



**Borough of Manville**  
**Ordinance #2021-1263**

**An Ordinance By The Borough Of Manville In The County Of Somerset, State Of New Jersey,  
To Prohibit The Smoking, Vaping, Aerosolizing,  
Or Otherwise Consuming Of Cannabis Or Cannabis Items In Public Places**

**Statement of Purpose.**

The purpose of this Ordinance is to regulate the use and consumption of cannabis and cannabis items in Public Places, as discussed in Section 46 of the New Jersey CREAMM Act (P.L. 2021, c. 16). Pursuant to Section 46 of that Act and N.J.S.A. 26:3D-65(a), a municipality may, by ordinance, fine an individual who smokes or carries lighted cannabis, or who consumes cannabis not by smoking, vaping, or aerosolizing, in any Public Place,

**WHEREAS**, on February 22, 2021, New Jersey Governor Murphy signed into law the New Jersey “Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act” (P.L. 2021, c. 16) (the “CREAMM Act”), which concerns the development, regulation, and enforcement of a recreational cannabis marketplace for persons 21 years of age or older; and

**WHEREAS**, the Administration and Council of the Borough of Manville of Bridgewater has already determined that the licensing of cannabis establishments within Township jurisdiction would be detrimental to the public health, safety, and welfare of the Township and its residents, per Borough of Manville Ordinance No. 2021-1258, as Adopted April 12, 2021; and

**WHEREAS**, the Act already provides that the fines or civil penalties that may be assessed for the smoking of tobacco in designated places under the “New Jersey Smoke-Free Air Act,” P.L.2005, c.383 (N.J.S.A. 26:3D-55 et seq.) shall also be applicable to the smoking, vaping, or aerosolizing of cannabis items; and

**WHEREAS**, the Smoke-Free Air Act allows a municipality to enact an ordinance preventing an individual from smoking or carrying lighted tobacco in any Public Place, including, but not limited to, places of public accommodation; and

**WHEREAS**, municipalities are given the discretion to enact an ordinance making it unlawful for any person who is of legal age to consume a cannabis item in a manner not from smoking, vaping, or aerosolizing in a Public Place, as well;

**NOW, THEREFORE, BE IT ORDAINED**, by the Mayor & Council of the Borough of Manville in the County of Somerset and State of New Jersey, per N.J.S.A. 40:48-1 and 40:48-2, as follows:

**SECTION 1: Statement of Purpose.**

The purpose of this Ordinance is to regulate the use and consumption of cannabis and cannabis items in Public Places, as discussed in Section 46 of the New Jersey CREAMM Act (P.L. 2021, c. 16). Pursuant to Section 46 of that Act and N.J.S.A. 26:3D-65(a), a municipality may, by ordinance, fine an individual who smokes or carries lighted cannabis, or who consumes cannabis not by smoking, vaping, or aerosolizing, in any Public Place,

## **SECTION 2: Definition of “Public Place”**

For purposes of this Ordinance, "Public Place" means "any place to which the public has access that is not privately owned; or to any place to which the public has access where alcohol consumption is not allowed; including but not limited to a public street, road, thoroughfare, sidewalk, bridge, alley, plaza, park, playground, swimming pool, shopping area, public transportation facility, vehicle used for public transportation, parking lot, public library, or any other public building, structure, or area".

## **SECTION 3: Findings**

The Borough of Manville finds that in Public Places, the right of nonsmokers to breathe clean air outweighs the right of smokers to smoke, and also finds that the consumption of cannabis in Public Places is inimical to the health, safety, and welfare of the Township and its residents.

## **SECTION 4: Cannabis Limitations in Public Places**

No person shall engage in the smoking, vaping, aerosolizing, or otherwise consuming of cannabis or cannabis in a public place as defined in this Chapter.

## **SECTION 5: Signage**

“No smoking, vaping, aerosolizing, or otherwise consuming Cannabis or Cannabis items” signs adequately providing notice of the prohibition on the smoking, vaping, aerosolizing, or otherwise consuming of cannabis or cannabis items shall be clearly, sufficiently, and conspicuously posted in all public places affected by this section. Such signs shall also indicate that violators are subject to the penalty provisions of this Chapter.

## **SECTION 6: Violations and Penalties**

Pursuant to N.J.S.A. 26:3D-65(a) and Section 46 of the New Jersey CREAMM Act (P.L. 2021, c. 16), any person who violates this Chapter by smoking, vaping, aerosolizing, or otherwise consuming cannabis or cannabis items in a public place is subject to a civil penalty of up to \$200, which shall be recovered in a civil action by a summary proceeding in the name of the municipality pursuant to the "Penalty Enforcement Law of 1999," (P.L. 1999, c. 274) (C.2A:58-10 et. seq.).

## **SECTION 7: 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 8: 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, and the remainder of this ordinance shall be deemed valid and effective.

## **SECTION 9: 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 10: Effective Date:** This ordinance shall take effect upon its adoption and publication in the manner required by New Jersey law, including as applicable filing with the Somerset County Planning Board.

Borough of Manville,



Richard M. Onderko, Mayor

**ORDINANCE #2021-1263**

**FIRST READING:**

**ROLL CALL**

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

Attest:

Wendy Barras, Borough Clerk



**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 28<sup>th</sup> \_day of June, 2021