



ORDINANCE #2022-02

Introduction: January 24, 2022

Adoption: February 28, 2022

AN ORDINANCE OF THE TOWNSHIP OF SOUTH ORANGE VILLAGE IN ESSEX COUNTY, NEW JERSEY AMENDING VILLAGE CODE CHAPTER 185 TO REMOVE CANNABIS BUSINESSES FROM THE LIST OF PROHIBITED USES IN SECTION 185-164 AND TO PERMIT THE OPERATION OF CANNABIS BUSINESSES WITHIN ITS GEOGRAPHICAL BOUNDARIES AS PROVIDED HEREIN

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 one 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, N.J.S.A. 40:55D-64 requires that prior to hearing on adoption of a zoning ordinance, or any amendment thereto, the Board of Trustees shall refer this Ordinance to the Planning Board of the Township of South Orange Village pursuant to N.J.S.A. 40:55D-26; and

WHEREAS, prior to adoption, the Planning Board of the Township of South Orange Village has reviewed the proposed revisions to Chapter 185 of the Village Code and determined that are consistent with the master plan of Township of South Orange Village; 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, municipalities are permitted to impose a municipal tax on the sale of cannabis products and the Village also wishes to establish such a municipal local tax 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.

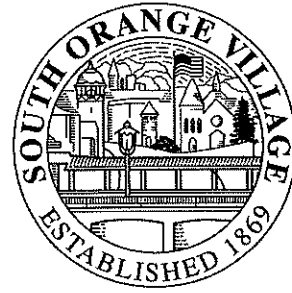
Section 185-164(E) of the Village Code is hereby deleted in its entirety.

SECTION 2.

Village Code Section 185-XXXII – Conditional Uses is hereby amended by adding to the list of conditional uses, the following:

185-193 Cannabis Operations

- A. Industrial Cannabis Uses (Classes 3, 4, and 6) may operate within the B-3 General Business District as a conditional use. Such business shall be subject to the bulk standards within the B-3 District as identified in §185-165, Schedule 2.



B. In order to qualify for conditional use approval to operate a business as an Industrial Cannabis Use within the B-3 District, the licensee must meet the following conditions:

- (1) All facilities shall possess the appropriate conditional or annual license from the Cannabis Regulatory Commission, or otherwise have an active application for an appropriate annual license before the Cannabis Regulatory Commission.
- (2) Industrial Cannabis Uses shall only be permitted on sites with multiple street frontages;
- (3) All loading operations must occur on-site.
- (4) The Applicant shall submit a circulation plan as part of their Site Plan Application that, at minimum, depicts:
 - a. Turning movements for all anticipated truck circulation on the site, including trucks related to cannabis business operations and emergency vehicles;
 - b. Circulation within, ingress to, and egress from the site; and
 - c. Turning movements of all trucks for site ingress and egress can be completed in one movement.
- (5) Class 3 and Class 4 shall submit as a component of their Site Plan Application a water and energy consumption plan detailing, at minimum, anticipated water and energy consumption.
- (6) No activities associated with cultivation, production, and manufacturing of cannabis or cannabis products shall occur within the Township of South Orange Village.
- (7) No explosive materials shall be used on the site related to the sale, use or distribution of cannabis products.
- (8) The Applicant will implement an odor mitigation infrastructure so that odors emanating from the facility are not detectable by a person on adjacent properties, rights-of-way, or other uses located on the same lot.
- (9) Outdoor generators and other mechanical equipment shall be enclosed and have noise reduction systems to mitigate noise



pollution. All facilities must operate within applicable State sound limitations. Sound mitigation equipment shall be screened from view from adjacent properties.

- (10) Landscape buffers at least six feet high at the time of installation, or other equivalent method of buffering, shall be installed adjacent to any property line shared with a residential property.
- (11) Cannabis or cannabis related products shall not be displayed within three (3') feet of storefront or front façade window.
- (12) All exterior doors of the site shall use hydraulic, mechanical, electronic, or other similar mechanisms to keep doors from slamming open or closed.
- (13) Vehicles may not be stored overnight in a front yard. Vehicles stored overnight shall be screened from adjacent properties and rights-of-way by landscaping buffers at least six feet high at the time of installation, or other equivalent method of buffering.
- (14) Compliance with the bulk standards for B-3 Business District pursuant to § 185-165, Schedule 2.
- (15) Compliance with the signage standards pursuant to § 185-XXIII.
- (16) Compliance with the security requirements for Cannabis Businesses pursuant to state law and applicable state, county, local and/or Cannabis Regulatory Commission or other applicable regulations.

C. A Cannabis Retailer (Class 5) may operate as a conditional use within any zoning district of the Village in which retail sales are permitted.

D. In order to qualify for conditional use approval to operate a Cannabis Retailer business, the licensee must meet the following conditions:

- (1) All facilities shall possess the appropriate conditional or annual license from the Cannabis Regulatory Commission, or otherwise have an active application for an appropriate annual license before the Cannabis Regulatory Commission.
- (2) The retail premises shall not be located within 500 feet of a school identified on the New Jersey Department of Education School



Directory. Such distance shall be measured from entrance to entrance as a straight-line measurement.

a. Such buffer shall not apply to Cannabis Retailers operating within the boundaries of the Village's Special Improvement District.

- (3) Retail operations shall be limited to the ground floor, while storage of cannabis and cannabis products may occur on the ground floor or other floors.
- (4) The Applicant will implement an odor mitigation infrastructure so that odors emanating from the facility are not detectable by a person on adjacent properties, rights-of-way, or other uses located on the same lot.
- (5) Outdoor generators and other mechanical equipment shall be enclosed and have noise reduction systems to mitigate noise pollution. All facilities must operate within applicable State sound limitations. Sound mitigation equipment shall be screened from view from adjacent properties.
- (6) Landscape buffers at least six feet high at the time of installation, or other equivalent method of buffering, shall be installed adjacent to any property line shared with a residential property.
- (7) Cannabis or cannabis related products shall be stored and displayed so as not to be visible from the adjacent sidewalk, right of way, or street.
- (8) Compliance with the bulk standards for zoning district in which the Cannabis Retailer is located pursuant to §185-165, Schedule 2.
- (9) Compliance with the signage standards pursuant to §185-XXIII.
- (10) Compliance with the security requirements for Cannabis Businesses pursuant to state law and applicable state, county, local and/or Cannabis Regulatory Commission or other applicable regulations.

E. Outdoor Cannabis Consumption Areas are prohibited. Indoor Cannabis Consumption Areas complying with state law and applicable state, county, local and/or Cannabis Regulatory Commission or other applicable regulations shall be conditionally permitted on the ground floor or second floor in association



with a conditionally permitted Cannabis Retailer and must meet the following conditions:

- (1) The Applicant will implement an odor mitigation infrastructure so that odors emanating from the facility are not detectable by a person on adjacent properties, rights-of-way, or other uses located on the same lot.
- (2) Cannabis Consumption Areas must employ insulation and other techniques and materials to mitigate sound penetration on to adjacent properties or other uses located on the same lot. Cannabis Consumption Areas must operate within applicable State sound limitations. Sound mitigation equipment shall be screened from view from adjacent properties.
- (3) The operator of the Cannabis Consumption Area shall provide an operations plan that details, at minimum, how they intend to control access to Cannabis Consumption Areas, limit loitering and lines outside of the Cannabis Consumption Area, and address adverse situations in the Cannabis Consumption Area such as unruly patrons or medical emergencies.
- (4) The Applicant shall submit plans detailing the location of any exhaust vents.

F. PARKING AND LOADING

- (1) Businesses with a Class 3, Class 4 or Class 6 license shall be subject to the parking requirements associated with "Warehouse, storage building" uses as identified in Village Code Article 185 - XXXI.
- (2) Businesses with a Class 5, Cannabis Dispensary or an Alternative Treatment Center license shall be subject to the parking requirements associated with "Retail stores and businesses providing general services or instruction" as identified in Village Code Article 185 - XXXI. Businesses with a Class 5, Cannabis Dispensary or an Alternative Treatment Center license may seek off-street parking exemptions pursuant to Village Code Article 185 - XXXI.
- (3) Loading requirements for all cannabis businesses shall be subject to Village Code Article 185 - XXXI.



- (4) An Operator of a Cannabis Consumption Area shall be subject to the same parking requirements as restaurants and bars. Operators of a Cannabis Consumption Area may seek off-street parking exemptions pursuant to Village Code Article 185-XXXI.
- (5) If multiple industrial cannabis uses operate on one site, then the entire premises shall be subject to the parking requirement applicable to the business's cannabis license class that requires the greatest quantity of parking. If a Class 5, Cannabis Dispensary or an Alternative Treatment Center business operates a cannabis consumption area, the parking requirement for portion of the premises dedicated to the cannabis consumption area shall be calculated separately from that of the portion of the premises dedicated to retail.

G. LIMITATIONS ON THE NUMBER OF LICENSES AND REVIEW OF THIS ORDINANCE FOR CONSISTENCY:

There shall be no limit on the number of Industrial Cannabis uses operating within the Village. There shall only be two Cannabis Retailer license permitted within the Village, which limit does not apply to Microbusinesses as defined in Village Code. It is anticipated that the Cannabis Regulatory Commission will adopt and promulgate additional regulations from time to time. It shall be the practice of the Village to remain abreast of such changes and conduct periodic review of this Ordinance for consistency with applicable law and regulations as well as evolving best practices.

H. Hours of Operation:

Industrial Cannabis Uses (except as to Class 6 License holders) may only operate between the hours of 8:00 a.m. and 8:00 p.m. on weekdays and 9:00 a.m. and 8:00 p.m. on weekends and holidays.

Cannabis Retailers may only operate between the hours of 8:00 a.m. and 10:00 p.m. The area devoted to use as a Cannabis Consumption Area may only operate between the hours of 8:00 a.m. and 2:00 a.m. the following day.

SECTION 3.

Repealer.

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



SECTION 4.

This ordinance shall take effect after referral to the Planning Board pursuant to N.J.S.A. 40:55D-64, notice and a hearing pursuant to N.J.S.A. 40:55D-62.1, and upon final passage and publication as required by law. The Village Clerk shall provide any and all notifications mandated by the Municipal Land Use Law, N.J.S.A. 40:49-2.1 and N.J.S.A. 40A:55-1 et seq.

SECTION 5.

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

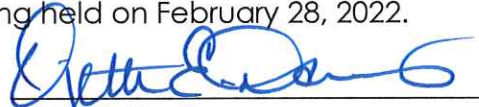


Adoption – Second Reading

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