

ORDINANCE 2025 –04

**AN ORDINANCE OF THE BOROUGH OF SOUTH RIVER, COUNTY OF MIDDLESEX,
STATE OF NEW JERSEY, AMENDING CHAPTER 350 OF THE BOROUGH CODE OF THE
BOROUGH OF SOUTH RIVER ENTITLED “ZONING”**

BE IT ORDAINED by the Mayor and Borough Council of the Borough of South River, County of Middlesex,
and State of New Jersey, as follows:

SECTION 1. Chapter 350 of the Borough Code of the Borough of South River, entitled “Zoning”
is hereby amended so as to amend Section 350-8 entitled “General Regulations” so as to add subsection T as set forth as
follows:

§350-8 General Regulations

T. Licensed Cannabis Facilities

- A. Establishment of Terminology. Facilities which are licensed by the State of New Jersey under the NJ Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act, and/or its successors, shall, within the Borough of South River, be as either a “licensed non-retail cannabis facility” or licensed retail cannabis facility.
- B. A “licensed non-retail cannabis facility” shall be a use operating within the scope of any of the following uses four (4) descriptions:
 - 1. Licensed growing, cultivating, or production of Cannabis including the sale and/or ancillary transport of Cannabis to other cultivators, manufacturers, wholesalers, or off-site retailers;
 - 2. Licensed manufacturing of Cannabis, including purchase and resale of finished or semi-finished Cannabis, the preparation and packaging of Cannabis products, and also including the sale and/or ancillary transport of Cannabis to other manufacturers, wholesalers, or off-site retailers;
 - 3. Licensed wholesale purchase, processing, storage, packaging, re-packaging and sale of Cannabis to off-site retailers;

4. Licensed cannabis distributors, engaged in bulk transportation from cultivator to cultivator, or from licensed establishment to licensed establishment;
 5. The term "licensed non-retail cannabis facility" shall by definition exclude any facility or use containing retail sales of cannabis or cannabis-containing products such as food ingredients, candy, lotions, oils, resins, or any other cannabis by-products of any kind to consumers, customers, households, or individual users of cannabis.
 6. The term "licensed retail cannabis facility" shall be established by definition to include any licensed facility or use containing retail sales of cannabis or cannabis-containing products such as food ingredients, candy, lotions, oils, resins, or any other cannabis by-products of any kind to consumers, customers, households, or individual users of cannabis.
- C. Licensure. Licensure described hereinabove shall refer to all required licenses issued by the State of New Jersey under the NJ Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act, and/or its successors. Any facility not possessing a valid and current license for any activity under that Act shall not be considered a licensed facility and shall thereby be excluded by definition from the term, licensed non-retail cannabis Facility and/or licensed retail cannabis facility.
- D. License Application Prerequisite for Development Application.
- (a) A developer proposing to operate a licensed non-retail cannabis facility or a licensed retail cannabis facility may file an application for development with the Borough of South River only after either;
1. Having filed an application for Class 1 through Class 5 personal use business cannabis license with the State of New Jersey, or;
 2. Having been granted a Class 1 through Class 5 personal use cannabis license from the State of New Jersey, applicable to the specific use(s) proposed.

When an application for development has been submitted to the Borough of South River for a proposed licensed non-retail cannabis facility or licensed retail cannabis facility which has a license application pending with the State of New Jersey as described hereinabove, the Borough of South River shall condition all development approval(s) upon obtaining said license(s). No occupancy may occur, nor may any facility begin operation until all required licenses for such use are obtained from the State of New Jersey and from the Borough of South River.

- E. Duty to Maintain Compliance. A licensed non-retail cannabis facility or licensed retail cannabis facility established pursuant to this sub-section shall, at all times, operate in complete compliance with the terms and conditions of its license(s) issued by the State of New Jersey, as well as all terms and conditions of all municipal approvals, permits and certificates issued by the Borough of South River.
- F. Abandonment. If a licensed non-retail cannabis facility licensed retail cannabis facility has been inactive or unoccupied by the licensee for 6 months or more, or if the required licenses issued by the State of New Jersey become suspended, revoked or expired, the zoning approval for said premises shall be considered extinguished. The Zoning Officer shall issue a notice of suspension to the licensee and to the owner of the property. Any subsequent application for use or occupancy of the premises as a licensed non-retail cannabis facility or licensed retail cannabis facility, including re-occupation by the previous licensee, shall be referred to the original board of jurisdiction for modification or extension of the original zoning approval.
- G. Enabling Authority. The requirements of this Ordinance are subject to the enabling authority of the State of New Jersey and are subject to compliance with all statutes and/or regulations adopted by the State of New Jersey or its instrumentalities. If any provision of this Ordinance is inconsistent with the statutes and/or regulations of the State of New Jersey, the State statutes and/or regulations shall govern.
- H. Zoning Districts.
 - 1. A licensed nonretail cannabis facility shall only be a permitted use in the following non-residential districts:

- a. B-1 Local Business Districts
- b. B-2 General Business District
- c. LI Light Industrial District

2. A licensed cannabis retail facility shall only be permitted in the following three (3) types of locations:

- a. Any lot which is both within the B-2 General Business District; and also within 400' of Old Bridge Turnpike/County Route 527, as measured from the centerline of the road (Old Bridge Turnpike) to the nearest point on the lot.
- b. Any lot which is both within the B-2 General Business District; and also within 500' of State Highway Route 18, as measured from the centerline of the road (Route 18) to the nearest point on the lot.
- c. Any lot which has both frontage on Water/Causeway Street(s) and which is also within 800' of the intersection Water Street and Main Street as measured from the centerline of the Main Street to the nearest point on the subject lot. This subsection shall not include any lot with frontage on Main Street.
- d. For any other location that does not satisfy both the Zoning, street location, and/or roadway proximity requirements listed hereinabove; a proposed licensed retail cannabis facility at that location shall be considered an expressly prohibited use.

I. Development Requirements. The following additional requirements shall be in effect for all applications for development involving a licensed non-retail cannabis facility or licensed retail cannabis facility, regardless of the zoning district in which the facility is proposed:

- 1. Site Plan review and approval shall be required for all proposed cannabis facilities of any term or type.
- 2. Following site plan approval, and compliance with all conditions therein, the operator must obtain A Certificate/Permit of Zoning Compliance from the Zoning Officer before commencement of activity on the premises.
- 3. No outdoor growing, processing or sales shall be permitted. All activities shall occur inside an enclosed and permanent building. No production or sales shall be permitted in any vehicle, shipping container, trailer, or movable or mobile structure.
- 4. A licensed non-retail cannabis facility or licensed retail cannabis facility shall not be part of a home office or home occupation.
- 5. The bulk, parking, landscaping, performance standards, and signage requirements of the zoning district wherein the facility is proposed shall remain in effect.

6. One (1) loading space shall be required for each facility. All other loading design requirements shall remain in effect.
7. Parking requirements for manufacturing, growing and wholesaling spaces shall be based on the standards for manufacturing uses found in §350-27: Off-street Parking Requirements. **Parking requirements for retail sales spaces shall be based on the standards for retail uses found in § 350-27: Off-street parking requirements.**
8. Any licensed non-retail cannabis facility used for the cultivation or production of Cannabis shall provide a fire suppression system to comply with the standards set forth by the Borough Fire Official.
9. No licensed non-retail cannabis facility or licensed retail cannabis facility shall be permitted to hold on the premises a physical reserve of cash, currency, or other monies in an amount exceeding five-thousand dollars (\$5,000.00.)
10. Licensed retail cannabis facilities shall be designed with a floorplan and elevation plan to comply with all applicable state regulations. The facility shall be designed to allow safe storage of retail products and to facilitate secure product loading and deliveries. A lobby area no smaller than 150 SF shall be provided upon initial entry into the facility. The lobby shall be separated from the retail sales space with a wall, screen, railing, or similar barrier. The lobby area shall be designed for employees to verify customer eligibility for purchase and to collect any additional buyer information required by state law. The lobby shall lead through a secure access door or opening to the retail sales floor where all sales shall occur. If any element of this subsection conflicts with state design regulations for licensed retail cannabis facilities, the state design regulations shall supersede and apply. Submission of floorplans and building elevations shall be a required element of any application for development to the Borough of South River.
11. All applications for development shall require submission of a written operations and safety plan detailing policies and procedures for the following items:
 - a. Building, site, product and employee security. Security protocols shall be submitted to the South River Police Department for review with all safety and security standards

established by the State of New Jersey for the use. The South River Police Department may, at their discretion and upon review of the proposed location, recommend or require additional safety and security measures.

- b. Fire/EMS response.
- c. Disposal of faulty product or unused Cannabis material
- d. Safety and storage details regarding any flammable materials, chemicals or fertilizers that may be part of growing or manufacturing process, or any other environmental hazards or materials that may be present at the facility.
- e. Ventilation details for the cultivation systems, including indoor/outdoor air quality.
- f. The building shall be equipped with a ventilation or other system sufficient in type and capacity to prevent cannabis odors from emanating from the interior of the premises. The ventilation system must be approved by the Borough Health Officer and Building Department and may be subject to periodic inspection.
- g. Outside generators, pumps, fans and other mechanical equipment used for any kind of power supply, cooling or ventilation shall be enclosed and have appropriate baffles, mufflers, and/or other noise reduction systems to mitigate mechanical noise nuisance.
- h. All applications for development shall require submission of a written report to demonstrate that the Borough electrical and water supply systems have adequate conveyance capacity to supply the operation, and detailing how waste water from the production process will be discharged into the appropriate the municipal sewer system, in accordance with all applicable water quality, treatment or other standards that may apply.

SECTION 2. All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

SECTION 3. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by a 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 hereof.

SECTION 4. After introduction of this ordinance, the Borough Clerk shall send a copy of this ordinance to the Consolidated Land Use Board for its review and comment pursuant to N.J.S.A. 40:55D-64. The Borough shall send a copy of the ordinance to the Middlesex County Planning Board pursuant to N.J.S.A. 40:55D-16.

SECTION 5. This ordinance shall take effect after second reading and publication as required by law.

NOTICE

NOTICE IS HEREBY GIVEN that the foregoing ordinance was introduced and passed on first reading at a regular meeting of the Borough Council of the Borough of South River, in the County of Middlesex, State of New Jersey, held on January 13th, 2025, and will be considered for second reading and final passage at the regular meeting of said Governing Body to be held on the 3rd day of February, 2025, at 7:00 p.m., or as soon thereafter as this matter can be reached, at the Council Chamber of the Criminal Justice Building located at 61 Main Street, South River, New Jersey, and/or virtually via Zoom meeting code 826 6082 9597: password: 000000 at which time all persons interested shall be given an opportunity to be heard concerning this ordinance.

Introduced 1-13-25

COUNCIL	MOTION	2ND	AYES	NAYS	ABSTAIN	ABSENT
<i>Councilwoman Balazs</i>		X	X			
<i>Councilman DeSantis</i>			X			
<i>Councilman Dziemian</i>			X			
<i>Councilman Giannakopoulos</i>			X			
<i>Councilman Gurchensky</i>			X			
<i>Council President Ciulla</i>	X		X			

Alyssa Hager, RMC
Municipal Clerk
Borough of South River