

ORDINANCE #867

AN ORDINANCE OF THE BOROUGH OF FRENCHTOWN, COUNTY OF HUNTERDON, NEW JERSEY, AMENDING CHAPTER 4 “GENERAL LICENSING” TO ADD A NEW SECTION 4-5. “CANNABIS BUSINESS LICENSES PROHIBITED”, AND TO AMEND THE LAND USE ORDINANCE TO PROHIBIT THE OPERATION OF ANY CLASS OF CANNABIS BUSINESSES WITHIN ITS GEOGRAPHICAL BOUNDARIES, AMEND SECTION 301 E. “PROHIBITED USES” TO ADD CANNABIS BUSINESSES TO THE LIST OF PROHIBITED USES, AND TO AMEND THE FRENCHTOWN VILLAGE CENTER PLAN TO PROHIBIT CANNABIS BUSINESSES

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 cannabis 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 a 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, cannabis retailer, cannabis distributor, or cannabis delivery service) allowed to operate within their boundaries, as well as the location manner and times of operation of such establishments 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 businesses 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 21, 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 cultivating, manufacturing, wholesaling, distribution, and delivery services of cannabis and cannabis items shall be permitted uses in all industrial zones, and the retailing 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 Council of the Borough of Frenchtown 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 Frenchtown in particular, it is at this time necessary and appropriate, and in the best interest of the health, safety and welfare the Borough’s residents and members of the public who visit, travel, or conduct business in the Borough, to amend the Borough of Frenchtown’s zoning regulations to prohibit all manner of cannabis-related land use and development within the geographic boundaries of the Borough of Frenchtown; and

WHEREAS, due to the complexity and novelty of the Act; the many areas of municipal law that are or may be involved in decisions as to whether or to what extent adult recreational 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;

WHEREAS, due to the limited time available to enact ordinances, the Borough is temporarily prohibiting all classes of cannabis business to provide Borough officials and staff additional time to craft an appropriate permissive ordinance.

NOW THEREFORE, BE IT ORDAINED, by the Mayor and Council of the Borough of Frenchtown, in the County of Hunterdon, 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 classes of cannabis businesses are hereby prohibited from operating anywhere in the Borough of Frenchtown, except for the delivery of cannabis items and related supplies by a delivery service.

SECTION 2. Chapter 4 “General Licensing” is hereby amended to add a new subsection 4-5 “Cannabis Business” as follows:

4-5. CANNABIS BUSINESS.

4-5.1 Purpose.

It is determined to be in the public interest to prohibit the issuance of cannabis business licenses within the Borough of Frenchtown.

SECTION 3. Article III “General Requirements”, Section 301 “Exceptions, Modifications and Supplementary Regulations”, Subsection E “Prohibited Uses” of the Land Use Ordinance is hereby amended to expand subsection E. “Prohibited Uses” and create a new subsection I. as follows:

E. Prohibited Uses.

2. In addition, the following uses are specifically prohibited in all zoning districts of the Borough:
 1. All classes of cannabis businesses 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.

SECTION 4. Section 3 “The Redevelopment Plan”, Subsection 3.3 “Land Use and Development Requirements” is hereby amended to add the following text on page 11 before the heading “Design Standards”:

Uses Prohibited in the Village Center Plan:

1. All classes of cannabis businesses 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.

SECTION 5. Any and all ordinances or parts thereof in conflict or inconsistent with this Ordinance are hereby repealed, but only to the extent of such conflict or inconsistency, it being the legislative intent that all such ordinances or part of ordinances now existing or in effect unless the same are in conflict or inconsistent with any provision of this Ordinance shall remain in effect.

SECTION 6. The provisions of this Ordinance are declared to be severable and if any section, subsection, sentence, clause or phrase thereof for any reason be held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses and phrases of this Ordinance, but shall remain in effect; it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part by law.

SECTION 7. This Ordinance shall take effect immediately upon: (i) adoption; (ii) publication in accordance with the laws of the State of New Jersey; and (iii) filing of the final form of adopted Ordinance by the Clerk with the Hunterdon County Planning Board pursuant to N.J.S.A. 40:55D-16.

Adopted:

Brad Myhre, Mayor

ATTEST:

Brenda S. Shepherd, RMC
Borough Clerk

I HEREBY CERTIFY that the foregoing ordinance is a true copy of an ordinance given its final reading and adopted by the Mayor and Common Council of the Borough of Frenchtown, in the County of Hunterdon, New Jersey, at a regular meeting of that body, held on _____, 2021.

Brenda S. Shepherd, RMC
Borough Clerk