

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

**ORDINANCE #2021-03**

**AN ORDINANCE AMENDING THE CODE OF THE TOWNSHIP OF ANDOVER TO PERMIT  
THE CULTIVATION AND PROCESSING OF CANNABIS AND REGULATE 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 medical cannabis and recreational cannabis when approved by the State Legislature in the State of New Jersey; 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 be amended and supplemented to add 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 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 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 Class 2 Cannabis Manufacturer license.

**License**

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

- 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 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.

**Wholesale Trade**

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 commercial and industrial zones properties subject to the following:

- (1) Minimum Lot Size: Minimum lot size is 5.0 acres.
- (2) Eligible Locations: Facilities shall be at least 500 feet from any residential zone; 500 feet from any parks or trails, and 500 feet from any schools and are permitted in the following zones: Planned Commercial Development, General Industrial, Industrial, Community Business, Commercial Industrial, Business Airport, and Highway Commercial.
- (3) Setback: The minimum front yard setback is 50 feet.
- (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 should 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: Site Plan approval is required as per §131-4. 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.
- (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.

## **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 18, 2021. A public hearing regarding same will be held at a meeting scheduled for April 1, 2021, beginning at 7:00PM to be held virtually via Zoom, which details for accessing the meeting are as follows:

Webinar ID: 978 7685 3761

Passcode: 128887

Join Zoom Meeting with browser:

<https://zoom.us/j/97876853761?pwd=d3NlRSt5SlIdFMmx2elFuMC9pUmFPQT09>

or

Join Zoom Meeting by Phone:

+1 929 205 6099

All persons interested both for and against said ordinance shall be given an opportunity to be heard concerning same. A full copy of the ordinance is available on the Township’s official website [www.andovertwp.org](http://www.andovertwp.org), or may be obtained in print from the Municipal Clerk’s office during regular business hours.

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 Regular Meeting of the Township Committee of the Township of Andover on April 1, 2021. Said meeting was held virtually via Zoom Webinar, 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