

SOUTH ORANGE VILLAGE
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ORDINANCE #2021-17

Introduction: July 26, 2021

Adoption: August 9, 2021

AN ORDINANCE OF THE TOWNSHIP OF SOUTH ORANGE VILLAGE IN ESSEX COUNTY, NEW JERSEY AMENDING VILLAGE CODE SECTION 185-164 TO PROHIBIT THE OPERATION OF ANY CLASS OF CANNABIS BUSINESSES WITHIN ITS GEOGRAPHICAL BOUNDARIES EXCEPT AS PROVIDED HEREIN AND EXPRESS A CONTINUED INTENT TO DEVELOP A LOCAL REGULATION SCHEME FOR COMMERCIAL RECREATIONAL CANNABIS OPERATION, USE AND POSSESSION

WHEREAS, in 2020 New Jersey voters 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 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.

WHEREAS, Section 31a of the Act authorizes municipalities by ordinance to adopt regulations governing the number of cannabis establishments (defined in Section 3 of 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 operation of such establishments, distributors or delivery services, and establishing civil penalties for the violation of any such regulations; and

WHEREAS, Section 31b of the Act authorizes municipalities by ordinance to prohibit the operation of any one or more classes of cannabis establishments, distributors, or delivery services anywhere in the municipality; and

WHEREAS, Section 31b of the Act also stipulates, however, that any municipal regulation or prohibition must be adopted within 180 days of the effective date of the Act (*i.e.*, by August 22, 2021); and

WHEREAS, pursuant to Section 31b of the Act, the failure of a municipality to take affirmative action to establish regulations or prohibition shall mean that for a period of five years thereafter, the growing, cultivating, manufacturing, selling and reselling of cannabis and cannabis items shall be permitted uses in all industrial zones, and the retail selling of cannabis items to consumers shall be a conditional use in all commercial and retail zones; and

WHEREAS, at the conclusion of the initial and any subsequent five-year period following a failure to enact local regulations or prohibitions, the municipality shall again have 180 days to adopt an ordinance regulating or prohibiting cannabis businesses, but any such ordinance would be prospective only and would not apply to any cannabis business already operating within the municipality; and

WHEREAS, a municipality may '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, South Orange voters having voted, in the majority, in support of legalization of recreational marijuana in response to Public Question No. 1; and

WHEREAS, the Township of South Orange Village has 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 State of New Jersey Cannabis Regulatory Commission is expected to issue, adopt or legislate regulations impacting municipal approach and decision-making as it regards cannabis businesses; and

WHEREAS, the Board of Trustees of the Township of South Orange Village has determined that, due to the impending August 22, 2021 deadline, the desire to permit the South Orange Cannabis Task Force a meaningful opportunity to move forward with consideration of local opinion as well as any possible State of New Jersey Cannabis Regulatory Commission regulations, and the present uncertainties regarding the potential future impacts that allowing one or more classes of cannabis business might have on New Jersey municipalities in general, and on the Township of South Orange Village in particular, it would be beneficial to provide additional time to engage in sufficient and thoughtful consideration and to formulate appropriate regulations, it is, at this time, necessary and appropriate, and in the best interest of the health, safety and welfare of Township of South Orange Village's residents and members of the public who visit, travel, or conduct business in Township of South Orange, to amend the Township of South Orange's zoning regulations to prohibit all manner of marijuana-related land use and development within the geographic boundaries of Township of South Orange Village; and

WHEREAS, due to the complexity and novelty of the Act; the many areas of municipal law that are or may be implicated in decisions as to whether or to what extent cannabis or medical cannabis should be permitted for land use purposes or otherwise regulated in any particular municipality; and the relatively short duration in which the Act would allow such decisions to be made before imposing an automatic authorization of such uses in specified zoning districts subject to unspecified conditions, the most prudent course of action for all municipalities, whether or not generally in favor of cannabis or medical cannabis land development and uses, would be to prohibit all such uses within the Act's 180-day period in order to ensure sufficient time to carefully review all aspects of the Act and its impacts;



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.

A. Pursuant to section 31b of the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (P.L. 2021, c. 16), all cannabis establishments, cannabis distributors or cannabis delivery services are hereby prohibited from operating anywhere in Township of South Orange Village, except for the delivery of cannabis items and related supplies by a delivery service and possible favorable treatment of the pending application of Garden State of Mind for the establishment of an Alternative Treatment Center as a medical cannabis dispensary and/or an adult use cannabis dispensary which establishment shall be permitted within the Township of South Orange Central Business and Train Station zones.

B. Section 185-164 of the Village Code is hereby amended by adding to the list of prohibited uses, the following: "All classes of cannabis establishments or cannabis distributors or cannabis delivery services as said terms are defined in section 3 of P.L. 2021, c. 16, but not the delivery of cannabis items and related supplies by a delivery service and possible favorable treatment of the pending application of Garden State of Mind for the establishment of an Alternative Treatment Center as a medical cannabis dispensary and/or an adult use cannabis dispensary which establishment shall be permitted within the Township of South Orange Central Business and Train Station zones."

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 and filing of the final form of the adopted ordinance by the Village Clerk with the Essex County Planning Board pursuant to N.J.S.A 4055d-16.

Section 4.

On passage this ordinance shall be codified.



Introduction – First Reading

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

CERTIFICATION

I, Ojetti E. Davis, Acting 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 July 26, 2021.

Ojetti E. Davis
Acting Village Clerk

Adoption – Second Reading

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



CERTIFICATION

I, Ojetti E. Davis, Acting 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 August 9, 2021.

A handwritten signature in blue ink, appearing to read "Ojetti E. Davis", written over a horizontal line.

Ojetti E. Davis
Acting Village Clerk

Adopted:

A handwritten signature in blue ink, appearing to read "Sheena C. Collum", written over a horizontal line.

Sheena C. Collum

Attest:

A handwritten signature in blue ink, appearing to read "Ojetti E. Davis", written over a horizontal line.

Ojetti E. Davis