



ORDINANCE 2021-24

Prohibiting Operation of All Classes of Cannabis Establishments, Cannabis Distributors and Cannabis Delivery Services, and Prohibiting Consumption by Certain Persons And/Or in Certain Places, Within the Jurisdiction of the Township of South Brunswick

WHEREAS, cannabis is a drug whose use is known to be harmful to physical and mental health. For example:

- The 2016 United States Surgeon General report on addiction states that cannabis is a serious threat to the physical and mental health of our children and that its use is a major threat to public safety. ¹
- The American Psychiatric Association reports that current evidence supports, at a minimum, a strong association of cannabis use with the onset of psychiatric disorders. ² Mental illness leads to crime, homelessness and enormous societal costs.
- The National Institute on Drug Abuse (NIDA) research shows that up to 30% of cannabis users may develop some degree of problem use that can include addiction. Among young users, the drug may reduce thinking, memory, and learning functions. Cannabis use has also been linked to mental health problems, such as depression, anxiety, and suicidal thoughts among teens. ³
- A study discussed in a Scientific American article shows that people who had consumed cannabis before 18 years of age developed schizophrenia approximately 10 years earlier than others. The greater the frequency of use, the earlier the age of schizophrenia onset. Neither alcohol use nor genetics predicted an earlier time of inception, but cannabis did. Cannabis use during puberty is a major risk factor for schizophrenia. The more cannabis used and the higher the THC potency - the greater the risk. ⁴
- There is recent research showing that cannabis use is associated with an increased risk of prescription and opioid misuse disorders. ⁵ ; and

WHEREAS, cannabis use may cause an increase in traffic accidents and driving under the influence arrests. ⁶ ; and

WHEREAS, cannabis establishments may disturb quiet neighborhoods and/or cause a decrease in property values; and

WHEREAS, although the State of New Jersey has adopted various laws, including the New Jersey Cannabis Regulatory, Enforcement Assistance and Marketplace Modernization Act, that serve to legalize the possession and use of cannabis products, municipalities have the right to “opt-out” of the laws’ provisions that permit cannabis establishments, cannabis distributors and cannabis delivery services to locate within the municipality; and

WHEREAS, having considered the benefits and detriments involved in the cultivation, manufacture, wholesale, distribution, retail sale, delivery and use of cannabis products, including those set forth in the attached Exhibit 1, which is incorporated herein by reference, it is the considered opinion of the Mayor and Council of the Township of South Brunswick that the detriments of cannabis out-weigh its benefits, and it is in the best interests of the health, safety and welfare of the residents, visitors and guests of the Township to prohibit cannabis establishments, cannabis distributors and cannabis delivery services from locating within the Township;

NOW, THEREFORE, BE IT ORDAINED by the Township Council of the Township of South Brunswick, County of Middlesex, State of New Jersey, that:

- I. The above Preamble paragraphs are incorporated by reference as if fully set forth at length herein.
- II. The Township Code of the Township of South Brunswick shall be and is hereby amended and supplemented with the addition of the following:

CHAPTER 8 - CANNABIS

ARTICLE I - GENERAL

Sec. 8-1 - Purpose.

Cannabis is a drug whose use is known to be harmful to physical and mental health. Its use may cause an increase in traffic accidents and driving under the influence arrests. Cannabis establishments may disturb quiet neighborhoods and/or cause a decrease in property values. Having considered the benefits and detriments involved in the cultivation, manufacture, wholesale, distribution, retail sale, delivery and use of cannabis products, it is the considered opinion of the Township of South Brunswick that the detriments of cannabis out-weigh its benefits, and it is in the best interests of the health, safety and welfare of the residents, visitors and guests of the Township to prohibit cannabis establishments, cannabis distributors and cannabis delivery services from locating and/or operating within the Township

This chapter is therefore enacted to prohibit all cannabis establishments, cannabis distributors, cannabis delivery services, cannabis microbusinesses and cannabis consumption areas from locating and/or operating within the jurisdictional limits of the Township, in accordance with the authority granted by N.J.S.A. 24:6I-45, et seq.

Sec. 8-2 - Definitions.

For the purposes of this chapter, all words and phrases used shall have the same meanings as in N.J.S.A. 24:6I-31, et seq., and the rules and regulations of the Cannabis Regulatory Commission. As a supplement to the words and phrases contained within said law, rules and regulations, the following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

Cannabis Consumption Area means a designated location operated by a licensed cannabis retailer or permit holder for dispensing medical cannabis, for which both a State and local endorsement has been obtained, that is either: (1) an indoor, structurally enclosed area of the cannabis retailer or permit holder that is separate from the area in which retail sales of cannabis items or the dispensing of medical cannabis occurs;

or (2) an exterior structure on the same premises as the cannabis retailer or permit holder, either separate from or connected to the cannabis retailer or permit holder, at which cannabis items or medical cannabis either obtained from the retailer or permit holder, or brought by a person to the consumption area, may be consumed.

Cannabis Cultivator means 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 useable cannabis to cannabis manufacturers, cannabis wholesalers or cannabis retailers, but not to consumers.

Cannabis Delivery Service means any licensed person or entity that provides courier services for consumer purchases of cannabis items and related supplies fulfilled by a cannabis retailer in order to make deliveries of the cannabis items and related supplies to that consumer, and which services include the ability of a consumer to purchase the cannabis items directly through the cannabis delivery service, which after presenting the purchase order to the cannabis retailer for fulfillment, is delivered to that consumer.

Cannabis Distributor means any licensed person or entity that transports cannabis in bulk intrastate from one licensed cannabis cultivator to another licensed cannabis cultivator or transports cannabis items in bulk intrastate from any one class of licensed cannabis establishment to another class of licensed cannabis establishment and may engage in the temporary storage of cannabis or cannabis items as necessary to carry out transportation activities.

Cannabis Establishment means a cannabis cultivator, a cannabis manufacturer, a cannabis wholesaler, or a cannabis retailer.

Cannabis Item means any usable cannabis, cannabis product, cannabis extract, and any other cannabis resin. “Cannabis item” does not include: any form of medical cannabis dispensed to registered qualifying patients pursuant to the “Jake Honig Compassionate Use Medical Cannabis Act,” P.L.2009, c.307 (C.24:61-1 et al.) and P.L.2015, c.158 (C.18A:40-12.22 et al.); or hemp or a hemp product cultivated, handled, processed, transported, or sold pursuant to the “New Jersey Hemp Farming Act,” P.L.2019, c.238 (C.4:28-6 et al.).

Cannabis Manufacturer means 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 the other cannabis manufacturers, cannabis wholesalers, or cannabis retailers, but not to consumers.

Cannabis Microbusiness means one of the classes of cannabis establishments listed in this Chapter that is restricted to no more than 10 employees, occupies no more than 2,500 square feet, possesses no more than 1,000 cannabis plants each month, and/or acquires no more than 1,000 pounds of usable cannabis each month.

Cannabis Retailer means any licensed person or entity that purchases or otherwise obtains usable cannabis from cannabis cultivators and cannabis items from cannabis manufacturers or cannabis wholesalers and sells these to the consumers from a retail store and may use a cannabis delivery service or a certified cannabis handler for the off-premises delivery of cannabis items and related supplies to consumers. “Cannabis retailer” shall also include any licensed person or entity that accepts consumer purchases to be fulfilled from its retail store that are presented by a cannabis delivery service which will be delivered by the cannabis delivery service to that consumer.

Cannabis Testing Facility means an independent, third-party entity meeting accreditation requirements

established by the Cannabis Regulatory Commission that is licensed to analyze and certify cannabis items and medical cannabis for compliance with applicable health, safety, and potency standards.

Cannabis Wholesaler means any licensed person or entity that purchases or otherwise obtains, stores, sells, or otherwise transfers, and may transport, cannabis items for the purpose of resale or other transfer to either another cannabis wholesaler or to a cannabis retailer, but not to consumers.

Consumption means the actual consumption (including the act of ingesting, inhaling, or otherwise introducing cannabis items into the human body), or constructive consumption where the individual is found to have cannabis items in their possession with the seal of the original container broken or removed from the container.

Public property means any place to which the public has access and includes any street, highway, road, alley or sidewalk. It also includes the front or the neighborhood of any store, shop, restaurant, tavern or other place of business and public grounds, areas and parks, as well as parking lots and other vacant property owned by or under the control of a public entity. It also includes all types of vehicles used for public transportation.

Secs. 8-3 - 8-20 - Reserved.

ARTICLE II - CANNABIS ESTABLISHMENTS, DISTRIBUTORS AND DELIVERY SERVICES

Sec. 8-21 - Cannabis Establishments, Distributors, and Delivery Services Prohibited.

In accordance with N.J.S.A. 24:6I-45, the operation of all classes of cannabis establishments, cannabis distributors, cannabis delivery services, cannabis microbusinesses and cannabis consumption areas shall be and are hereby prohibited everywhere within the jurisdiction of the Township.

Sec. 8-22 - Cannabis Testing Facilities Permitted.

Notwithstanding the prohibitions set forth in this Chapter, cannabis testing facilities, as defined herein and regulated by N.J.S.A. 24:6I-31, et seq., shall be permitted, subject to the requirements set forth in South Brunswick Code Chapter 62.

Sec. 8-23 - Cannabis Delivery to Residences within the Township.

Nothing contained in this Chapter shall prohibit the delivery of cannabis items and related supplies by a licensed cannabis delivery service and/or certified cannabis handler that is located outside the jurisdiction of the Township to a residence located within the Township for use by the retail end consumer, so long as said delivery is in accordance with the requirements of N.J.S.A. 24:6I-45, et seq.

Sec. 8-24 - Applicability of Prohibitions to Entire Township.

The prohibitions set forth in this Chapter shall apply throughout the Township, even if the Township or parts thereof fall within any district, area, or other geographical jurisdiction for which land use planning, site planning, zoning requirements or other development authority is exercised by an independent State authority, commission, instrumentality, or agency pursuant to the enabling legislation that governs its duties, functions, and powers, even if this development authority is expressly stated or interpreted to be exclusive

thereunder; and the prohibitions set forth in this Chapter shall apply notwithstanding the provisions of any independent State authority law to the contrary.

Secs. 8-25 - 8-50 - Reserved.

ARTICLE III - CANNABIS CONSUMPTION PROHIBITIONS

Sec. 8-51 - Consumption by Underage Persons on Private Property Prohibited.

It shall be unlawful for any person under the legal age to purchase or consume cannabis items, to consume cannabis items, other than by smoking, vaping or aerosolizing, in or on any private property. Nothing contained herein shall apply to the consumption of medical cannabis by a registered, qualified patient who has received same from a medical cannabis dispensary or clinical registrant pursuant to written instructions issued by a health care practitioner pursuant to the requirements of N.J.S.A. 24:6I-1, et seq.

Sec. 8-52 - Consumption by Persons on Public Property Prohibited.

It shall be unlawful for any person over the legal age to purchase or consume cannabis items, to consume cannabis items, other than by smoking, vaping or aerosolizing, in or on any public property. Nothing contained herein shall apply to the consumption of medical cannabis by a registered, qualified patient who has received same from a medical cannabis dispensary or clinical registrant pursuant to written instructions issued by a health care practitioner pursuant to the requirements of N.J.S.A. 24:6I-1, et seq.

Secs. 8-53 - 8-75 - Reserved.

ARTICLE IV - PENALTIES

Sec. 8-76 - Penalties.

- A) For a violation of any provision of Article II, the penalty imposed, upon conviction, shall be as provided in Section 1-13.
- B) For a violation of Section 8-51, the penalty imposed, upon conviction, shall be as follows:
 - (1) In the case of an adult under the legal age to purchase cannabis items:
 - (a) If the cannabis item possessed is an amount which may be lawfully possessed by a person of the legal age to purchase cannabis items pursuant to section 46 of P.L. 2021, c.16 (C. 24:6I-45, et seq.):
 - (i) for a first offense, a civil penalty of \$100;
 - (ii) for a second offense, a civil penalty of \$200; and
 - (iii) for a third or subsequent offense, a fine of \$350.
 - (b) If the cannabis item possessed is an amount that exceeds what may be lawfully possessed by a person of the legal age to purchase cannabis items pursuant to section 46 of P.L. 2021, c.16 (C. 24:6I-45, et seq.), or if any cannabis item is consumed:
 - (i) for a first offense, a fine of \$250; and
 - (ii) for a second or subsequent offense, a fine of \$350.

- C) For a violation of Section 8-52, the penalty imposed, upon conviction, shall be as follows:
- (1) In the case of an adult over the legal age to purchase cannabis items, a civil penalty of up to \$200.
 - (2) In the case of an adult under the legal age to purchase cannabis items:
 - (a) If the cannabis item possessed is an amount which may be lawfully possessed by a person of the legal age to purchase cannabis items pursuant to section 46 of P.L. 2021, c.16 (C. 24:6I-45, et seq.), a fine of not less than \$250.
 - (b) If the cannabis item possessed is an amount that exceeds what may be lawfully possessed by a person of the legal age to purchase cannabis items pursuant to section 46 of P.L. 2021, c.16 (C. 24:6I-45, et seq.), a fine of not less than \$500.
- D) The civil penalties provided for in this section shall be collected pursuant to the “Penalty Enforcement Law of 1999,” P.L.1999, c.274 (C.2A:58-10 et seq.), in a summary proceeding before the South Brunswick municipal court. A penalty recovered under the provisions of this subsection shall be recovered by and in the name of the Township of South Brunswick.
- E) The court may, in addition to the fines and penalties authorized herein, suspend or postpone for six months the driving privilege of the defendant.
- (1) Upon the conviction of any person and the suspension or postponement of that person's driver's license, the court shall forward a report to the New Jersey Motor Vehicle Commission stating the first and last day of the suspension or postponement period imposed by the court pursuant to this section.
 - (2) If a person at the time of the imposition of a sentence is less than 17 years of age, the period of license postponement, including a suspension or postponement of the privilege of operating a motorized bicycle, shall commence on the day the sentence is imposed and shall run for a period of six months after the person reaches the age of 17 years.
 - (3) If a person at the time of the imposition of a sentence has a valid driver's license issued by this State, the court shall immediately collect the license and forward it to the commission along with the report. If for any reason the license cannot be collected, the court shall include in the report the complete name, address, date of birth, eye color, and sex of the person, as well as the first and last date of the license suspension period imposed by the court.
 - (4) The court shall inform the person orally and in writing that if the person is convicted of operating a motor vehicle during the period of license suspension or postponement, the person shall be subject to the penalties set forth in N.J.S.A. 39:3-40. A person shall be required to acknowledge receipt of the written notice in writing. Failure to receive a written notice or failure to acknowledge in writing the receipt of a written notice shall not be a defense to a subsequent charge of a violation of N.J.S.A. 39:3-40.
 - (5) If the person convicted under this Chapter is not a New Jersey resident, the court shall suspend or postpone, as appropriate, the non-resident driving privilege of the person based on the age of the person and submit to the commission the required report. The court shall not collect the license of a non-resident convicted under this Chapter.

III. All ordinances or parts of ordinances which are inconsistent with or in conflict with this Ordinance or

any part hereof are hereby repealed to the extent of such inconsistencies only.

IV. If any provision of any section, subsection, paragraph, subdivision or clause of this Ordinance shall be adjudged by a court of competent jurisdiction as invalid, such order or judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision or clause of this Ordinance or any other ordinance which is referred to herein by reference and, to this end, the provisions of this section, subsection, paragraph, subdivision or clause of this Ordinance are hereby declared to be severable.

V. This Ordinance shall take effect twenty (20) days after its final passage and publication according to law.

The above ordinance was introduced and passed on first reading at a meeting of the Township Council of the Township of South Brunswick held on June 22, 2021. It will be considered on second reading and final passage at a meeting of the Township Council of the Township of South Brunswick to be held either: (1) at the Municipal Building, Monmouth Junction, New Jersey; or, if that is not possible, (2) via video conference, at 6:00 p.m. on July 27, 2021. If the meeting is held via video conference, an electronic link to the meeting will be made available to the public at www.sbtnj.net no later than noon on the day of the meeting. In either case, at the time of second reading and final passage any person having an interest therein will be given an opportunity to be heard.

¹ Facing Addiction in America: The Surgeon General's Report on Alcohol, Drugs, and Health, November, 2016, Chapters One and two and Appendix D pp.65-66 at:

<https://addiction.surgeongeneral.gov/sites/default/files/surgeon-generals-report.pdf>

² American Psychiatric Association, 2019 "Position Statement in Opposition to Cannabis as Medicine," paragraph 1 found at:

<https://www.psychiatry.org/home/policy-finder?g=b8f27ee0-dc77-4460-bf6e-67b5d69bbad3&Page=1>

³ "Is Marijuana Addictive?" DrugFacts: Marijuana, (June 2015), at:

<https://www.drugabuse.gov/publications/drugfacts/marijuana> - citing: Hasin DS, Saha TD, Kerridge BT, et al. Prevalence of Marijuana Use Disorders in the United States Between 2001-2002 and 2012-2013. JAMA Psychiatry. 2015;72(12):1235-1242. doi:10.1001/jamapsychiatry.2015.1858.

⁴ "Link between Adolescent Pot Smoking and Psychosis Strengthens," by R. Douglas Fields. *Scientific American*, October 20, 2017.

<https://www.scientificamerican.com/article/link-between-adolescent-pot-smoking-and-psychosis-strengthens/>

⁵ "Marijuana use is associated with an increased risk of prescription opioid misuse and use disorders," National Institute on Drug Abuse, Science Spotlight, September 26, 2017. <https://archives.drugabuse.gov/news-events/news-releases/2017/09/marijuana-use-associated-increased-risk-prescription-opioid-misuse-use-disorders>

⁶ "Editorial: The sad anniversary of Big Commercial Pot," November 9, 2017, updated February 1, 2019.

<http://gazette.com/editorial-the-sad-anniversary-of-big-commercial-pot-in-colorado/article/1614900>.

EXHIBIT 1

California has had cannabis dispensaries for twenty years. There is ample documentation of the many adverse effects of cannabis dispensaries in addition to the violations of federal law. ⁷ These include:

1. Violent crimes have been traced to cannabis dispensaries. The crimes included robberies, assaults, burglaries, murders, attempted murders and complaints from neighbors about increased pedestrian and vehicle traffic and noise and odors.

2. The increased pedestrian traffic includes nonresidents in pursuit of cannabis, and out of area criminals in search of prey, and there is sharing or resales of cannabis products just obtained from the dispensary.

3. The dispensaries are often used as a front by organized crime gangs to traffic in drugs and launder money and to fund other legitimate businesses for profit and the laundering of money, and to conduct illegal business operations like prostitution, extortion, and drug trafficking.

4. Street dealers lurking about dispensaries to offer a lower price for cannabis to arriving patrons thus the black market continues to thrive.

5. Cannabis smoking/consuming in public and in front of children

6. Acquiring cannabis and/or money by means of robbery of patrons going to or leaving dispensaries

7. An increase in burglaries at or near dispensaries

8. The sale at dispensaries of other illegal drugs besides cannabis

9. An increase in traffic accidents and driving under the influence arrests in which cannabis is implicated

10. Shoppers stay away due to traffic, blight, crime, and the undesirability of a particular business district known to be frequented by drug users, traffickers and loiterers, and organized criminal gang members. This scares off potential business patrons of legitimate businesses, causing loss of revenues and deterioration of the affected business district.

11. Presence of a physician on the premises issuing recommendations for cannabis use which draws numerous people from out of the area.

12. Lack of effort on the part of dispensary owners/employees to control unlawful or nuisance behavior in and around the business

13. Trading of cannabis purchased at a dispensary to a minor for sex

14. Sales of cannabis to persons not holding the appropriate certificate.

The US Drug Enforcement Administration (DEA) has also received many complaints about the dispensaries to include:

1. People smoking cannabis outside the distribution facility.

2. An increase in pedestrian and automobile traffic clogging the streets, illegal parking.

3. Public safety concerns.

4. Loss of customers and business in a once quiet neighborhood.

5. An influx of criminal elements into the neighborhoods.

6. Noise, litter, loitering, property damage.

7. The pungent smell of cannabis seeping into neighboring businesses.

8. The smell of cannabis making people ill.

9. Secondary smoking risks.

10. Public urination.

11. Threats and harassment.

12. Display of firearms by owners or customers.

13. Verbal altercations.

14. Selling items that look like candy that small children could confuse and ingest.
15. Violations of residential zoning laws.
16. Cannabis distributors operating in school zones or close to schools or parks.
17. Cannabis distributors operating in or near buildings that house drug treatment facilities.
18. Fire hazards from makeshift electrical systems for indoor grows.
19. A decrease in business and revenue for legitimate neighborhood stores.
20. A decrease in tourist revenues and tourist traffic.
21. A decrease in property values.
22. Juveniles under the age of 18 are able to purchase cannabis from cannabis dispensaries under the guise of parental consent.
23. The majority of the customers seen in these clubs are young and do not appear to have any illness. and
24. Adults have been buying cannabis from the cannabis dispensaries and re-selling cannabis to juveniles.⁸

Indoor and outdoor cannabis grow operations

Cannabis grow operations emit a skunk-like odor. They foster unhealthy conditions such as allowing chemicals and fertilizers to be placed in the open, increased carbon dioxide levels within the facility and the accumulation of mold and fungus. They project irritating sounds of whirring fans, and promote the din of vehicles coming and going at all hours of the day and night. Such complaints about cannabis grow operations are common. For example, about 30% of the smell complaints coming into Denver's code enforcement office are about the pot smell coming from the largely industrial areas away from most homes, schools and parks.⁹

All of the above can lower property values.

⁷ White Paper on Marijuana Dispensaries by the California Police Chiefs Association Task Force on Marijuana Dispensaries, April 22, 2009, pages 8-11. <https://mass-cannabis-control.com/wp-content/uploads/2017/12/CNBPSCMMedical-Marijuana-White-Paper.pdf>

OR
<http://citeseerx.ist.psu.edu/viewdoc/download;jsessionid=8430B99C537AE70A5BAF7C32D284FE24?doi=10.1.1.178.9186&rep=rep1&type=pdf>

⁸ Letter from Keith B. Nelson, Esq. Principal Deputy Assistant Attorney General, US Department of Justice to the Hon. John Conyers, Chairman US House Committee on the Judiciary, July 25, 2008

See also: <https://www.businessinsider.com/dea-complains-about-marijuana-2016-8>

⁹ "Complaints About Marijuana Odor From Colorado Grow House Lead to \$14K in Fines", by Mary Beth Quirk. *Consumerist*, November 7, 2016. <https://consumerist.com/2016/11/07/complaints-about-marijuana-odor-from-colorado-grow-house-lead-to-14k-in-fines/>

"Where marijuana is legal, complaints aired about the smell," by Patrik Jonsson. *The Christian Science Monitor*, November 21, 2015. <https://www.csmonitor.com/USA/2015/1121/Where-marijuana-is-legal-complaints-aired-about-the-smell>

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| RESULT: | ADOPTED [UNANIMOUS] |
| MOVER: | Josephine "Jo" Hochman, Councilwoman |
| SECONDER: | Archana "Ann" Grover, Councilwoman |
| AYES: | Joseph Camarota, Archana "Ann" Grover, Josephine "Jo" Hochman |
| ABSENT: | Ken Bierman, Charlie Carley |

This is to certify that the foregoing is a true copy of a Ordinance Adopted at the South Brunswick Township Council meeting held on July 27, 2021.


Barbara Nyitrai, Township Clerk