



Borough of Manville
Ordinance #2021-1258

**An Ordinance By The Borough Of Manville In The County Of Somerset, State Of New Jersey,
Prohibiting The Operation Of Any Class Of Cannabis Businesses
Within The Borough Of Manville**

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 Philip 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 Cannabis Businesses, including:

- (1) Class 1 Cannabis Cultivator license, for facilities involved in growing and cultivating cannabis;
- (2) Class 2 Cannabis Manufacturer license, for facilities involved in the manufacturing, preparation, and packaging of cannabis items;
- (3) Class 3 Cannabis Wholesaler license, for facilities involved in obtaining and selling cannabis items for later resale by other licensees;
- (4) 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;
- (5) Class 5 Cannabis Retailer license for locations at which cannabis items and related supplies are sold to consumers; and
- (6) 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, this Ordinance is intended to prohibit the operation of all classes of cannabis businesses, and cannabis establishments, cultivators, manufacturers, wholesalers, retailers, distributors, or delivery services anywhere in the municipality, and is enacted by the Borough of Manville pursuant to the specific authority to do so, which authority is provided to the Borough of Manville by Section 31 of The Act;

WHEREAS, section 31a of The Act specifically authorizes municipalities to, by Ordinance, 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 31b of The Act specifically authorizes municipalities to, by Ordinance, 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 Ordinance providing for such 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 enact such an Ordinance would 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 Mayor & Council of the Borough of Manville 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 Manville in particular, it is at this time necessary and appropriate, and in the best interest of the health, safety and welfare of the Borough of Manville's residents and members of the public who visit, travel, or conduct business in the Borough of Manville to adopt an Ordinance prohibiting all manner of cannabis businesses, establishments, cultivators, manufacturers, wholesalers, retailers, distributors, or delivery services, and marijuana or cannabis related land use and development within the geographic boundaries of the Borough of Manville; and

WHEREAS, the Mayor & Council of the Borough of Manville have determined that businesses or facilities selling marijuana, cannabis, or related items, require special concern for security, safety, and location; and

WHEREAS, the Mayor & Council of the Borough of Manville are particularly concerned with such businesses or facilities being located within one mile of any school, church, pool, parkland, or playground, and have determined that here is no area of the Borough which can safely house such businesses or facilities, particularly given the 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

WHEREAS, officials from two prominent non-profit organizations that have been established for the purpose of advising New Jersey municipalities on legal matters such as have been presented by The Act (those organizations being the New Jersey State League of Municipalities and the New Jersey Institute of Local Government Attorneys) have strongly urged that, due to the complexity 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 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;

NOW THEREFORE, BE IT ORDAINED, by the Mayor & Council of the Borough of Manville in the County of Somerset, State of New Jersey, as follows:

SECTION 1: Pursuant to the authority granted to the Borough by Section 31b of the New Jersey

Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (P.L. 2021, c. 16), all cannabis businesses, establishments, cultivators, manufacturers, wholesalers, retailers, distributors, or delivery services, and marijuana or cannabis related land use and development are hereby prohibited from operating anywhere in the Borough of Manville, except for the delivery of cannabis items and related supplies by a delivery service located outside of the Borough (as existing State law does not permit the Borough to prohibit the delivery of cannabis items and related supplies by a delivery service). This prohibition shall apply throughout the municipality, even in any parts of The Borough of Manville under the jurisdiction and authority of the County of Somerset, the State of New Jersey, or any County, State, regional, or independent agency, commission, board, authority or instrumentality, notwithstanding any State law to the contrary.

SECTION 2: The code of the Borough of Manville is hereby amended by adding to the list of prohibited uses throughout the Borough, the following: "All classes of cannabis businesses, and cannabis establishments, cultivators, manufacturers, wholesalers, retailers, distributors, or delivery services, and marijuana or cannabis related land use and development, including all cannabis establishments, cannabis distributors, 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."

SECTION 3. Upon introduction of this Ordinance, a true copy of same shall be sent by the Borough Clerk to the Somerset County Planning Board, and as otherwise provided for by law.

SECTION 4: Repealer: Any prior Ordinance of the Borough of Manville, or any article, section, paragraph, subsection, clause, or other provision of any such prior Ordinance, which is inconsistent with the provisions of this Ordinance, is hereby repealed to the extent of such inconsistency.

SECTION 5. Severability: In the event that any provision of this ordinance, or the application thereof to any person or circumstance is declared invalid by any Court of competent jurisdiction, 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; such holding shall not affect any other provision or application of this ordinance which may be given effect, and, to realize this intent, the provisions and applications of this ordinance are declared to be severable.

SECTION 6. Inconsistency with other Ordinances: Should any provision of this ordinance be inconsistent with the provisions of any other prior ordinances, or shall be inconsistent with any article, section, paragraph, subsection, clause, or other provision of any prior ordinances, the inconsistent provisions of such other prior ordinances are hereby repealed, but only to the extent of such inconsistencies.

SECTION 7. Effective Date: This ordinance shall take effect upon its passage and publication and filing with the Somerset County Planning Board and as otherwise provided for by law.

Borough of Manville,



Richard M. Onderko, Mayor

ORDINANCE #2021-1258

**FIRST READING:
ROLL CALL**

Introduced	Seconded	Council	Yes	No	Abstain	Absent
		Petrock	•			
	•	Lukac	•			
		Maeder	•			
		Magnani	•			
•		Szabo	•			
		Zamorski	•			
		Onderko				

Attest:



Wendy Barras, Borough Clerk

INTRODUCED this 8th day of March, 2021

**SECOND READING AND FINAL ADOPTION:
ROLL CALL**

Introduced	Seconded	Council	Yes	No	Abstain	Absent
		Petrock	•			
	•	Lukac	•			
		Maeder	•			
		Magnani	•			
•		Szabo	•			
		Zamorski	•			
		Onderko				

Attest:



Wendy Barras, Borough Clerk

[ADOPTED] [DEFEATED] this_12th day of __April, 2021