

**ORDINANCE OF THE BOROUGH OF MERCHANTVILLE,  
COUNTY OF CAMDEN AND STATE OF NEW JERSEY  
PERMITTING THE OPERATION OF CLASS 5 CANNABIS  
BUSINESSES AND PROHIBITING THE OPERATION OF ALL  
OTHER CLASSES OF CANNABIS BUSINESSES WITHIN THE  
BOROUGH OF MERCHANTVILLE**

**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 Distributor 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 31(a) 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 31(b) 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 31(b) 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 31(b) 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

**NOW THEREFORE, BE IT ORDAINED**, by the Borough Council of the Borough of Merchantville, as follows:

1. Pursuant to Section 31(b) of the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (P.L. 2021, c. 16), cannabis retail establishments referred to as Class 5 businesses in the statute, subject to the provisions of Chapter 94 of the Code of the Borough of Merchantville, are permitted to operate in the Borough of Merchantville; and

2. Pursuant to Section 31(b) of the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (P.L. 2021, c. 16), cannabis establishments, cannabis distributors or cannabis delivery services referred to as Class 1, Class 2, Class 3, Class 4 and Class 6 businesses in the statute, are hereby prohibited from operating anywhere in the Borough of Merchantville, except for the delivery of cannabis items and related supplies by a delivery service.

3. Chapter 94, Zoning, of the Code of the Borough of Merchantville is hereby amended by adding to the list of prohibited uses, the following: "All classes of cannabis establishments, cannabis distributors or cannabis delivery services referred to as Class 1, Class 2, Class 3, Class 4 and Class 6 businesses in the statute, 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."

4. Any article, section, paragraph, subsection, clause, or other provision of the Code of the Borough of Merchantville inconsistent with the provisions of this ordinance is hereby repealed to the extent of such inconsistency.

5. 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.

6 This ordinance shall take effect upon its passage and publication, and as otherwise provided for by law.

**THE BOROUGH OF MERCHANTVILLE**

**BY:** \_\_\_\_\_  
**EDWARD F. BRENNAN, MAYOR**

**ATTEST:**

\_\_\_\_\_  
**DENISE BROUSE, BOROUGH CLERK**

The foregoing Ordinance was introduced by Mayor and Council at the regular meeting held on \_\_\_\_\_, 2021. This Ordinance will be considered for adoption on final reading and public hearing to be held on \_\_\_\_\_, 2021 at 7:30 p.m. in the Council Chambers, Second Floor, Merchantville Borough Hall, 1 West Maple Avenue, Merchantville, New Jersey.

The purpose of this Ordinance is to make certain revisions to Chapter 94 in the Code of the Borough of Merchantville to permit Class 5 Cannabis businesses in the Borough of Merchantville, and to prohibit Class 1, Class 2, Class 3, Class 4 and Class 6 businesses in the statute, in the Borough of Merchantville, except for the delivery of cannabis items and related supplies by a delivery service. A copy of this Ordinance is available at no charge to the general public between the hours of 9:00 AM to 4:00 PM, Monday through Friday (Legal Holidays excluded), at the Office of the Borough Clerk, Merchantville Borough Hall, 1 West Maple Avenue, Merchantville, New Jersey.