

ORDINANCE 2019-03

AN ORDINANCE OF THE BOROUGH OF CHESTER, MORRIS COUNTY, STATE OF NEW JERSEY, AMENDING THE CODE OF THE BOROUGH OF CHESTER TO PROHIBIT THE OPERATION OF BUSINESSES ENGAGED IN THE SALE, CULTIVATION, AND/OR MANUFACTURING OF MARIJUANA WITHIN THE BOROUGH OF CHESTER

WHEREAS, municipalities are empowered to make, amend, repeal, and enforce its ordinances pursuant to Statute (N.J.S.A. 40:48-1, et seq.); and

WHEREAS, municipalities are required by Statute to follow specific procedures for the passage of ordinances (N.J.S.A. 40:49-2 et seq.); and

WHEREAS, the Borough of Chester has under the Municipal Land Use Law (N.J.S.A.40:55D-1, et. seq) and pursuant to its police powers (N.J.S.A. 40:48-1, et. seq.), the authority to regulate land uses within its municipal boundaries; and

WHEREAS, the Mayor and Council of the Borough of Chester believe that it is in the best interests of the health, safety and welfare of its residents to prohibit the operation of businesses engaged in the sale, cultivation, growth, testing, and/or manufacturing of recreational marijuana in all zones and districts within the Borough; and

WHEREAS, the Mayor and Borough Council wish to amend the Borough Code, Section II (General Legislation), Chapter 163 (Land Development and Procedures), Article IX (Zoning-Regulations), Section 163-70 (General Regulations and exceptions for all zones), Paragraph L (Prohibited activities) to include a new subparagraph (13) to prohibit the operation of businesses engaged in the sale, cultivation, growth, testing, and/or manufacturing of recreational marijuana in all zones and districts within the Borough; and

NOW, THEREFORE, BE IT ORDAINED, by the Council of the Borough of Chester, County of Morris, State of New Jersey that the Borough Code is hereby amended and as follows:

SECTION 1. Section II (General Legislation), Chapter 163 (Land Development and Procedures), Article IX (Zoning-Regulations), Section 163-70 (General Regulations and exceptions for all zones), Paragraph L (Prohibited activities) is hereby amended to include a new subparagraph (13) as follows:

§ 163-70(L) Prohibited activities:

(13) The sale, cultivation, growth, testing, and/or manufacturing of marijuana.

SECTION 2. The Borough Clerk is directed to give notice at least ten (10) days prior to a hearing on the adoption of this Ordinance to the Morris County Planning Board and to all other persons or entities entitled thereto pursuant to N.J.S.A. 40:55D-16 and N.J.S.A. 40:26-6.10, including to the Clerk of adjoining municipalities. The Borough Clerk shall execute Affidavits of Proof of Service of the notices required by this Section and keep the Affidavits on file along with the Proof of Publication of the notice of the required public hearing on the proposed Ordinance.

SECTION 3: The Borough Clerks is also directed to submit a copy of this Ordinance to the Chester Bough Land Use Board for its review in accordance with N.J.S.A. 40:55D-26 and N.J.S.A. 40:55D-64. The Land Use Board is directed to make and transmit to the Mayor and Council, within thirty-five (35) days after referral, a report including identification of any provision of this Ordinance which is inconsistent with the Master Plan and recommendations concerning any inconsistencies, as well as any other matter as the Board deems appropriate.

SECTION 4: If any Chapter, Article, Section or Subsection, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid by any court of competent jurisdiction such decisions shall not affect the remaining portions of this Ordinance.

SECTION 5: All ordinances or rules or regulations of the Borough of Chester, which are inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

SECTION 6: This Ordinance shall take effect upon (i) passage; (ii) publication according to law; and (iii) filing of the final form of adopted Ordinance by the Clerk with the Morris County Planning Board pursuant to N.J.S.A. 40:55D-16 and N.J.S.A. 40:26-6.10.

Dated: May 7, 2019

Janet Hoven, Mayor

Attest:

Denean Probasco, Municipal Clerk

NOTICE OF FINAL ADOPTION

Notice is hereby given that the Ordinance published herewith was introduced and passed upon first reading at a meeting of the Mayor and Council of the Borough of Chester, in the County of Morris, New Jersey, held on the 19th day of March, 2019, and the same came up for final passage at a meeting of said Borough Council on the 7th day of May, 2019 at which time, after persons interested were given an opportunity to be heard concerning said ordinance, the same was passed and will be in full force in the Borough according to law. By order of the Borough Council of the Borough of Chester, County of Morris and State of New Jersey.

Denean Probasco, Municipal Clerk