

**TOWNSHIP OF ANDOVER
COUNTY OF SUSSEX, STATE OF NEW JERSEY**

ORDINANCE #2022-06

**AN ORDINANCE AMENDING THE CODE OF THE TOWNSHIP OF ANDOVER TO
AMEND REGULATIONS REGARDING THE CULTIVATION AND PROCESSING OF
CANNABIS AND REGULATING THE LOCATION OF THE CULTIVATION AND
PROCESSING OF LEGAL CANNABIS WITHIN THE TOWNSHIP**

WHEREAS, the Municipal Land Use Law (N.J.S.A. 40:55D-1, *et seq.*) delegates to municipalities the power to zone and regulate development and that statute is amended from time to time by the State legislature; and

WHEREAS, the Committee of the Township of Andover requested that the Township Code be amended so as to provide for regulation of the expansion of the legalization of the cultivation of legal cannabis and now wishes to amend those regulations; and

WHEREAS, the Township has determined that the cultivation and processing of cannabis presents special concerns and should be regulated specifically to permit the uses where appropriate in the Township; and

WHEREAS, the Township has determined that such facilities should be permitted in certain zones and in appropriate locations as delineated herein;

NOW THEREFORE BE IT RESOLVED THAT the Code of the Township of Andover shall replace Article XVII entitled “Cannabis Cultivation and Processing” as follows:

SECTION 1.

Article XVII Cannabis, Cultivation and Processing.

§ 190-119 Definitions.

Cannabis Cultivator

Any licensed person or entity that grows, cultivates, or produces cannabis in this State, and sells, and may transport, this cannabis to other cannabis cultivators, or usable cannabis to cannabis manufacturers, cannabis wholesalers, or cannabis retailers, but not to consumers. This person or entity shall hold a Class 1 Cannabis Cultivator license.

Cannabis Distribution

The transportation of cannabis items to and from licensed cannabis establishments, or home delivery of cannabis items related supplies to a retail consumer.

Cannabis Distributor

A business or organization owned and controlled by a license holder that holds a Class 4 Cannabis Distributor license.

Cannabis Establishment

A cannabis [grower] cultivator, [also referred to as a cannabis cultivation facility], a cannabis [processor] manufacturer, [also referred to as a cannabis product manufacturing facility], a cannabis wholesaler, or a cannabis retailer.

Cannabis Facility

Any building used in association with cannabis cultivation, manufacturing, wholesale or distribution.

Cannabis Manufacturer

Any licensed person or entity that processes cannabis items in this State by purchasing or otherwise obtaining usable cannabis, manufacturing, preparing and packaging cannabis items, and selling, and optionally transporting, these items to other cannabis manufacturers, cannabis wholesalers, or cannabis retailers, but not to consumers. This person or entity shall hold a Class2 Cannabis Manufacturer license.

License

A license issued under relevant State law including a license that is designated as either:

- A. Class 1 Cannabis [Grower] Cultivator license
- B. Class 2 Cannabis [Processor] Manufacturer license
- C. Class 3 Cannabis Wholesaler license
- D. Class 4 Cannabis Distributor license
- E. Class 5 Cannabis Retailer license
- F. Class 6 Cannabis Delivery license

The classifications and definitions shall be defined pursuant to N.J.S.A. 24:6I-31 et el. The term includes a conditional license for a designated class, except when the context of the provisions of relevant State law otherwise intend to only apply for a license and not a conditional license.

Manufacture

The drying, processing, compounding, or conversion of usable cannabis into cannabis products or cannabis resins. "Manufacture" does not include packaging or labeling.

Cannabis Wholesaler

Shall mean establishments or places of business primarily engaged in selling merchandise to other businesses, including retailers, industrial, commercial, institutional, or professional business users, other wholesalers, or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

§ 190-120 Cannabis Cultivators, Establishments and Manufacturers.

- A. Cannabis Class 1, 2, 3 and 4 as set forth above shall be permitted in all non-residential zones subject to the following:
- (1) Minimum Lot Size: Minimum lot size is 5.0 acres.
 - (2) Eligible Locations: Cannabis Facilities shall be at least 200 feet from any residential building; 200 feet from any parks or trails; and, 200 feet from any school building. Distance shall be measured from nearest building wall to building wall for residential buildings and school buildings. Parks or trails shall be measured from cannabis building facility to nearest park or trail property line.
 - (3) Buildings: All cannabis shall be enclosed in heated/air-conditioned buildings, not in greenhouses, hoop houses or outdoors.
 - (4) Fencing: Cannabis facilities utilized for any growing, production or manufacturing shall be enclosed by a security fence with a height of eight (8') feet, which height shall be permitted for Cannabis Facilities.
 - (5) Odor Control: The cannabis facility shall provide an air treatment system with sufficient odor absorbing ventilation and exhaust systems such that any odor generated inside the facility is not detectable by a person of reasonable sensitivity at the property line of the subject property. Odor from the facility shall be monitored on an annual basis at the discretion of the Township by a licensed, qualified contractor chosen by the Township at a cost that should be paid for by the property owner.
 - (6) Signage: Signs shall be limited to the address, name of the company and emergency contact information located on one (1) ground sign not to exceed 32 square feet.
 - (7) Site Plan Approval: Complete site plan and checklist approval is required as per the Township Code. The Applicant shall submit, including but not limited to, the following: a safety and security plan, emergency services access plan, hazardous materials inventory, environmental impact statement and waste control plan.
 - (8) State License: The cannabis facility must have a valid license to operate from the State of New Jersey and the Township of Andover.
 - (9) Any Cannabis Facility is subject to compliance with all State laws, regulations and guidelines with respect to cannabis licenses issued by the State of NJ and the Township of Andover.
 - (10) Pursuant to NJSA 24:6I-21 Cannabis Consumption Areas are prohibited from being located within any licensed establishments or within the Township.

B. Cannabis Class 1, 2, 3 and 4 as set forth above shall be permitted in residential zones subject to the following:

(1) Minimum Lot Size: Minimum lot size is 5.0 acres.

(2) Eligible Locations: Any Cannabis Facilities shall:

- i. Have a minimum distance of 200 feet from any residential building;
- ii. Have a minimum distance of 200 feet from any parks or trails;
- iii. Have a minimum distance of 200 feet from any schools; and
- iv. Have frontage along a County Road or State Highway.

Distance shall be measured from the nearest building to building wall for residential buildings and school buildings. Parks or trails shall be measured from cannabis building facility to the nearest park or trail property line.

(3) Setback: Must meet the setbacks in the zone the property is located in.

(4) Buildings: All facilities shall be enclosed in heated/air-conditioned buildings, not in greenhouses, hoop houses, or outdoors.

(5) Fencing: All structures utilized for any growing, production or manufacturing shall be enclosed by a security fence with a height of eight (8') feet, .

(6) Odor Control: The facility shall provide an air treatment system with sufficient odor absorbing ventilation and exhaust systems such that any odor generated inside the facility is not detectable by a person of reasonable sensitivity at the property line of the subject property. Odor from the facility shall be monitored on an annual basis at the discretion of the Township by a licensed, qualified contractor chosen by the Township at a cost that should be paid for by the property owner.

(7) Signage: Signs shall be limited to the address, name of the company and emergency contact information located on one (1) ground sign not to exceed 32 square feet.

(8) Site Plan Approval: Complete site plan and checklist approval is required as per the Township Code. The Applicant shall submit, including but not limited to, the following: a safety and security plan, emergency services access plan, hazardous materials inventory, environmental impact statement and waste control plan.

(9) State License: The facility must have a valid license to operate from the State of New Jersey and the Township of Andover.

(10) Any Cannabis Facility is subject to compliance with all State laws, regulations, and guidelines with respect to cannabis licenses issued by the State of NJ and the Township of Andover.

(11) Pursuant to NJSA 24:6I-21 Cannabis Consumption Areas are prohibited from being located within any licensed establishments or within the Township.

SECTION 2.

All Ordinances or parts of Ordinances inconsistent herewith are repealed as to such inconsistencies.

SECTION 3.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

SECTION 4.

The Township Clerk is directed to give notice at least ten (10) days prior to the hearing on the adoption of this Ordinance to the County Planning Board and to all others entitled pursuant to the provisions of N.J.S.A. 40:55D-15. The Township Clerk is further directed to refer this Ordinance to the Township Land Use Board, pursuant to N.J.S.A. 40:55D-64. Upon the adoption of this Ordinance, after public hearing, the Township Clerk is further directed to publish notice of the passage and to file a copy of this Ordinance, as finally adopted, with the Sussex County Planning Board, as required by N.J.S.A. 40:55D-16

SECTION 5.

This Ordinance shall take effect after publication and passage according to law.

NOTICE OF PENDING ORDINANCE

PUBLIC NOTICE is hereby given that the foregoing Ordinance was introduced and passed at first reading at a Regular Meeting of the Township Committee of the Township of Andover held on February 17, 2022. A public hearing regarding same will be held at a hybrid meeting scheduled for April 7, 2022, beginning at 7:00PM, to be held both in person and virtually via Zoom, which details for accessing the meeting are as follows:

Webinar ID: 832 6104 1515

Passcode: 100240

Join Zoom Meeting with browser:

<https://us02web.zoom.us/j/83261041515?pwd=dktJOGJRMWc5MjUxcE9UWWxadlNRdz09>

or

Join Zoom Meeting by Phone:

+ 1 301 715 8592

All persons interested both for and against said ordinance shall be given an opportunity to be heard concerning same.

Patricia L. Bussow, RMC
Administrator/Municipal Clerk

NOTICE OF FINAL ADOPTION

PUBLIC NOTICE is hereby given that the foregoing Ordinance was adopted at a public hearing held at a Hybrid Meeting of the Township Committee of the Township of Andover on April 7, 2022. Said Hybrid Meeting was held virtually via Zoom and in person at the Municipal Building, 134 Newton Sparta Road, Newton, NJ 07860, at which time all persons were given the opportunity to be heard concerning same. This Ordinance shall take effect immediately upon publication, as required by law.

Patricia L. Bussow, RMC
Administrator/Municipal Clerk