Clerk

Introduced March 23, 2021

| <u>Name</u> | <u>Yes</u> | <u>No</u> | <u>Abstain</u> | <u>Absent</u> |
|----------------------|------------|-----------|----------------|---------------|
| <u>Doyle</u> | <u>x</u> | | | |
| <u>Deegan</u> | <u>x</u> | | | |
| <u>Petsch-Wilson</u> | <u>x</u> | | | |
| <u>Flaim</u> | | | | <u>x</u> |
| <u>Bruno</u> | <u>x</u> | | | |

Adopted April 27, 2021

| <u>Name</u> | <u>Yes</u> | <u>No</u> | <u>Abstain</u> | <u>Absent</u> |
|----------------------|------------|-----------|----------------|---------------|
| <u>Doyle</u> | | | | |
| <u>Deegan</u> | | | | |
| <u>Petsch-Wilson</u> | | | | |
| <u>Flaim</u> | | | | |
| <u>Bruno</u> | | | | |