

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

ORDINANCE #2025-05

AN ORDINANCE OF THE TOWNSHIP OF ANDOVER, COUNTY OF SUSSEX, STATE OF NEW JERSEY AMENDING CHAPTER 190 “ZONING,” ARTICLE XVII “CANNABIS CULTIVATION AND PROCESSING” OF THE TOWNSHIP CODE, PERMITTING OUTDOOR CULTIVATION OF CANNABIS IN INDUSTRIAL ZONES

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

WHEREAS, on April 7, 2022, the Township Committee of the Township of Andover passed Ordinance #2022-06, zoning and regulating Class 1, 2, 3, and 4 legal Cannabis operations in the Township, as such Classes are defined by P.L. 2021, c. 16, known as the “New Jersey Cannabis Regulatory Enforcement Assistance, and Marketplace Modernization Act” (the “Act”); and

WHEREAS, Ordinance #2022-06 placed various zoning regulations on the premises permitted to operate Cannabis businesses; and

WHEREAS, one such regulation is the requirement for all Cannabis operations to “be enclosed in heated/air-conditioned buildings, not in greenhouses, hoop houses or outdoors;” and

WHEREAS, the Township’s zoning regulations are applicable to Class 1 Cannabis Cultivators, effectively prohibiting the cultivation of Cannabis in greenhouses, hoop houses, or outdoors; and

WHEREAS, the Township Committee of the Township of Andover has determined that the cultivation of Cannabis presents special concerns and can be better regulated to optimally permit such cultivation where appropriate in the Township; and

WHEREAS, the Township Committee of the Township of Andover seeks to amend the Township Municipal Code so as to permit on a limited basis and to regulate the cultivation of Cannabis outdoors; and

WHEREAS, the Township has determined that the cultivation of Cannabis outdoors should be permitted in certain zones and in appropriate locations as delineated herein.

NOW THEREFORE BE IT ORDAINED THAT the Code of the Township of Andover shall amend and supplement Article XVII of the Township Municipal Code, entitled “Cannabis Cultivation and Processing,” as follows:

SECTION 1. Chapter 190-120 of the Township Municipal Code is hereby amended as follows:

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

- (1) Minimum lot size: Minimum lot size is five 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, except as otherwise permitted pursuant to § 190-121, below.
- (4) Fencing: Cannabis facilities utilized for any growing, production or manufacturing shall be enclosed by a security fence with a height of eight feet, which height shall be permitted for Cannabis facilities.
- (5) Odor control: Except as otherwise permitted pursuant to § 190-121, below, any 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 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: Any 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 New Jersey and the Township of Andover.
- (10) Pursuant to N.J.S.A. 24:6I-21, Cannabis consumption areas are prohibited from being located within any licensed establishments or within the Township.

B. Except as otherwise established pursuant to § 190-121, below, 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 five acres.
- (2) Eligible locations:
 - (a) Any cannabis facilities shall:
 - [1] Have a minimum distance of 200 feet from any residential building;
 - [2] Have a minimum distance of 200 feet from any parks or trails;
 - [3] Have a minimum distance of 200 feet from any schools; and
 - [4] Have frontage along a county road or state highway.

(b) Distance shall be measured from the nearest building to building wall for residential buildings and school buildings. Parks or trails shall be measured from the 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 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 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 New Jersey and the Township of Andover.

(11) Pursuant to N.J.S.A. 24:6I-21, cannabis consumption areas are prohibited from being located within any licensed establishments or within the Township.

C. Class 6 cannabis delivery service operating facilities anywhere in the Township are prohibited. In addition, "cannabis consumption areas" as defined by N.J.S.A. 24:6I-33 shall be prohibited throughout the Township.

SECTION 2. §190-121 of the Township Municipal Code is hereby created as follows:

§190-121 Outdoor Cultivation

- A. Cannabis Class 1 Cultivators shall be permitted to participate in Outdoor Cannabis cultivation, as such terms are defined by, and subject to the rules and restrictions of, N.J.S.A. 24:6I-31 et seq. and Title 17, Chapter 30 of the New Jersey Administrative Code. Cultivation pursuant to this Section shall be subject to all applicable provisions of the Township Code, excepting § 190-120(A)(2), (3) & (5), and § 190-120(B). Additionally, Cultivation pursuant to this Section shall be permitted only in the

Township's Industrial zones, as established by the official Township zoning map, and subject to the below restrictions. Where any provisions in this Section are more restrictive than other applicable provisions in the Township Municipal Code, the provisions of this Section shall prevail. Where any provisions in this Section are less restrictive than other applicable provisions in the Township Municipal Code, the other provisions of the Township Municipal Code shall prevail. For Cultivation pursuant to this Section, the following restrictions shall apply:

- (1) Minimum lot size: 125 acres.
- (2) Maximum coverage of cultivated land shall not exceed 30% of the tillable land with no more than 2500 plants per acre.
- (3) Cultivation activity shall be at least 200 feet from any residential building; 200 feet from any parks; and 200 feet from any school building. For residential buildings and school buildings, distance shall be measured from building wall to the physical barrier established by §190-121(A)(4). For parks, distance shall be measured from the nearest park property line to the physical barrier established by §190-121(A)(4).
- (4) Cultivation may occur in an open expanse of cleared ground fully enclosed by a physical barrier.
- (5) Security: Entire property must conform to all rules and regulations set forth in N.J.A.C. 17:30-9.10.
- (6) Odor control: Odor generated from the outdoor cannabis cultivation area shall not be detectable by a person of reasonable sensitivity at the property line of the subject property. Odor from the outdoor cannabis cultivation area 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 will be paid for by the property owner. Odor mitigation plan may include measures taken to control odor, for example: the planting of odorous non-cannabis plants around the property such as lavender, marigold, and/or calendula
- (7) Signage: Signs shall be limited to the address, name of the company and emergency contact information located on one ground sign not to exceed 32 square feet. No signage shall be permitted advertising the cultivation taking place on the Property.
- (8) Site plan approval: Complete site plan approval is required for each cultivator 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, odor mitigation plan, visual impact mitigation plan.
- (9) Cannabis Cultivator must not field dry harvested crop or outdoor processing harvested cannabis on the farm. Harvested cannabis crop must be immediately transported to a State approved cannabis facility for drying, curing, processing and packaging
- (10) State and Municipal License: The facility must have a valid license to operate from the State of New Jersey and Township of Andover.

- B. State Law supremacy: wherever this or any other Section of the Township Municipal Code is in contradiction with the laws and/or the administrative code of the State of New Jersey, as applicable to Cannabis Class 1 Cultivators, State Law shall prevail and shall take precedence over the Township Municipal Code.

SECTION 3.

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

SECTION 4.

If any section, subsection, 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 5.

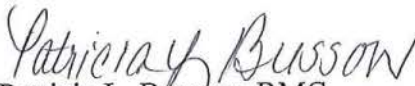
The Township Clerk is directed to give notice at least ten (10) days prior to the hearing on the adoption of this Ordinance to the County Planning Board and to all others entitled pursuant to the provisions of N.J.S.A. 40:55D-15. The Township Clerk is further directed to refer this Ordinance to the Township Land Use Board, pursuant to N.J.S.A. 40:55D-64.

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 20, 2025. A public hearing regarding same will be held at a hybrid meeting scheduled for March 6, 2025 beginning at 7:00PM, to be held both in person and virtually via Zoom, which details for accessing the meeting are as follows:

Join Zoom Meeting
<https://us02web.zoom.us/j/87254161139?pwd=clpxquJenStqV2UdGflzG1fTO4q9kD.1>
Webinar ID: 872 5416 1139
Passcode: 275014
Phone: +1 305 224 1968

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

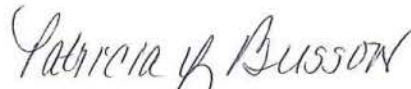
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NOTICE OF FINAL ADOPTION

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 March 6, 2025. 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