



ORDINANCE #2022-03

Introduction: January 24, 2022

Adoption: February 28, 2022

AN ORDINANCE OF THE TOWNSHIP OF SOUTH ORANGE VILLAGE IN ESSEX COUNTY, NEW JERSEY AMENDING CHAPTER 316 OF THE VILLAGE CODE TO CREATE A MUNICIPAL TAX RELATIVE TO CANNABIS SALES, BUSINESSES AND OPERATIONS

WHEREAS, in 2020 New Jersey voters overwhelmingly 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 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 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 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, the Act also provides for the operation of Cannabis Consumption Areas in association with a licensed Class 5 business; and

WHEREAS, the Act authorizes municipalities by ordinance to adopt regulations governing the number of cannabis establishments (defined in 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 and establishing civil penalties for the violation of any such regulations; and

WHEREAS, the Act authorizes municipalities to 'opt-out' and prohibit cannabis businesses but may 'opt-in' anytime thereafter and adopt regulations permitting cannabis businesses and their operations within the municipality; and

WHEREAS, the Township of South Orange Village (the "Village") voters having voted, in the majority, in support of legalization of recreational marijuana in response to Public Question No. 1; and

WHEREAS, the Village created an ad-hoc advisory committee known as the South Orange Cannabis Task Force to develop more specific local opinion regarding possible cultivation, distribution, retail sale and consumption of cannabis and cannabis products and to provide such feedback to the Board of Trustees for their consideration in creation of local regulation; and

WHEREAS, the Village was compelled to take action prior to the effective date of the Act (i.e. August 22, 2021) and the South Orange Cannabis Task Force was awaiting adoption of regulations by the New Jersey Cannabis Regulatory Commission which have impacted the Village's approach and decision-making; and

WHEREAS, the State of New Jersey Cannabis Regulatory Commission adopted rules and regulations under N.J.A.C. 17:30 on August 19, 2021; and

WHEREAS, the South Orange Cannabis Task Force has reviewed the regulations from the New Jersey Cannabis Regulatory Commission and developed a local approach regarding cultivation, distribution, retail sale and consumption of cannabis and cannabis products and provided such feedback to the Board of Trustees for their consideration; and



WHEREAS, the Village President and Board of Trustees of the Township of South Orange Village have determined that it is appropriate to prohibit Class 1 – Cannabis Cultivator Licenses, Class 2 – Cannabis Manufacturer Licenses, Medical Cannabis Cultivator Licenses and Medical Cannabis Manufacturer Licenses and permit and regulate all remaining classes of cannabis businesses so that the businesses are subjected to reasonable and appropriate zoning regulations and other conditions; and

WHEREAS, municipalities are permitted to impose a municipal tax on the sale of cannabis products and the Village herein wishes to establish such a municipal local tax; and

WHEREAS, the Village also wishes to establish local licensing, fees and regulations of cannabis establishments, cannabis distributors, and cannabis delivery services under separate ordinance; and

WHEREAS, the Village also wishes to establish zoning regulations under separate ordinance.

NOW THEREFORE, BE IT ORDAINED, by the Board of Trustees of the Township of South Orange Village, County of Essex, State of New Jersey, as follows:

SECTION 1.

Village Code Chapter 316 – Taxation is hereby amended by adding the following:

316-14 Cannabis Transfer And User Tax

- A. Pursuant to N.J.S.A. 24A:61-10(i) of the Jake Honig Compassionate Use Medical Cannabis Act and N.J.S.A. 40:481-1(a)(1) of the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act, there is hereby established a Cannabis Transfer Tax in the Village which shall be fixed at a uniform percentage rate of two percent (2%) on all sales or transfers of cannabis products from a Licensed Cannabis Establishment, except for sales or transfers of cannabis products from a Cannabis Wholesaler which shall be taxed at a percentage rate of one percent (1%) on all sales or transfers of cannabis products.
- B. Pursuant to N.J.S.A. 40:481-1(a)(2) of the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act, there is hereby established a Cannabis User Tax in the Village at the same rates set forth in subsection (a) which shall apply to any Licensed Cannabis Entity which holds concurrent licenses and operating more than one cannabis establishment. This Cannabis User Tax shall apply to the value of each transfer or use of cannabis or cannabis items not otherwise subject to the Cannabis Transfer Tax from the



Licensed Cannabis Entity's establishments to any of the other Licensed Cannabis Entity's establishments either without or outside the Village.

- C. The Cannabis Transfer Tax shall be in addition to any other tax or fee imposed pursuant to statute, state and federal, or local ordinance or resolution by any government entity upon a Licensed Cannabis Entity.
- D. The tax imposed by this section shall be paid to the Village on a quarterly basis no later than the fifteenth (15th) day of the month following the last month of the quarter along with a report certified as true and accurate by the Chief Financial Officer, Controller or other similarly situated person showing the gross revenues for the Licensed Cannabis Entity for each month of the quarter.
- E. The Licensed Cannabis Entity operating within the Village shall file on an annual basis no later than February 1 of each year a financial report from an independent accountant certifying as to the annual revenues for the preceding year.

A copy of this section shall be transmitted to the State Treasurer and to every Licensed Cannabis Entity within the Township of South Orange Village.

SECTION 2.

Repealer.

All ordinances or parts of ordinances inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

SECTION 3.

This ordinance shall take effect after final passage and publication as required by law.

SECTION 4.

On passage this ordinance shall be codified.

Introduction – First Reading

Trustee Member	Motion	Second	Ayes	Nays	Abstain	Absent
Brown			X			
Coallier			X			
Haskins			X			



Hartshorn Hilton				X		
Jones		X	X			
Zuckerman	X		X			

CERTIFICATION

I, Ojetti E. Davis, Village Clerk of the Township of South Orange Village, County of Essex, State of New Jersey, do hereby certify that this Ordinance was introduced on first reading by the Board of Trustees at their meeting held on January 24, 2022.

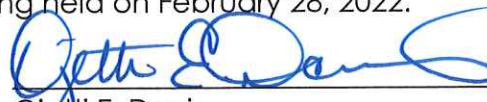

Ojetti E. Davis
Village Clerk

Adoption – Second Reading

Trustee Member	Motion	Second	Ayes	Nays	Abstain	Absent
Brown			X			
Coallier			X			
Haskins			X			
Hartshorn Hilton				X		
Jones		X	X			
Zuckerman	X		X			

CERTIFICATION

I, Ojetti E. Davis, Village Clerk of the Township of South Orange Village, County of Essex, State of New Jersey, do hereby certify that this Ordinance was adopted on second reading by the Board of Trustees at their meeting held on February 28, 2022.


Ojetti E. Davis
Village Clerk

Adopted:


Sheena C. Collum, Village President

Attest:


Ojetti E. Davis, Village Clerk