

**Ordinance #2021-23**

**AN ORDINANCE BY THE MUNICIPALITY OF PRINCETON INITIALLY PROHIBITING ALL CLASSES OF CANNABIS BUSINESSES WITHIN THE MUNICIPALITY AND AMENDING PRINCETON'S ZONING REGULATIONS CONSISTENT THEREWITH**

**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 twenty-one years of age; and

**WHEREAS**, on February 22, 2021, Governor Murphy signed into law P.L. 2021, c. 16 (N.J.S.A. 24:61-31 *et seq.*), known as the “New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act” (the “Act”), which legalizes the recreational use of cannabis by adults twenty-one 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 one 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 purchased 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 (*N.J.S.A.* 24:61-45a) 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 of operation of such establishments, distributors or delivery services; and

**WHEREAS**, section 31b of the Act (*N.J.S.A.* 24:61-45b) also 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, provided, however, that any such 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 “opt out” by adopting such a prohibition by August 22, 2021 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, municipalities 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 recognize that a majority of Princeton’s voters were in favor of the legalization of adult-use cannabis, and are committed to honoring the will of its residents in a responsible fashion; and

**WHEREAS**, Princeton is committed to social and restorative justice in terms of cannabis policing and enforcement; and

**WHEREAS**, because the burden of the criminalization of cannabis has fallen heavily on communities of color and the poor, social and racial justice considerations must be highly valued in all decision-making; and

**WHEREAS**, these critical considerations must be evaluated in the context of the complexities 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 Princeton; and the short duration in which the Act allows such decisions to be made before imposing an automatic authorization of such uses in specified zoning districts subject to unspecified conditions; and

**WHEREAS**, to that end, the Mayor and Council on March 8, 2021 established a task force comprising a diverse constituency to examine the impact of the legalization of cannabis in New Jersey generally and in Princeton specifically to provide input to Mayor and Council on these major areas of concerns, and to make recommendations regarding next steps (see Resolution 21-91); and

**WHEREAS**, given the complexities involved, the task force is still in the process of formulating its ultimate recommendations to the Council for the optimal ways in which to “opt in”; and

**WHEREAS**, in the meantime, the deadline by which to “opt out” is rapidly approaching, and if Princeton fails to take action by that deadline, it will be precluded from

limiting or prohibiting any type of cannabis operation within its borders for the next five years;  
and

**WHEREAS**, accordingly, and in order to (a) ensure that Princeton retains full control over what types of cannabis uses to allow, where, and under what conditions, (b) afford the cannabis task force the time it needs to finalize its opt-in recommendations, and (c) preserve Princeton’s ability to engage in a full community process prior to making any ultimate decisions, it is necessary to initially prohibit all cannabis businesses within Princeton’s geographical boundaries;

**NOW THEREFORE, BE IT ORDAINED** by the Mayor and Council of Princeton as follows:

1. Preamble. The findings set forth in the preamble to this ordinance is hereby incorporated as if fully restated herein.

2. All classes of cannabis businesses prohibited. Pursuant to section 31b of the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (P.L. 2021, c. 16)(the “Act”), all cannabis establishments, cannabis distributors or cannabis delivery services as said terms are defined in section 3 of the Act (N.J.S.A. 24:61-33) are hereby prohibited throughout the Municipality of Princeton, except for the delivery of cannabis items and related supplies within the municipality by delivery services located outside of the municipality.

3. Section 10B-254 of the Township Code amended. Section 10B-254, “Uses Prohibited in all districts” in Article XI, “Zoning” in Chapter 10B, “Land Use” of the “Code of the Township of Princeton, New Jersey 1968” (“Township Code”) is hereby amended by adding thereto the following new subsection:

- (o) The operation of any and 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 ((N.J.S.A. 24:61-33), but not

the delivery of cannabis items and related supplies within Princeton by a cannabis delivery service located outside of Princeton.

4. Section 17A-364 of the Borough Code amended. Section 17A-364, “Prohibited uses” in Article XI, “Zoning” in Chapter 17A, “Land Use and Zoning” of the “Code of the Borough of Princeton, New Jersey 1974” (“Borough Code”) is hereby amended by adding thereto the following new subsection:

- (e) The operation of any and 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 (N.J.S.A. 24:61-33), but not the delivery of cannabis items and related supplies within Princeton by a cannabis delivery service located outside of Princeton.

5. Referral to Princeton Planning Board. Following its introduction on first reading, a copy of this ordinance shall be referred to the Princeton Planning Board for review pursuant to *N.J.S.A. 40A:55D-26a*.

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

7. Severability. 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.

8. Effective date. This ordinance shall take effect upon its passage and publication and filing with the Mercer County Planning Board, and as otherwise provided for by law.

9. Applicability. The provisions of this ordinance shall be applicable within the entire Municipality of Princeton upon final adoption and shall become a part of the new Princeton Code once completed and adopted.

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Delores A. Williams, RMC, Clerk

Hon. Mark Freda, Mayor

Introduced:

Referred to Planning Board:

Adopted:

**STATEMENT OF PURPOSE:** The purpose of this ordinance is to initially prohibit all classes of cannabis businesses in Princeton by the August 22, 2021 deadline imposed by the “New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act,” in order to ensure that Princeton retains full control over what types of cannabis uses to allow, where, and under what conditions, to give the Cannabis Task Force the time it needs to fully consider and finalize its “opt-in” recommendations, and to preserve Princeton’s ability to engage in a full community process prior to making any final decisions.