

**BOROUGH OF SHREWSBURY  
COUNTY OF MONMOUTH**

**ORDINANCE #2021-1088**

**AN ORDINANCE TO REPEAL AND REPLACE CHAPTER  
94, ZONING AND LAND DEVELOPMENT, ARTICLE X,  
ZONING DISTRICT REGULATIONS, SECTION 94-10.3,  
PROHIBITED USES, OF THE CODE OF THE BOROUGH  
OF SHREWSBURY**

**WHEREAS**, on November 3, 2020, the citizens of New Jersey voted to approve Public Question No. 1, amending and supplementing Section VII of Article IV of the New Jersey Constitution to authorize the growth, cultivation, processing, manufacturing, preparing, packaging, transferring, and retail purchasing and consumption of cannabis, or products created from or which include cannabis for persons twenty-one (21) years or older in New Jersey, and further authorized municipalities to enact an additional municipal tax of up to two (2) percent on the receipts from each sale of cannabis or products created from or which include cannabis; and

**WHEREAS**, in response to the aforementioned vote of the citizens of New Jersey, the State passed enabling legislation entitled the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (“Act”) (P.L.2021, c.16, approved February 22, 2021), which legalizes personal use cannabis for certain adults, subject to State regulation, decriminalizes small amount marijuana and hashish possession, and removes marijuana as Schedule I drug; and

**WHEREAS**, Section 31 of the Act provides that a municipality may enact ordinances or regulations, within 180 days after the effective date of the Act, not in conflict with the provisions of P.L.2021, c.16:

1) governing the number of cannabis establishments, distributors, or delivery services, as well as the location, manner, and times of operation of establishments and distributors, but the time of operation of delivery services shall be subject only to regulation by the Cannabis Regulatory Commission established pursuant to section 31 of P.L.2019, c.153 (C.24:61-24); and

(2) establishing civil penalties for violation of an ordinance or regulation governing the number of cannabis establishments, distributors, or delivery services that may operate in such municipality, or their location, manner, or the times of operations; 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 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; and

**WHEREAS**, Section 31 of the Act further provides that a municipality may prohibit the operation of any one or more classes of cannabis establishment or cannabis distributors or cannabis delivery services, but not the delivery of cannabis items and related supplies by a delivery service within the jurisdiction of the municipality through the enactment of an ordinance and that only an ordinance to prohibit one or more classes of cannabis establishment or cannabis distributors or cannabis delivery services enacted pursuant to the specific authority to do so by this section shall be valid and enforceable; and

**WHEREAS**, the failure of a municipality to enact an ordinance prohibiting the operation of one or more classes of cannabis establishment or cannabis distributors or cannabis delivery services within 180 days after the effective date of the Act, shall result in any class of cannabis establishment or a cannabis distributor or cannabis delivery services that is not prohibited from operating within the municipality as being permitted for a five-year period from the date of the Act; and

**WHEREAS**, any ordinance enacted by a municipality prior to the effective date of the Act addressing the issue of prohibiting one or more types of cannabis-related activities within the jurisdiction of the municipality is null and void; and

**WHEREAS**, pursuant to the Act, Ordinance No. 1041 of 2017 amending Chapter 94 (Zoning and Land Development), Article X (Zoning District Regulations), Section 94-10.3 (Prohibited Uses), ¶ 94-10.3B(17) of the Code of the Borough of Shrewsbury is now null and void; and

**WHEREAS**, the Borough Council has determined that the sale, manufacture, and/or distribution of cannabis within the Borough limits would be detrimental to the public health, safety and welfare of the municipality; and

**WHEREAS**, pursuant to N.J.S.A. 40:48-2, the governing body of a municipality may make, amend, repeal, and enforce such other ordinances, regulations, rules and by-laws not contrary to the laws of this state or of the United States, as it may deem necessary and proper for the good of government, order and protection of person and property, and for the preservation of the public health, safety and welfare of the municipality and its inhabitants, and as may be necessary to carry into effect the powers and duties conferred and imposed by this subtitle, or by any law; and

**WHEREAS**, pursuant to N.J.S.A. 40:55D-62 and 40:55D-65, the governing body may adopt or amend a zoning ordinance related to the nature and extent of the uses of land and structures thereon and a zoning ordinance may restrict buildings and structures according to their type and the nature and extent of their use; and

**WHEREAS**, Chapter 94 (Zoning and Land Development), Article X (Zoning District Regulations), Section 94-10.3 (Prohibited Uses), ¶ 94-10.3B(17) of the Code of the Borough of Shrewsbury is now null and void, needs to be amended and supplemented to prohibit businesses engaged in the manufacture, sale, and/or distribution of cannabis and/or paraphernalia associated with cannabis use in all of the Borough's zoning districts.

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE BOROUGH OF SHREWSBURY AS FOLLOWS:**

**SECTION 1.** Chapter 94 (Zoning and Land Development), Article X (Zoning District Regulations), Section 94-10.3 (Prohibited Uses), ¶ 94-10.3B(17) of the Code of the Borough of Shrewsbury is hereby repealed in its entirety.

**SECTION 2.** Pursuant to the specific authority vested in the Borough Council of the Borough of Shrewsbury by Section 31 of P.L.2021, c.16, Chapter 94 (Zoning and Land Development), Article X (Zoning District Regulations), Section 94-10.3 (Prohibited Uses) of the Code is hereby supplemented to read as follows [additions by **bold**, deletions by ~~strikethrough~~]:

§ 94-10.3. Prohibited Uses.

§ 94-10.3B The following uses and activities are specifically prohibited in any zone in the Borough of Shrewsbury:

17. **All classes (1 through 6) of cannabis establishment or cannabis distributors or cannabis delivery services including cannabis cultivators, manufacturers, wholesalers, retailers, cannabis testing facilities, medical cannabis dispensaries, clinical registrant or cannabis retailer including any**

**alternative treatment centers deemed to hold a medical cannabis dispensary permit pursuant to Section 7 of P.L.2009, c.307 (C.24:61-7) are expressly prohibited within the Borough of Shrewsbury.**

**SECTION 3.** As required by N.J.S.A. 40:55D-64, prior to the hearing on adoption of this ordinance, the Borough Clerk shall send a copy of this ordinance to the Borough Planning Board for its review and comment pursuant to N.J.S.A. 40:55D-26. The Borough Clerk shall also send a copy of this ordinance upon introduction and adoption to the Monmouth County Planning Board pursuant to N.J.S.A. 40:55D-16.

**SECTION 4.** All other provisions of Chapter 94, Section 94-10.3 of the Code of Borough of Shrewsbury shall remain unchanged.

**SECTION 5.** Any and all ordinances or parts thereof in conflict or inconsistent with this Ordinance are hereby repealed, but only to the extent of such conflict or inconsistency, it being the legislative intent that all such ordinances or part of ordinances now existing or in effect unless the same are in conflict or inconsistent with any provision of this Ordinance shall remain in effect.

**SECTION 6.** The provisions of this Ordinance are declared to be severable and if any section, subsection, sentence, clause or phrase thereof for any reason be held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses and phrases of this Ordinance, but shall remaining in effect; it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

**SECTION 7.** This Ordinance shall take effect upon passage and publication as provided by law.

**SECTION 8.** This Ordinance shall be a part of the General Ordinances of the Borough of Shrewsbury as though codified and fully set forth therein. The Borough Clerk shall have this Ordinance codified and incorporated in the official copies of the Borough Code. The Borough Clerk and the Borough Attorney are authorized and directed to change any Chapter, Article and/or Section number of the General Ordinances of the Borough of Shrewsbury in the event that the codification of this Ordinance reveals that there is a conflict between the numbers and the existing Code, and in order to avoid confusion and possible accidental repeal of existing provisions not intended to be repealed.

### **NOTICE**

Public Notice is hereby given that the foregoing Ordinance was introduced and passed on the first reading at a public meeting of the Borough Council of the Borough of Shrewsbury, County of Monmouth, State of New Jersey, held on \_\_\_\_\_, \_\_\_\_\_, 2021 at \_\_\_\_\_

p.m. A copy of the ordinance can be obtained, without cost, by any member of the general public at the Office of the Municipal Clerk, 419 Sycamore Avenue, Shrewsbury, NJ 07702, Monday through Friday, 9:00 a.m. to 4:00 p.m.

Further public notice is hereby given that said ordinance shall be considered for final passage and adoption at a public meeting of the Borough Council to be held on \_\_\_\_\_, \_\_\_\_\_, 2021 at \_\_\_\_\_ p.m. at the Borough of Shrewsbury Municipal Complex, 419 Sycamore Avenue, Shrewsbury, NJ 07702.

**CERTIFICATION**

I, Kerry Quinn, RMC, Municipal Clerk of the Borough of Shrewsbury, do hereby certify that the foregoing Ordinance was duly adopted on first reading by the Municipal Council of the Borough of Shrewsbury at a regular meeting held on the \_\_\_\_<sup>th</sup> day of \_\_\_\_\_, 2021, a quorum being present and voting in the majority.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this \_\_\_\_\_<sup>th</sup> day of \_\_\_\_\_, 2021.

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Kerry Quinn, RMC, Municipal Clerk

*First Reading:* \_\_\_\_\_, 2021  
*Publication:* \_\_\_\_\_, 2021  
*Passage:* \_\_\_\_\_, 2021  
*Final Publication:* \_\_\_\_\_, 2021  
*Effective:* \_\_\_\_\_, 2021