

§ 145-29.2. Marijuana establishments [Added 5-14-2018 ATM by Art. 23]

- A. Medical. See § 145-2, Definitions "medical marijuana off-site dispensary (MMOD)" and "medical marijuana treatment center (MMTC)," and § 145 Attachment 1, Schedule of Use Regulations.
- B. Non-medical.
 - (1) Purpose. The purpose of this is to:
 - (a) Allow state-licensed non-medical marijuana establishments to locate in the Town of Belchertown in accordance with applicable state laws and regulations, specifically MGL c. 94G (Regulation of the Use and Distribution of Marijuana Not Medically Prescribed) and 935 CMR 500.00, "Adult-Use of Marijuana."
 - (b) Provide safe and effective access to recreational marijuana in the Town of Belchertown.
 - (c) Impose reasonable protections to govern the time, place, and manner of non-medical marijuana establishment operations to ensure public health, safety, well-being, and to limit undue damage on the natural environment as it relates to cultivation, processing and manufacturing subject to the provisions of this Zoning Bylaw, MGL c. 40A (State Zoning Act), and MGL c. 94G.
 - (2) Definitions. Any term not specifically defined in the Zoning Bylaws shall have the meaning as defined 935 CMR 500.00, as such regulations may from time to time be amended.
 - (3) Applicability.
 - (a) Independent testing laboratories shall be permitted by special permit and site plan approval in the Business Neighborhood Center (BNC), General Business (B2), and Light Industrial (LI) Zones, and by site plan approval in the Industrial (I) Zone.
 - (b) Marijuana research facilities shall be permitted by special permit and site plan approval in the Business Neighborhood Center (BNC), General Business (B2), and Light Industrial (LI) Zones, and by site plan approval in the Industrial (I) Zone.
 - (c) Indoor marijuana cultivators shall be permitted by special permit and site plan approval in the Business Neighborhood Center (BNC), General Business (B2), and Light Industrial (LI) Zones, and by site plan approval in the Industrial (I) Zone.
 - (d) Marijuana transporters shall be permitted by special permit and site plan approval in the Business Neighborhood Center (BNC), General Business (B2), and Light Industrial (LI) Zones, and by site plan approval in the Industrial (I) Zone.

- (e) Marijuana product manufacturers shall be permitted by special permit and site plan approval in the Business Neighborhood Center (BNC) and in the Light Industrial (LI) Zones, and by site plan approval in the Industrial (I) Zone.
 - (f) Outdoor marijuana cultivators, including greenhouses as referred to in 935 CMR 500.11 0(E)(1), shall be permitted only in the Primary Agriculture (Ag-A) Zone by special permit and site plan approval.
 - (g) Marijuana retailers shall be permitted by special permit in General Business (B2), Limited Business (B1) and Business Neighborhood Center (BNC) Zones.
 - (h) Social consumption shall be permitted by special permit in General Business (B2), Limited Business (B1) and Business Neighborhood Center (BNC) Zones; provided, however, that on-site social consumption of marijuana or marijuana products, as either a primary or accessory use, must first be approved by a local ballot initiative process pursuant to MGL c. 94G, § 3(b).
 - (i) The Planning Board is the special permit granting authority for any marijuana establishment.
- (4) Application requirements. Pursuant to MGL c. 44, § 53G, the Planning Board may impose on all applicants, when it determines that it is necessary, reasonable fees for the employment of outside consultants, to review applications submitted in accordance with this section of the bylaw, and to assist the Planning Board with its review of such plans and applications.
- (a) Security plan.
 - [1] The applicant shall submit a copy of its security plan, approved by the Cannabis Control Commission as part of the issuance of a provisional license, to the Belchertown Police Department for its review and approval.
 - [2] The security plan shall meet all security requirements of 935 CMR 500.110.
 - (b) Resource use plan.
 - [1] All marijuana cultivators and marijuana product manufacturers shall submit a resource use plan to the Planning Board to demonstrate best practices for use of energy, water, waste disposal, and other common resources, and to ensure there will be no undue damage to the natural environment.
 - [2] The plan shall include an electrical system overview, proposed energy demand and proposed electrical demand off-sets, ventilation system and air quality, proposed water system and utility demand.

- (c) Traffic study and circulation plan.
 - [1] The applicant shall submit traffic circulation plan for the site to ensure the safe movement of pedestrian and/or vehicular traffic on the site.
 - [2] A traffic impact and access study shall be required for all marijuana establishments that generate 25 or more peak hour vehicle trips or 250 or more daily vehicle trips at the marijuana establishments' access to existing roadway networks. The study shall be based on standard traffic engineering guidelines developed by the Massachusetts Environmental Protection Act (MEPA). The Planning Board may require a traffic study if in their determination one is warranted because of public safety concerns.
- (5) Standards and conditions. In addition to the requirements of § 145-69 governing special permits, marijuana establishments shall be subject to the following additional standards and criteria.
 - (a) No marijuana establishment shall be located within 500 feet of any building housing a licensed day-care center, a public or private school providing education any of Grades K through 12, a public library, a public playground, or an existing place of worship such as a church, temple, mosque, or synagogue.
 - (b) In determining for this purpose the distance between these uses and premises licensed or to be licensed as a marijuana establishment, the distance shall be measured in a straight line from the nearest point of the day-care center, church, school, or library building, or in the case of a public playground the nearest fixed swing, slide, climbing bars, or similar equipment to the nearest point of the marijuana establishment's building, or in the case of outdoor cultivation, the nearest marijuana plant.
 - (c) Marijuana plants, products, and paraphernalia shall not be clearly visible to a person from the exterior of a marijuana establishment. No outside storage of marijuana or marijuana products shall be permitted.
 - (d) All types of non-medical marijuana establishments shall be located within a fully enclosed building, except for outdoor or greenhouse cultivation in the AG-A Zone by special permit.
 - (e) No odor from marijuana cultivation, processing, manufacturing, or retail may be noxious or cause a nuisance, a danger to public health, or impair public comfort and convenience. Marijuana establishments shall incorporate odor control technology and safeguards to ensure that emissions do not violate Board of Health regulations adopted pursuant to MGL c. 111, § 31C, including but not limited to those specified for odors.
 - (f) All business signage, marketing, advertising and branding shall be subject to the requirements promulgated by the Cannabis Control

Commission and the requirements of § 145-22 of the Belchertown Zoning Bylaw.

- (g) No marijuana establishment shall be managed by any person other than the licensee or a designated manager, approved by the Cannabis Control Commission as a "registered marijuana establishment agent." Such licensee or designated manager shall be on the premises during regular hours of operation and responsible for all activities within the licensed business and shall provide emergency contact information for the Belchertown Police Department to have on file.
 - (h) Marijuana retailers shall be open to the public no earlier than 8:00 a.m. or later than 8:00 p.m.
 - (i) Marijuana establishments shall not be permitted as a home occupation, as defined per § 145-25 in the Belchertown Zoning Bylaw.
 - (j) The Belchertown Fire Department shall review each application.
 - (k) Applications for special permits must demonstrate specifically how they meet the requirements of § 145-69 of this chapter.
- (6) Severability. If any provision of this § 145-29.2 is found to be invalid by a court of competent jurisdiction, the remainder of § 145-29.2 shall not be affected but shall remain in full force. The invalidity of any provision of § 145-29.2 shall not affect the validity of the remainder of the Town's Zoning Bylaw.

a fence, plantings within the buffer must provide for six-foot vertical growth with sufficient density to protect adjoining properties.

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| | CA, CB, CM all districts | 7. There will be a maximum stay of seven nights for guests of the facility. |
| | | 1. 1 Parking Space per bedroom is required. |
| Brew Pub | LI Zone | 1. Public service/sales area shall not exceed forty (40%) percent of the gross floor area of the facility. |
| | | 2. The Commission may establish hours of operation for service/sales of beverages for consumption on the premises. |
| | | 3. Non-premises produced beer and/or wine shall not exceed forty (40%) percent of gross sales of beer and/or wine for consumption on the premises. |
| Cannabis Establishment | LI Zone | 1. Definition:
For the purpose of this Special Permit, "Cannabis Establishment" shall mean "Retailer" as defined in "Section 1 Subsection 45 of 2021 Public Act 1201 (the "Act") or "Micro Cultivator" as described in Section 1, subsection 36 of the Act. |
| | | 2. Location Restrictions:
The property on which the Cannabis Establishment is located shall not be less than 2000 feet from the following, measured at the closest mutual property line:
Public or private school
Places of worship
Public or private playgrounds
Any other "Cannabis Establishment" as defined herein, or in the Act.
Places serving alcoholic beverages for consumption on premises |

Hospital

Library

Licensed day care centers.

3. Operation Hours: Shall not exceed 9AM to 9PM.
4. Parking: Shall be in accordance with retail store requirements, unless modified by the Zoning Commission.
5. Sales/Consumption: All sales or cultivation shall occur within a building, and no consumption/use of the product shall occur on site.
6. Licensing. The Cannabis Establishment must be licensed by the State of Connecticut, and shall be operated in conformity with all applicable rules and regulations.

Car Wash CA

1. Facility must hook into Municipal Sewers.

Cemeteries Rural, Residential & Commercial

1. Located on a plot of not less than two acres

Commercial Rural, Residence & Commercial
Golf or
Tennis Club,
Private Club

1. It shall be located on a plot of not less than five acres.
2. No building shall be located within 100 feet of any street line nor within 150 feet of any other property line.
3. No activity shall be carried on which results in objectionable noise audible off the premises.

Commercial LI
Indoor Recreation

1. Lot shall not be less than 80,000 square feet.
2. Off-street parking shall be provided in accordance with the use as determined by the Zoning Commission.

Day Spa R-10

1. The lot shall be a minimum of 25,000 square feet.
2. The first-floor footprint of the day spa use

SECTION 10.10. Adult Use Cannabis Establishments.

(Approved by the City Council on 03-28-2018; approved by the Mayor on 03-29-2018)

10.10.1 Purpose. The purpose of this section is to regulate the time, place and manner of cannabis establishments. The zoning will serve to preserve the character of the community and create a place for the public to responsibly have access to legal cannabis while mitigating community impact. This ordinance should serve as a guide that will support the public's right to access legal cannabis, protect the public health, safety, and well-being and expand new growth for the tax base.

10.10.2 Scope. This section 10.10 relates only to Cannabis Establishments authorized by General Laws, Chapter 94G, and not to medical cannabis treatment centers authorized by General Laws, Chapter 94I; the location and operation of which is governed locally by Section 10.9 of these bylaws, nor to cannabis-related businesses not required to be licensed by Chapter 94G, except as otherwise provided for herein.

10.10.3 Definitions.

For the purpose of this section the word cannabis is used in place of marijuana as found in MA General Laws, Chapter 94G, and 935 CMR 500, except where any potential conflict in terms appears the state regulations and purpose shall prevail.

Adult on-site cannabis social consumption operator: Means a Cannabis Retailer licensed to purchase cannabis and cannabis products from a cannabis establishment and to sell cannabis and cannabis products on its premises only to consumers or allow consumers to consume cannabis and cannabis products on its premises only. Note this term is not defined in 935 CMR 500.

Cannabis Cultivation: Means the use of land and/or buildings for planting, tending, improving, harvesting, processing and packaging, the preparation and maintenance of soil and other media and promoting the growth of cannabis by a cannabis cultivator, micro-business, research facility, craft marijuana cultivator cooperative, registered marijuana dispensary or other entity licensed by the Commission for cannabis cultivation. Such use is not agriculturally exempt from zoning. Note this term is not defined in 935 CMR 500.

Cannabis Cultivator: Means an entity licensed to cultivate, process and package cannabis, to transfer cannabis to other Cannabis Establishments, but not to consumers. A Craft Cannabis Cooperative is a type of Cannabis Cultivator.

Cannabis Establishment: Means a Cannabis Cultivator, Craft Marijuana Cooperative, Cannabis Product Manufacturer, Cannabis Retailer, Independent Testing Laboratory, Cannabis Research Facility, Cannabis Transporter, Cannabis Membership Club, or any other type of licensed cannabis-related business, except a medical marijuana treatment center.

Cannabis Membership Club: Means an organization, club, lodge, other private grounds (non-profit and private) allowing on-site consumption of cannabis or marijuana products, but not operating as a licensed marijuana social consumption operator or where no sales occurs. Note this term is not defined in 935 CMR 500.

Cannabis Products: Means cannabis or marijuana and its products unless otherwise indicated. These include products that have been manufactured and contain cannabis or an extract from cannabis or marijuana or an extract from cannabis or marijuana, including concentrated forms of marijuana and products composed of marijuana and other ingredients that are intended for use or consumption, including edible products, beverages, topical products, ointments, oils and tinctures.

Cannabis Product Manufacturer: Means an entity licensed to obtain, manufacture, process and package cannabis or marijuana products and to transfer these products to other Cannabis Establishments, but not to consumers.

Cannabis Retailer: Means an entity licensed to purchase and transfer cannabis or marijuana product from Cannabis Establishments and to sell or otherwise transfer this product to Cannabis Establishments and to consumers. Retailers are prohibited from delivering cannabis or marijuana products to consumers; and from offering cannabis or marijuana products for the purposes of onsite social consumption on the premises of a Cannabis Establishment.

Cannabis Transporter: Means an entity, not otherwise licensed by the Commission, that is licensed to purchase, obtain, and possess cannabis or marijuana product solely for the purpose of transporting, temporary storage, sale and distribution to Cannabis Establishments, but not to consumers. Cannabis Transporters may be an Existing Licensee Transporter or Third Party Transporter.

Commission: Means the Massachusetts Cannabis Control Commission established by M.G.L. c. 10, § 76, or its designee. The Commission has authority to implement the state marijuana laws, which include, but are not limited to, St.2016, c. 334 as amended by St. 2017, c.55,, M.G.L. c. 94G, and 935 CMR 500.000.

Community Host Agreement: Means an agreement, pursuant to General Laws, Chapter 94G, Section 3(d), between a Cannabis Establishment and a municipality setting forth additional conditions for the operation of a Cannabis Establishment, including stipulations of responsibility between the parties and a up to 3% host agreement revenue sharing. Note this term is not defined in 935 CMR 500.

Craft Cannabis Cooperative: Means a Cannabis Cultivator comprised of residents of the Commonwealth and organized as a limited liability company, limited liability partnership, or cooperative corporation under the laws of the Commonwealth. A cooperative is licensed to cultivate, obtain, manufacture, process, package and brand cannabis or marijuana products to transport marijuana to Cannabis Establishments, but not to consumers.

Hemp cultivation: Means for the purposes of this section, the cultivation of hemp shall require a Site Plan Approval from the Planning Board and comply with all applicable sections herein, except that the use may be exempt from the licensing requirements of 935 CMR 500. Note this term is not defined in 935 CMR 500.

Independent Testing Laboratory: Means a laboratory that is licensed by the Commission and is:

Accredited to the International Organization for Standardization 17025 (ISO/IEC 17025:2017) by a third-party accrediting body that is a signatory to the International Laboratory Accreditation Cooperation mutual recognition arrangement or that is otherwise approved by the commission;

Independent financially from any Medical Marijuana Treatment Center (RMD), Marijuana Establishment or licensee for which it conducts a test; and

Qualified to test cannabis or marijuana in compliance with 935 CMR 500.000. A Marijuana Establishment may be eligible for a provisional or final license.

Medical Marijuana Treatment Center, also known as a Registered Marijuana Dispensary (RMD): Means a not-for-profit entity registered under 105 CMR 725.100: Registration of Registered Marijuana Dispensaries, that acquires, cultivates, possesses, processes (including development of related products such as edible cannabis or marijuana products, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing cannabis or marijuana, related supplies, or educational materials to registered

qualifying patients or their personal caregivers for medical use. Unless otherwise specified, RMD refers to the site(s) of dispensing, cultivation, and preparation of cannabis or marijuana for medical use.

Microbusiness: Means a co-located Cannabis Establishment that can be either a Tier 1 Marijuana Cultivator or Product Manufacturer or both, in compliance with the operating procedures for each license. A Microbusiness that is a Cannabis Product Manufacturer may purchase no more than 2,000 pounds of marijuana per year from other Cannabis Establishments.

Process or Processing: Means to harvest, dry, cure, trim and separate parts of the cannabis or marijuana plant by manual or mechanical means, except it shall not include manufacture as defined in 935 CMR 500.002.

Research Facility: Means an entity licensed to engage in research projects by the Commission.

10.10.4 Place

- 10.10.4.1 No Cannabis Establishment shall be located within 350 feet of pre-existing public or private school providing education in kindergarten or any of grades 1 through 12, in operation at the time of application for a special permit or site plan approval. Distance shall be measured in a straight line from the nearest point of the property line in question to the nearest point of the property line where the marijuana establishment is or will be located. In any case where the measurement is determined to be in question, the Planning Board may require verification of distances by a Registered Land Surveyor.
- 10.10.4.2 A Cannabis Establishment is permitted by Special Permit in Highway Business (HB), Downtown Business (DB), Mixed-Use / Mill Industrial (MI) and industrial (I) zoning districts. Refer to Table 5-1, Easthampton Table of Use Regulations. In the Highway Business (HB) and Downtown Business (DB), any Cannabis Establishment other than retail must be located within an existing building (s) and comply with the requirements of Section 10.5 of the Zoning Ordinance.
- 10.10.4.3 Except in the MI and DB districts, no Cannabis Establishment shall be located within a building containing residential units containing residential units, including transient housing and group housing.
- 10.10.4.4 No more than six (6) Cannabis Retailers shall be allowed within the City. Special Permit applications will be considered in the order in which the Planning Department receives a completed Special Permit application and confirmation that a completed license application has been received by the Commission.
- 10.10.4.5 No Cannabis Retailer shall be located within 200 feet of another Cannabis Retailer, except within the MI zone. Distance shall be measured by a straight line from the nearest point of the property line in question to the nearest point of the property line where the marijuana establishment is or will be located.
- 10.10.4.6 No Cannabis Establishment shall be permitted to operate from a moveable, mobile or transitory location.

10.10.5 Time and Manner

- 10.10.5.1 No cannabis shall be smoked, eaten or otherwise consumed or ingested on the premises, except as may be allowed in a Cannabis Membership Club. All Cannabis Establishments permitted under this section shall comply with all state and local laws, rules and regulations governing the smoking of tobacco.

- 10.10.5.2 **Odor:** No Cannabis Establishment shall allow the escape of noxious odors or gases. They shall incorporate odor control technology and provisions, and ensure that emission do not violate MGL Chapter 111, Section 31 C.
- 10.10.5.3 **Signage:** All signage shall comply with the requirements of 935 CMR 500, and Section 10.0 of this zoning ordinance.
- 10.10.5.4 **Hours:** Cannabis Retailers shall be open to the public no earlier than 8:00 AM and no later than 11:00 PM. (section amended by the City Council 02-03-2021; approved by the Mayor 02-04-2021)
- 10.10.5.5 **Visual Impact:** Cannabis plants, products, and paraphernalia shall not be visible from outside the building in which the cannabis establishment is located and shall comply with the requirements of 935 CMR 500. No outside storage is permitted. Any artificial screening device erected to eliminate the view from the public way shall also be subject to a vegetative screen and the Board shall consider the surrounding landscape and viewshed to determine if an artificial screen would be out of character with the neighborhood.
- 10.10.5.6 **Nuisance:** Cannabis Establishment operations shall not create nuisance conditions in parking areas, sidewalks, streets and areas surrounding the premises and adjacent properties. "Nuisance" includes, but is not limited to, disturbances of the peace, public consumption of cannabis, excessive pedestrian or vehicular traffic, illegal drug activity under State or local law, harassment of passersby, excessive littering, excessive loitering, illegal parking, excessive loud noises, excessive citation for violations of State or local traffic laws and regulations, queuing of patrons (vehicular or pedestrian) in or other obstructions of the public or private way (sidewalks and streets).
- 10.10.5.7 **Home Occupation:** Cannabis Establishments are not permitted as a Home Occupation, as defined in Section 10.4 in the Easthampton Zoning Ordinance.
- 10.10.5.8 **Security:** Every application for a Special Permit for the operation of a Cannabis Establishment shall include a security plan describing all security measures. This should include site security, security for the transportation of cannabis and cannabis products. Safety plans should mitigate any potential harm to the employees and the public including ensuring all customers are at least 21 years of age.

10.10.6 Adult On-Site Social Consumption. Intentionally left blank. Reserved for future use.

10.10.7 Other

- 10.10.7.1 **Community Host Agreement:** No Special Permit shall be granted without first having an executed Community Host Agreement with the City of Easthampton.
- 10.10.7.2 **Community Outreach Meeting:** No Special Permit application shall be deemed complete by the Planning Department until a Community Outreach Meeting in accordance with 935 CMR 500 has occurred.
- 10.10.7.3 **State Law:** Cannabis Establishment operations shall conform at all times to General Laws, Chapter 94G, and regulations issued thereunder.
- 10.10.7.4 **License requirements:**
 - 10.10.7.4.1 The applicant shall submit proof that the application to the CCC has been deemed complete pursuant to 935 CMR 500.102. Copies of the complete application, to the extent legally allowed, shall be provided as integral component of the application to the planning board and no Special Permit application shall be deemed complete by the Planning Department until this information is provided.

- 10.10.7.4.2 No Special Permit shall be granted by the Planning Board to an applicant without the Cannabis Establishment first having been issued a Provisional License from the Commission pursuant to 935 CMR 500.
- 10.10.7.4.3 No person shall operate a cannabis establishment without having a license in good standing from the Commission.
- 10.10.7.5 Energy Use: All Cannabis Cultivators shall submit an energy use plan to the Planning Board to demonstrate best practices for energy conservation. The plan shall include an electrical system overview, proposed energy demand, ventilation system and air quality, proposed water system and utility demand.
- 10.10.7.6 Line Queue Plan: The applicant shall submit a line queue plan to ensure that the movement of pedestrian and/or vehicular traffic along the public right of ways will not be unreasonably obstructed.
- 10.10.7.7 Traffic Impact Statement: Any cannabis establishment open to the general public shall submit a detailed Traffic Impact Statement in accordance with Section 7.4104.
- 10.10.7.8 Parking: Parking shall be in accordance with Section 10.1 (off-street parking and loading regulations) and Table 10.3 (off-street parking regulations).
- 10.10.7.9 Permitting: The Planning Board shall be the Special Permit Granting Authority. The application requirements and procedures shall be conducted pursuant to Section 12.7, Special Permits of the Zoning Ordinance.
- 10.10.7.10 Waivers: The applicant shall be required to submit specific information regarding any waivers from 935 CMR 500.000 granted by the Commission. The Planning Board shall approve or disapprove said waivers based on the following Commission criteria in 935.CMR.500:
 - 10.10.7.10.1 Compliance would cause undue hardship to the requestor;
 - 10.10.7.10.2 If applicable, the requestor's non-compliance does not jeopardize the health or safety of any patient or the public;
 - 10.10.7.10.3 If applicable, the requestor has instituted compensating features that are acceptable to the planning board; and
 - 10.10.7.10.4 The requestor provides to the planning board written documentation, in a form and manner determined by the planning board, supporting its request for a waiver.
- 10.10.7.11 Hemp: The cultivation of industrial hemp, as same is regulated by the Massachusetts Department of Agricultural Resources pursuant to General Laws, Chapter 128, Sections 116-123, shall require a Site Plan Approval from the Planning Board and comply with all applicable sections herein, except that the use may be exempt from the licensing requirements of 935 CMR 500. Use of land or buildings for hemp processing and/or product manufacture shall be subject to such zoning controls as apply to other (non-cannabis) processing and product manufacture operations.
- 10.10.7.12 Notice of Enforcement Order: Within twenty-four (24) hours of receipt of notice of it, a Cannabis Establishment shall file with the Mayor, Health Agent and the Building Commissioner any summary cease and desist order, cease and desist order, quarantine order, suspension order, revocation order, order limiting sales, deficiency statement, plan of correction, notice of a hearing, notice of any other administrative process or legal action, denial of a license, denial of a renewal of a license, or final action issued by a state agency (including, but not limited to, the Commission and Massachusetts Department of Public

Health) regarding the Cannabis Establishment, the Cannabis Control Commission license, or the Department of Public Health Certificate of Registration.

10.10.7.13 Annual Inspection: Any operating Cannabis Establishment within the City shall be inspected annually by the Building Inspector, or their designee(s), to ensure compliance with this Section and with any conditions imposed by the Planning Board as a condition of the Special Permit approval.

10.10.8 Severability: If any provision of this Section 10.10 is found to be invalid by a court of competent jurisdiction, the remainder of Section 10.10 shall not be affected but shall remain in full force. The invalidity of any provision of this Section 10.10 shall not affect the validity of the remainder of this zoning ordinance.

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communications requirements. All buildings and fixtures forming part of a solar energy installation shall be constructed in accordance with the State Building Code.

(2) Building Permit and Building Inspection. No non-commercial scale solar energy installation shall be constructed, installed, or modified as provided in this section without first obtaining a building permit.

(3) Site Plan Review. Small-Scale, Ground-Mounted Solar Energy Systems permitted by right shall undergo site plan review by the Planning Board and Small-Scale, Ground-Mounted Solar Energy Systems permitted by special permit shall undergo site plan review by the Zoning Board of Appeals prior to construction, installation or modification as provided in this section and Section 200-8.4, Site Plan Review, of the Zoning Ordinance.

~ 200-7.17. Marijuana Establishments [Added by the Town Council on June 20, 2018; Amended by the City Council on October 20, 2021 and July 20, 2022]

A. Purpose

The purpose of this Section is to provide for the orderly placement of medical and recreational marijuana establishments in areas where such use is not inconsistent with the neighborhood character and in accordance with State law.

B. Applicability

(1) Community Host Agreement: No Special Permit shall be granted without first having an executed Community Host Agreement with the City of Greenfield.

(2) Community Outreach Meeting: No Special Permit application shall be deemed complete by the Planning Department until a Community Outreach Meeting in accordance with 935 CMR 500 has occurred.

(3) No person shall operate a marijuana establishment without having a license in good standing from the Commission.

(4) No more than eight (8) Marijuana Retailers and no more than four (4) Marijuana Delivery Operators shall be allowed within the City of Greenfield. The number of licenses for brick and mortar Marijuana Retailers shall be capped at eight (8). A marijuana outdoor cultivation is limited to Tier 1 (5,000 square feet) per license. No person or entity having direct or indirect control shall be granted, or hold, more than three licenses in a particular class. The maximum outdoor canopy permissible under all licenses for a single parcel is 15,000 sq. ft.

(5) All Marijuana Establishments shall require a special permit from the Zoning Board of Appeals.

(6) The commercial cultivation production, processing, assembly, packaging, retail or wholesale sale, trade, distribution or dispensing of Marijuana is prohibited unless permitted as a Marijuana Establishment under this Section.

(7) No Marijuana Establishment shall be established except in compliance with the provisions of this Section.

(8) Nothing in this Section shall be construed to supersede federal and state laws governing the sale and distribution of narcotic drugs.

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(9) If any provision of this Section or the application of any such provision to any person or circumstance shall be held invalid, the remainder of this Section, to the extent it can be given effect, or the application of those provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby, and to this end the provisions of this Section are severable.

C. Definitions.

The following definitions can be found in Section 200-2.1, Definitions, of the Zoning Ordinance: Cannabis or Marijuana, Craft Marijuana Cooperative, Commission (CCC), Hemp, Host Community, Host Community Agreement, Marijuana Courier, Marijuana Cultivator, Marijuana Delivery Operator, Marijuana Establishment, Marijuana Micro-Business, Marijuana Independent Testing Laboratory, Marijuana Research Facility, Marijuana Retailer, Marijuana Product Manufacturer, Marijuana Standards Testing Laboratory, Marijuana Transporter, and Medical Marijuana Dispensary.

D. Eligible Locations for Marijuana Establishments

See Article IV, Use Regulations, and Appendix A, Table of Uses, of the Greenfield Zoning Ordinance.

E. General Requirements and Conditions for all Marijuana Establishments

(1) All processing, testing, product manufacturing, and retail must take place within a fully enclosed building.

(2) Marijuana plants, products, and paraphernalia shall not be visible from outside the building in which the marijuana establishment is located. No outside storage is permitted.

(3) The hours of operation of Marijuana Establishments shall be set by the Special Permit Granting Authority, but in no event shall said Marijuana Establishments be open and/or operating between the hours of 10:00 PM and 7:00 AM.

(4) No Marijuana Establishment shall be located within a radius of two-hundred and fifty (250) feet of a pre-existing public or private school providing education in kindergarten or any of grades 1 through 12. The two-hundred and fifty (250) foot distance under this section shall be measured in a straight line from the nearest point of the property line in question to the nearest point of the property line where the Marijuana Establishment is or will be located.¹⁵

(5) No smoking, burning or consumption of any product containing marijuana or marijuana-related products shall be permitted on the premises of a Marijuana Establishment.

(6) No Marijuana Establishment shall be located inside transient housing such as motels and dormitories, or inside a movable or mobile structure such as a van or truck.

(7) All business signage for marijuana establishments shall be subject to the requirements promulgated by the Massachusetts Cannabis Control Commission and the requirements of Section 200-6.7 of the Greenfield Zoning Ordinance.

¹⁵ Editor's Note: The Greenfield Board of Health may require a greater setback distance.

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- (8) Marijuana Establishments shall provide the Greenfield Police Department, Building Inspector and the Special Permit Granting Authority with the names, phone numbers and email addresses of all management staff and keyholders to whom one can provide notice if there are operating problems associated with the establishment.
- (9) Marijuana Establishments are not permitted as a Home Occupation, as defined per Section 200-6.3 of the Greenfield Zoning Ordinance.
- (10) All applicants for Marijuana Establishments shall give 30 days prior written notice by certified mail to all preexisting House of Worship within three hundred (300) feet of the public meeting at which the Special Permit shall be considered by the Zoning Board of Appeals.
- (11) No Marijuana Establishment shall be permitted to operate from a moveable, mobile or transitory location, except as permitted for delivery operator and courier licensees in accordance with 935 CMR 500.000.
- (12) Vehicles owned and operated by Delivery operators and Couriers must include in their fleet at least one third total vehicles of either hybrid or electric vehicles for licensees owning six (6) or more vehicles for the purpose of delivery.

F. Special Permit Requirements

- (1) In addition to the application requirements set forth in Section E of this Ordinance, a special permit application for a Marijuana Establishment shall include the following:
 - (a) proof that the application to the CCC has been deemed complete pursuant to 935 CMR 500.102;
 - (b) the name and address of each owner of the facility;
 - (c) copies of all required licenses and permits issued to the applicant by the Commonwealth of Massachusetts and any of its agencies for the Marijuana Establishment;
 - (d) evidence of the Applicant's right to use the site of the Marijuana Establishment for the Marijuana Establishment, such as a deed, or lease;
 - (e) if the Applicant is a business organization, a statement under oath disclosing all of its owners, shareholders, partners, members, managers, directors, officers, or other similarly-situated individuals and entities and their addresses. If any of the above are entities rather than persons, the Applicant must disclose the identity of the owners of such entities until the disclosure contains the names of individuals;
 - (f) a certified list of all parties in interest entitled to notice of the hearing for the special permit application, taken from the most recent tax list of the City and certified by the City Assessor;
 - (g) an approval letter from the Greenfield Chief of Police regarding the proposed security measures for the Marijuana Establishment, including lighting, fencing, gates and alarms, etc., to ensure the safety of persons and to protect the premises from theft.

- (2) Mandatory Findings. The Special Permit Authority shall not issue a special permit for a Marijuana

ZONING

Establishment unless it finds that:

- (a) the Marijuana Establishment is designed to minimize any adverse visual or economic impacts on abutters and other parties in interest, as defined in M.G.L. c. 40A, §11;
- (b) the Marijuana Establishment demonstrates that it will meet all the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and will be in compliance with all applicable state laws and regulations; and
- (c) the Applicant has satisfied all of the conditions and requirements of Sections E and F herein;

G. Abandonment or Discontinuance of Use

- (1) A Special Permit shall lapse if not exercised within one year of issuance.
- (2) A Marijuana Establishment shall be required to remove all material, plants equipment and other paraphernalia prior to surrendering its state issued licenses or permits; or within six months of ceasing operations; whichever comes first.

~ 200-7.18. Accessory Dwelling Units [Amended by the City Council on May 20, 2020]

A. Purpose. The purpose of permitting accessory dwelling units (aka accessory apartments or in-law apartments) is to:

- (1) Develop housing units in owner occupied single-family or two-family homes that are appropriate for households at a variety of stages in their life cycle;
- (2) Provide older homeowners with a means of obtaining rental income, companionship, security, and services, thereby enabling them to stay more comfortably in homes and neighborhoods they might otherwise be forced to leave;
- (3) Add moderately priced rental units to the housing stock to meet the needs of smaller households and make housing units available to low and moderate income households who might otherwise have difficulty finding housing;
- (4) Provide housing units for persons with disabilities;
- (5) Protect stability, property values, and the residential character of a neighborhood;
- (6) Encourage increased housing density; and
- (7) Legalize existing conversions to encourage compliance with the State Building Code.

B. Definitions.

ACCESSORY DWELLING UNIT, WITHIN – An Accessory Dwelling Unit that is within a single-family or two-family home is a self-contained housing unit incorporated within the single-family or two-family home that is clearly a subordinate part of the single-family or two-family home and complies with each of the criteria stated in this ordinance.

Groton, MA

§ 218-10.4. Marijuana establishments.

A. Purpose.

- (1) To provide for the placement of marijuana establishments in appropriate places and under conditions in accordance with the provisions of Massachusetts General Law Chapter 94G.
- (2) To minimize the adverse impacts of marijuana establishments on adjacent properties, residential neighborhoods, schools and other places where children congregate, local historic districts, and other sensitive land uses.
- (3) To regulate the siting, design, placement, security, safety, monitoring, modification, and discontinuance of marijuana establishments.

B. Applicability.

- (1) No marijuana establishment shall be established except in compliance with the provisions of § 218- 5.2 (Schedule of Use Regulations) and this § 218-10.4 (Marijuana establishments).
- (2) If any provision of this section or the application of any such provision to any person or circumstance shall be held invalid, the remainder of this section, to the extent it can be given effect, or the application of those provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby, and to this end the provisions of this section are severable.

C. General requirements and conditions for all marijuana establishments.

- (1) All marijuana establishments shall be contained within a building or structure.
- (2) The hours of operation of marijuana establishments shall be set by the special permit granting authority.
- (3) No marijuana establishment shall be located within 500 feet of the property boundary line of any lot in use as a preexisting public or private preschool, school providing education in kindergarten or any grades 1 through 12, junior college, college, licensed day-care center, church, library, park, playground, or other marijuana establishment. Distance shall be measured in a straight line from property boundary line to property boundary line.
- (4) The on-site consumption of marijuana at all licensed marijuana establishments is prohibited in the Town of Groton.
- (5) The maximum number of licensed marijuana establishments in the Town of Groton shall be consistent with the following provisions:
 - (a) The number of nonretail marijuana establishments shall not exceed one.
- (6) No smoking, burning or consumption of any product containing marijuana or marijuana-related products shall be permitted on the premises of a marijuana establishment with the exception of product testing performed at a licensed

testing facility.

- (7) No marijuana establishment shall be located inside a building containing residential units, including transient housing such as motels and dormitories, or inside a movable or mobile structure such as a van or truck.
- (8) Marijuana establishments shall be located within a permanent building and may not be located in a trailer, cargo container, motor vehicle or other similar nonpermanent enclosure. Marijuana establishments shall not have drive-through service.
- (9) No outside storage of marijuana, related supplies or promotional materials is permitted.
- (10) All marijuana establishments shall be ventilated in such a manner that no:
 - (a) Pesticides, insecticides, or other chemicals or products used in cultivation or processing are dispersed into the outside atmosphere.
 - (b) Odor from marijuana can be detected by a person with a normal sense of smell at the exterior of the marijuana establishment or at any adjoining use or property.

D. Special permit requirements.

- (1) A marijuana establishment shall only be allowed by special permit from the Planning Board in accordance with MGL c. 40A, § 9, and § 218 2.3 (Special permits) of this chapter subject to the following statements, regulations, requirements, conditions and limitations.
- (2) No special permit for any marijuana establishment shall be issued without major site plan approval having been obtained from the Planning Board, § 218-2.5, Site plan review, of this chapter. In addition to the standards set forth within, the site plan must meet all dimensional, parking, landscaping, and signage requirements within this chapter.
- (3) A special permit for a marijuana establishment shall be limited to one or more of the following uses that shall be prescribed by the special permit granting authority:
 - (a) Marijuana cultivator.
 - (b) Marijuana testing facility.
 - (c) Marijuana research facility.
 - (d) Marijuana product manufacturer. **[Added 10-23-2021 ATM by Art. 16]**
 - (e) Marijuana retailer. **[Added 10-23-2021 ATM by Art. 16]**
 - (f) Marijuana transportation or distribution facility. **[Added 10-23-2021 ATM by Art. 16]**

- (g) Any other type of licensed marijuana-related business. **[Added 10-23-2021 ATM by Art. 16]**
 - (4) In addition to the application requirements set forth above, a special permit application for a marijuana establishment shall include the following:
 - (a) The name and address of owner(s) of the establishment;
 - (b) Copies of all required licenses and permits issued to the applicant by the Commonwealth of Massachusetts Cannabis Control Commission and any of its other agencies for the establishment;
 - (c) Evidence of the applicant's right to use the site of the establishment for the establishment, such as a purchase and sale agreement, deed, owner's authorization, or lease;
 - (d) Proposed security measures for the marijuana establishment, including lighting, fencing, gates and alarms, etc., to ensure the safety of persons and to protect the premises from theft. A letter from the Town of Groton Police Chief, or designee, acknowledging review and approval of the marijuana establishment security plan is required. To the extent allowed by law, all such documents shall be confidential.
 - (e) All application requirements for major site plan review as specified in § 218-2.5D(2) of this chapter unless certain nonapplicable requirements are waived by the Planning Board.
 - (5) Mandatory findings. The special permit authority shall not issue a special permit for a marijuana establishment unless it finds that:
 - (a) The establishment is designed to minimize any adverse impacts on abutters and other parties in interest, as defined in MGL c. 40A, § 11.
 - (b) The establishment demonstrates to the satisfaction of the Planning Board that it will meet all the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and will comply with all applicable state laws and regulations; and
 - (c) The applicant has satisfied all of the conditions and requirements set forth herein.
 - (6) A special permit granted under this section shall have a term limited to the duration of the applicant's ownership of the premises as a marijuana establishment. A special permit may be transferred only with the approval of the special permit granting authority in the form of an amendment to the special permit with all information required.
- E. Abandonment or discontinuance of use.
- (1) A special permit shall lapse if a final license has not been issued by the Cannabis Control Commission pursuant to CMR 500.103 within one year of

issuance. The Planning Board may grant an extension if the applicant can demonstrate that despite diligent effort circumstances beyond their control have prevented the issuance of a final license and demonstrates to the satisfaction of the Planning Board that issuance of a final license is highly probable.

- (2) A marijuana establishment shall be required to remove all material, plants, equipment and other paraphernalia within six months of ceasing operations.

Newton, MA

1. It must be a restaurant-business which is duly licensed by the Newton Board of Licensing Commissioners pursuant to both M.G.L. Chapter 140 as a common victualler selling prepared food to patrons and pursuant to M.G.L. Chapter 138, Section 12, whereby alcoholic beverages may be sold to and drunk on the premises by patrons. The alcoholic beverages license may be either an “all alcoholic beverages” license, or a “wine and malt beverages” license.
 2. The restaurant-business must provide a lounge or similar area within the premises which is physically separated from the regular dining area by a wall, partition or other means deemed acceptable to the Newton Board of Licensing Commissioners. Keno, or similar games of chance, entertainment or amusement shall be restricted to this separate lounge or similar area. The restaurant-business shall not permit minors unaccompanied by a parent or adult guardian to enter, occupy, or remain in the restricted lounge or similar area, and shall prominently post signs to this effect.
 3. No person under 18 years of age shall be permitted to engage in or participate in any manner in Keno or other such games of chance, entertainment or amusement, pursuant to this Sec. 6.10.1, M.G.L. Chapter 10, Section 29, as amended, and the regulations promulgated thereunder, including, but not limited to 961 CMR 2.00, 2.20(3) and 2.27(5).
- C. Violation.** Any establishment found to have violated state laws or regulations or the provisions of this section regarding the prohibition of minors in this regard shall be deemed an unlawful use in violation of this Chapter, and shall be subject to enforcement proceedings and penalties provided under M.G.L. Chapter 40A, Section 7, and this Chapter.
- D. Penalties.** Any ‘person’, including a business as defined in the Massachusetts Lottery Commission regulations, 961 CMR 2.03, which is found to have violated state laws or regulations regarding prohibition of minors in this regard shall be subject to the statutory penalties of M.G.L. Chapter 10, Section 29, as amended, and revocation of their license as a lottery sales agent pursuant to state law, including but not limited to Massachusetts Lottery Commission regulations 961 CMR 2.00, 2.13(1), 2.20(3) and 2.27(5).
- E. Video Monitors.** No restaurant-business shall provide more than 2 video monitors for broadcast or closed-circuit transmission of Keno or similar games of chance, entertainment or amusement in the aforesaid lounge or similar area. Said limitation shall not apply to regular television programming of network, independent television stations, or television stations provided by cable, satellite, or similar systems.
- F. No Affirmative Rights are Granted by this Sec. 6.10.2.** The City shall not be precluded from exercising any legislative powers it may now have or which may be granted to the city by the General Court in future legislative enactments to prohibit or further regulate Keno, or similar games of chance, entertainment or amusement.
- G. Keno License.** Any ‘person’, including a business as defined in the Massachusetts Lottery Commission regulations, 961 CMR 2.03, who has filed prior to June 10, 1996 an application for a Keno license with the Massachusetts Lottery Commission and who thereafter receives from said Commission a valid Keno license, pursuant to M.G.L. Chapter 10, Section 27A, will be exempt from the provisions of paragraph B.1 and B.2 above relating to possession of a license to sell alcoholic beverages and provision of a separate lounge or similar area, but only at the location for which the application was filed prior to June 10, 1996.

(Rev. Ords. 1995, Ord. No. V-89, 08/12/96)

6.10.3. Registered Marijuana Use

- A. Purpose.** The purpose of this Sec. 6.10.3 is to provide for the limited establishment of Medical Marijuana Treatment Centers (“MTCs”) and adult use Marijuana Establishments (“MEs”) within the City as they are authorized pursuant to state regulations set forth in and 935 CMR 500.000 and 935 CMR 501.000. Since MTCs and Marijuana Establishments are strictly regulated by the Massachusetts Cannabis Control Commission, the intent of this Sec. 6.10.3 is to permit MTCs and Marijuana Establishments where there is access to regional roadways and public transportation, where they may be readily monitored by law enforcement for health and public safety purposes, and where they will not adversely impact the character of residential neighborhoods and business districts.

B. Definitions. As defined or amended by 935 CMR 500.000 and 935 CMR 501.000:

1. **Craft Marijuana Cooperative.** A Marijuana Cultivator comprised of residents of the Commonwealth and organized as a limited liability company, limited liability partnership, or cooperative corporation under the laws of the Commonwealth. A cooperative is licensed to cultivate, obtain, manufacture, process, package and brand cannabis or marijuana products to transport marijuana to Marijuana Establishments, but not to consumers.
2. **Independent Testing Laboratory.** A laboratory licensed by the Commission that is: accredited to the International Organization for Standardization 17025 by a thirdparty accrediting body that is a signatory to the International Laboratory Accreditation Accrediting Cooperation mutual recognition arrangement or that is otherwise approved by the Commission; independent financially from any Medical Marijuana Treatment Center (MTC), Marijuana Establishment or licensee for which it conducts a test; and qualified to test cannabis or marijuana in compliance with 935 CMR 500.160 and MGL c. 94C, Section 34.
3. **Marijuana Cultivator.** An entity licensed to cultivate, process and package marijuana, and to transfer marijuana to other Marijuana Establishments, but not to consumers.
4. **Marijuana Establishment.** A Marijuana Cultivator (Indoor or Outdoor), Craft Marijuana Cooperative, Marijuana Product Manufacturer, Marijuana Microbusiness, Marijuana Retailer, Independent Testing Laboratory, Marijuana Research Facility, Marijuana Transporter, Marijuana Delivery Licensee, or any other type of licensed marijuana-related business, except a medical marijuana treatment center.
5. **Marijuana Product Manufacturer.** An entity licensed to obtain, manufacture, process and package marijuana or marijuana products and to transfer these products to other Marijuana Establishments, but not to consumers.
6. **Marijuana Research Facility.** An entity licensed to engage in research projects by the Cannabis

Control Commission. A Marijuana Research Facility may cultivate, purchase or otherwise acquire marijuana for the purpose of conducting research regarding marijuana products.

7. **Marijuana Retailer.** An entity licensed to purchase and transport cannabis or marijuana product from Marijuana Establishments and to sell or otherwise transfer this product to Marijuana Establishments and to consumers.
8. **Marijuana Transporter.** An entity, not otherwise licensed by the Commission, that is licensed to possess marijuana products solely for the purpose of transporting, temporary storage, sale and distribution to Marijuana Establishments or MTCs, but not to consumers.
9. **Microbusiness.** A co-located Marijuana Establishment that can be either a Tier 1 Marijuana Cultivator or Product Manufacturer or both, in compliance with the operating procedures for each license. A Microbusiness that is a Marijuana Product Manufacturer may purchase no more than 2,000 pounds of marijuana per year from other Marijuana Establishments.
10. **Medical Marijuana Treatment Center.** (formerly known as a Registered Marijuana Dispensary (RMD)). An entity registered under 935 CMR 501.101, that acquires, cultivates, possesses, processes (including development of related products such as edible cannabis or marijuana products, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing cannabis or marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers for medical use.
11. **Tier 1 Marijuana Cultivator.** A Tier 1 Marijuana Cultivator shall be limited to less than 5,000 square feet of canopy.
12. **Marijuana Courier.** An entity licensed to deliver marijuana and marijuana products directly to consumers from a Marijuana Retailer or Medical Marijuana Treatment center but is not authorized to sell directly to consumers.

13. **Marijuana Delivery Operator.** An entity licensed to purchase at wholesale and warehouse finished marijuana products acquired from a marijuana cultivator, product manufacturer, microbusiness or craft marijuana cooperative and to sell and deliver directly to consumers, but is not authorized to operate a storefront.

14. **Impassible Barrier.** For the purposes of determining the 500-foot buffer zone, a highway, public or private way or path, inaccessible structure, body of water, or other obstruction that renders any part of the 500-foot straight line distance between a marijuana establishment entrance and a school entrance inaccessible by a pedestrian or automobile.

15. **Marijuana Establishment Entrance.** The entrance or entrances that provide ingress and egress to consumers to the marijuana establishment.

16. **School Entrance.** The entrance or entrances that provide ingress and egress to students of a preexisting public or private school providing education in kindergarten or any grades 1 through 12.

C. **Marijuana uses not Allowed As-of-Right.** Marijuana uses are not included within the definition of retail sales or services, agriculture, manufacturing, research, or any other lawful business permitted as of right or by special permit as provided in this Chapter.

D. **Marijuana uses allowed by special permit.** Use of land, buildings or structures for an MTC or Marijuana Establishment shall be allowed only by special permit in the districts specified in Sec. 4.4.1 subject to the requirements and criteria of this Sec. 6.10.3

E. Notwithstanding the provisions of paragraphs C and D above, licensed marijuana couriers and licensed delivery operators are allowed as-of-right in the districts specified in Sec. 4.4.1 subject to the requirements and criteria of this Sec. 6.10.3.

F. **Minimum criteria and limitations on approval.**

1. An MTC or Marijuana Retailer shall not be located within a radius of 500 feet from an existing public or private school providing education in kindergarten or any grades 1 through 12, unless the City Council finds that the

MTC or Marijuana Retailer is sufficiently buffered such that these facilities or uses will not be adversely impacted by the MTC's or Marijuana Retailer's operation. The buffer zone distance of 500 feet shall be measured in a straight line from the geometric center of the marijuana establishment entrance to the geometric center of the nearest school entrance, unless there is an impassible barrier within those 500 feet; in these cases, the buffer zone distance shall be measured along the center of the shortest publicly-accessible pedestrian travel path from the geometric center of the marijuana establishment entrance to the geometric center of the nearest school entrance.

2. An MTC or Marijuana Establishment shall be properly registered with the Massachusetts Cannabis Control Commission pursuant to or 935 CMR 500.000 or 935 CMR 501.00 and shall comply with all applicable state and local public health regulations, public safety code regulations and all other applicable state and local laws, ordinances, rules and regulations. No building permit or certificate of occupancy shall be issued for an MTC or Marijuana Establishment that is not properly registered with the Massachusetts Cannabis Control Commission. The MTC or Marijuana Establishment shall file copies of its initial certificate of registration and each annual renewal certificate with the clerk of the City Council within one week of issuance, and shall immediately notify said clerk if its registration is not renewed or is revoked. The MTC or Marijuana Establishment shall provide the Newton Police Department with the names and contact information for all management staff and shall immediately notify the police department of any changes.

3. A special permit granted by the City Council authorizing the establishment of an MTC or Marijuana Establishment shall be valid only for the registered entity to which the special permit was issued, and only for the lot on which the MTC or Marijuana Establishment has been authorized by the special permit. If the registration for the MTC or Marijuana Establishment is revoked, transferred to another controlling entity, or relocated to a different site, a new special permit shall be required prior to the issuance of a certificate of occupancy.

4. An MTC or Marijuana Establishment shall be located only in a permanent building and not within any mobile facility. All sales shall be conducted either within the building or by home delivery to qualified clients pursuant to applicable state regulations.
5. An MTC or Marijuana Establishment shall be subject to the number of parking stalls required in Sec. 5.1 unless a lesser or greater number of stalls is required by the City Council based on the transportation analysis provided by the applicant. An MTC or Marijuana Retailer shall comply with the parking requirements for Retail uses; a Marijuana Cultivator, Craft Marijuana Cooperative, Marijuana Courier, Marijuana Delivery Operator, Marijuana Microbusiness, or Marijuana Product Manufacturer shall comply with the parking requirements for Manufacturing; and a Marijuana Research Facility or Independent Testing Laboratory shall comply with the parking requirements for Research, Laboratory.
6. All signage shall conform to the requirements of and 935 CMR 500.105(4) or 935 CMR 501.105(4) as applicable, and to the requirements of Sec. 5.2. No graphics, symbols or images of marijuana or related paraphernalia shall be displayed or clearly visible from the exterior of an MTC or Marijuana Establishment. The City Council may impose additional restrictions on signage to mitigate impact on the immediate neighborhood.
7. The MTC's or Marijuana Retailer's or other marijuana establishment's hours of operation shall not adversely impact nearby uses. The hours of operation shall be set by the City Council as a condition of the Special Permit, but in no case shall an MTC or Marijuana Retailer open before 9:00 a.m. or remain open after 9:00 p.m.; and in no case shall a delivery licensee deliver marijuana and marijuana products to Newton locations before 8:00 a.m or after 9:00 p.m.
8. The number of Marijuana Retailers shall not exceed 20 percent of the number of liquor licenses issued in the City pursuant to G.L. c.138 § 15 (commonly known as "package stores").
9. No MTC or Marijuana Retailer shall be located within a radius of one half-mile of an existing or approved MTC or Marijuana Retailer. Such distance shall be measured in a straight line from the nearest property line of the proposed MTC or Marijuana Retailer to the nearest property line of the existing MTC or Marijuana Retailer. The co-location of a MTC and Marijuana Retailer on the same site shall not be subject to this buffer requirement.
10. No MTC or Marijuana Establishment shall be located within a building containing a residential use.
11. No MTC or Marijuana Retailer or co-located facility shall exceed 5,000 square feet of floor area.
12. All MTCs and Marijuana Establishments shall submit a state approved security plan to the Newton Police Department for review and approval.
13. All MTCs and Marijuana Establishments shall submit a state approved emergency response plan to the Newton Police Department and Newton Fire Department for review and approval.
14. All MTCs and Marijuana Establishments shall submit a state approved Operation and Management Plan to the Inspectional Services Department and the Department of Planning and Development for review and approval.
15. An MTC or Marijuana Retailer located at the ground level shall provide at least 25 percent transparency along building's front facade at ground level and existing buildings shall not be modified to reduce the transparency of the front facade at the ground level to below 25 percent, unless the City Council finds impacts to security and aesthetics have been appropriately mitigated.
16. Any marijuana cultivation shall offset 100 percent of energy used for cultivation through renewable energy, either by any combination of purchasing Renewable Energy Certificates through the State, generating renewable energy onsite, and/or through Newton Power Choice, if available.
17. The MTC or Marijuana Establishment shall be ventilated in such a manner that no:

- a. Pesticides, insecticides, or other chemicals or products in cultivation or processing are dispersed into the outside atmosphere; or
- b. Odor from marijuana may be detected by a person with a normal sense of smell at the exterior of the building or at any adjoining use or property.

18. A Marijuana Research Facility may not sell marijuana cultivated under its research license.

19. Marijuana Retailers are prohibited from delivering cannabis or marijuana products to consumers unless authorized by the CCC; and are prohibited from offering cannabis or marijuana products for the purposes of on-site social consumption on the premises of a Marijuana Establishment.

G. Special permit application and procedure. The procedural and application requirements of Sec. 7.3 shall apply. In addition to the procedural and application requirements of Sec. 7.3, an application for special permit shall include, at a minimum, the following information:

- 1. **Description of Activities:** A narrative providing information about the type and scale of all activities that will take place on the proposed site, including but not limited to cultivating and processing of marijuana or marijuana infused products (MIP's), research, testing, on-site sales, off-site deliveries, distribution of educational materials, and other programs or activities.
- 2. **MTC Service Area:** Applications for an MTC shall include a map and narrative describing the area proposed to be served by the MTC and the anticipated number of clients that will be served within that area. This description shall indicate where any other MTC's exist or have been proposed within the expected service area.
- 3. **MTC and Marijuana Retailer Transportation Analysis:** An application for an MTC or Marijuana Retailer shall include a quantitative analysis, prepared by a qualified transportation specialist acceptable to the Director of Planning and Development and the Director of Transportation, analyzing the proposed new vehicular trips, the expected modes of transportation used by clients and employees, and the frequency and scale of deliveries to and from the site. An MTC or Marijuana Retailer that does not provide the

number of parking stalls required per this Sec. 6.10.E.6. shall also provide a parking study.

- 4. **Lighting Analysis:** A lighting plan showing the location of proposed lights on the building and the lot and a photometric plan showing the lighting levels.
- 5. **Context Map:** A map depicting all properties and land uses within a minimum 1,000 foot radius of the proposed lot, whether such uses are located in the City or within surrounding communities, including but not limited to all educational uses, kindergarten through grade 12. The context map shall include the measured distance to all uses described in paragraphs E.1 and E.10 above.
- 6. **Registration Materials:** Copies of registration materials issued by the Massachusetts Department of Public Health or Cannabis Control Commission and any materials submitted to that Department for the purpose of seeking registration, to confirm that all information provided to the City Council is consistent with that provided to the Massachusetts Department of Public Health or Cannabis Control Commission.

H. Special Permit Criteria. In granting a special permit for an MTC or Marijuana Establishment, in addition to finding that the general criteria for issuance of a special permit are met, the City Council shall find that the following criteria are met:

- 1. **Criteria for all marijuana uses:**
 - a. The lot is designed such that it provides convenient, safe and secure access and egress for clients and employees arriving to and leaving from the lot, whether driving, bicycling, walking or using public transportation.
 - b. Loading, refuse and service areas are designed to be secure and shielded from abutting uses.
 - c. The MTC or Marijuana Establishment is designed to minimize any adverse impacts on abutters.
 - d. The MTC or Marijuana Establishment has satisfied all of the conditions and requirements in this section.

2. Additional criteria for MTCs and Marijuana Retailers:
 - a. The lot location complies with Sec. 6.10.3.F.1, or the lot is located at a lesser distance if the City Council finds that the lot is sufficiently buffered such that these facilities or uses will not be adversely impacted by the MTC or Marijuana Retailer's operation.
 - b. Traffic generated by client trips, employee trips, and deliveries to and from the MTC or Marijuana Retailer shall not create a significant adverse impact on nearby uses.
 - c. The building and lot have been designed to be compatible with other buildings in the area and to mitigate any negative aesthetic impacts that might result from required security measures and restrictions on visibility into the building's interior.
 - d. The building and lot are accessible to persons with disabilities.
 - e. The lot is accessible to regional roadways and public transportation.
 - f. The lot is located where it may be readily monitored by law enforcement and other code enforcement personnel.
 - g. The MTC or Marijuana Retailer's hours of operation will have no significant adverse impact on nearby uses.

I. Severability. If any portion of this section is ruled invalid, such ruling will not affect the validity of the remainder of the section.

(Ord. No. B-70, 03-15-21)

6.10.4. Firearm Business Use

A. Purpose. To establish criteria for the establishment of Firearm Business Uses in the City that address safety concerns in operations of such businesses and the potential disruption of peace and quiet enjoyment of the community. This Sec. 6.10.4 provides for separation between Firearm Business Uses and certain uses enumerated herein to

maximize protection of public health, safety, and welfare.

B. Definitions.

1. **Ammunition.** Cartridges or cartridge cases, primers (igniter), bullets, tear gas cartridges, or propellant powder designed for use in any Firearm.
2. **Firearm.** Any device designed or modified to be used as a weapon capable of firing a projectile using an explosive charge as a propellant, including but not limited to a gun, pistol or rifle.
3. **Firearm Accessory.** Any device designed, modified or adapted to be inserted into or affixed onto any Firearm to enable, alter or improve the functioning or capabilities of the Firearm or to enable the wearing or carrying about one's person of a Firearm.
4. **Firearm Business Use.** Any of the following uses:
 - i. **Firearm Dealer.** A retail or wholesale operation involving the purchase or sale of Firearms, Ammunition, and/or Firearm Accessories.
 - ii. **Firing Range.** A commercial facility designed for Firearm(s) training and/or shooting practice
 - iii. **Gunsmith.** Any retail operation involving the repairing, altering cleaning, polishing, engraving, blueing or performing of any mechanical operation on any Firearm.

C. Firearm Business Uses not allowed as-of-right.

Firearm Business Uses are not included within the definition of retail sales or services, manufacturing, or any other lawful business permitted as of right or by special permit as provided in this Chapter.

D. Firearm Business Uses allowed by special permit.

Use of land, buildings or structures for a Firearm Business Use shall be allowed only by special permit in the districts specified in Sec. 4.4.1 subject to the requirements and criteria of this Sec. 6.10.4.

E. Minimum criteria and limitations on approval.

ARTICLE X
Medical Marijuana Facilities
[Added 5-12-2014 ATM, Art. 11]

§ 650-90. Special requirements for medical marijuana facilities.

A. Purpose.

- (1) To provide for the establishment of Medical Marijuana Facilities in appropriate places and under strict conditions in accordance with the Humanitarian Medical Use of Marijuana Act, G.L. c. 94C, App. 1-1, as approved by the voters by the passage of Initiative Petition 11-11 on the November, 2012 state ballot, and the Department of Public Health Regulations, 105 CMR 725.00.
- (2) To minimize the adverse impacts of Medical Marijuana Facilities on adjacent properties, residential neighborhoods, schools and other places where children congregate, local historic districts, and other land uses potentially incompatible with said Facilities.
- (3) To regulate the siting, design, placement, security, safety, monitoring, modification, and removal of Medical Marijuana Facilities.

B. Applicability.

- (1) The commercial cultivation, [unless it meets the requirements for an agricultural exemption under G.L. c. 40A, § 3, production, processing, assembly, packaging, retail or wholesale sale, trade, distribution or dispensing of Marijuana for Medical Use is prohibited unless permitted as a Medical Marijuana Facility under this § 650-90.
- (2) Nothing in this Bylaw shall be construed to supersede federal and state laws governing the sale and distribution of narcotic drugs.
- (3) If any provision of this Section or the application of any such provision to any person or circumstance shall be held invalid, the remainder of this Section, to the extent it can be given effect, or the application of those provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby, and to this end the provisions of this Section are severable.

C. Definitions.

- (1) Medical Marijuana Facility – Shall mean a "Medical marijuana treatment center" to mean a not-for-profit entity, as defined by Massachusetts law only, registered under this law, that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their personal caregivers. These facilities shall be located inside a structure or building.

- (2) Marijuana for Medical Use – Marijuana that is designated and restricted for use by, and for the benefit of, Qualifying Patients in the treatment of Debilitating Medical Conditions as set forth in Citizens Petition 11-11.
- (3) Marijuana – The same substance defined as "marihuana" under Chapter 94C of the Massachusetts General Laws.

D. Eligible Locations for Medical Marijuana Facilities.

- (1) Medical Marijuana Facilities, other than agricultural operations meeting exemption standards under Chapter 40A, Section 3, may be allowed by Special Permit granted by the Webster Board of Selectmen in Zoning District 4, provided the Medical Marijuana Facility shall not be sited within a radius of 500 feet of a school, daycare center, or any facility in which children commonly congregate. The five-hundred-foot distance under this section is measured in a straight line from the nearest point of the facility in question to the nearest point of the building within which the Medical Marijuana Facility is located. The lot on which said Facility is located shall have a minimum lot size of 10 acres. **[Amended 12-8-2014 STM, Art. 11]**

E. General Requirements and Conditions for all Medical Marijuana Facilities.

- (1) All non-exempt Medical Marijuana Facilities shall be contained within a building or structure.
- (2) No Medical Marijuana Facility shall have a gross floor area of less than 2,500 square feet or in excess of 25% of total area of the parcel upon which it is located. **[Amended 12-8-2014 STM, Art. 11]**
- (3) A Medical Marijuana Facility shall not be located in buildings that contain any medical doctor's offices or the offices of any other professional practitioner authorized to prescribe the use of medical marijuana.
- (4) The hours of operation of Medical Marijuana Facilities shall be set by the Special Permit Granting Authority, but in no event shall said Facilities be open between the hours of 8:00 p.m. and 6:00 a.m. **[Amended 12-8-2014 STM, Art. 11]**
- (5) Each permitted Medical Marijuana Facility shall be permitted for one or more of the uses in Subsection F(2). **[Amended 12-8-2014 STM, Art. 11]**
- (6) No smoking, burning or consumption of any product containing marijuana or marijuana-related products shall be permitted on the premises of a Medical Marijuana Facility.
- (7) Medical Marijuana Facility shall not be located inside a building containing residential units, including transient housing such as motels and dormitories, or inside a movable or mobile structure such as a van or truck.
- (8) Signage for the Medical Marijuana Facility shall include the following language: "Registration card issued by the MA Department of Public Health

required." The required text shall be a minimum of two inches in height.

- (9) Medical Marijuana Facilities shall provide the Police Department, Building Inspector and the Special Permit Granting Authority with the names, phone numbers and email addresses of all management staff and key-holders to whom one can provide notice if there are operating problems associated with the establishment.

F. Special Permit Requirements.

- (1) A Medical Marijuana Facility shall only be allowed by special permit from the Planning Board in accordance with G.L. c. 40A, § 9, subject to the following statements, regulations, requirements, conditions and limitations.
- (2) A special permit for a Medical Marijuana Facility shall be limited to one or more of the following uses that shall be prescribed by the Special Permit Granting Authority:
 - (a) Cultivation of Marijuana for Medical Use (horticulture) except that sites protected under G.L. c. 40A, § 3 shall not require a special permit;
 - (b) Processing and packaging of Marijuana for Medical Use, including Marijuana that is in the form of smoking materials, food products, oils, aerosols, ointments, and other products;
 - (c) Retail sale or distribution of Marijuana for Medical Use to Qualifying Patients;
- (3) In addition to the application requirements set forth in this Bylaw, a special permit application for a Medical Marijuana Facility shall include the following:
 - (a) The name and address of each owner of the facility;
 - (b) Copies of all required licenses and permits issued to the applicant by the Commonwealth of Massachusetts and any of its agencies for the Facility;
 - (c) Evidence of the Applicant's right to use the site of the Facility for the Facility, such as a deed, or lease;
 - (d) If the Applicant is a business organization, a statement under oath disclosing all of its owners, shareholders, partners, members, managers, directors, officers, or other similarly-situated individuals and entities and their addresses. If any of the above are entities rather than persons, the Applicant must disclose the identity of the owners of such entities until the disclosure contains the names of individuals;
 - (e) A certified list of all parties in interest entitled to notice of the hearing for the special permit application, taken from the most recent tax list of the town and certified by the Town Assessor;

- (f) Proposed security measures for the Medical Marijuana Facility, including lighting, fencing, gates and alarms, etc., to ensure the safety of persons and to protect the premises from theft.
- G. **Mandatory Findings.** The Special Permit Granting Authority shall not issue a special permit for a Medical Marijuana Facility unless it finds that:
 - (1) The Facility is designed to minimize any adverse visual or economic impacts on abutters and other parties in interest, as defined in G.L. c. 40A, § 11;
 - (2) The Facility demonstrates that it will meet all the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and will be in compliance with all applicable state laws and regulations; and
 - (3) The applicant has satisfied all of the conditions and requirements set forth herein.
- H. **Annual Reporting.** Each Medical Marijuana Facility permitted under this Bylaw shall as a condition of its special permit file an annual report to and appear before the Special Permit Granting Authority and no later than January 31st, providing a copy of all current applicable state licenses for the Facility and/or its owners and demonstrate continued compliance with the conditions of the Special Permit.
- I. A special permit granted under this Section shall have a term limited to the duration of the applicant's ownership of, or leasehold interest in, the premises. A special permit may be transferred only with the approval of the Special Permit Granting Authority in the form of an amendment to the special permit with all information required in this Section. **[Amended 12-8-2014 STM, Art. 11]**
- J. (Reserved)¹
- K. **Abandonment or Discontinuance of Use.**
 - (1) A Special Permit shall lapse if not exercised within one year of issuance.
 - (2) Medical Marijuana Facility shall be required to remove all material, plants equipment and other paraphernalia:
 - (a) Prior to surrendering its state issued licenses or permits; or
 - (b) Within six months of ceasing operations; whichever comes first.

1. **Editor's Note: Former Subsection J, which required the property owner to post a bond, was repealed 12-8-2014 STM, Art. 11.**