

Proposed Zoning Bylaw Changes to Regulate Recreational Marijuana Cultivation, Manufacture and Retail Sales

2/21/2018

To see if the Town should amend its Zoning Bylaw to regulate uses related to the cultivation, manufacture and retail sale of marijuana, as follows:

- 1) By adding the following new terms to Section 3: Definitions, to be listed in alphabetical order with the other definitions with all definitions numbered or renumbered in the order in which they now occur. All of the terms below except for Marijuana Canopy Area and School are defined in the Cannabis Control Commission Draft Regulations, 935 CMR 500.002.

CRAFT MARIJUANA CULTIVATOR COOPERATIVE. A marijuana cultivator comprised of residents of the commonwealth organized as a limited liability company or limited liability partnership under the laws of the Commonwealth of Massachusetts, or an appropriate business structure as determined by the Cannabis Control Commission, and that is licensed to cultivate, obtain, manufacture, process, package and brand marijuana and marijuana products to deliver marijuana to Marijuana Establishments but not to consumers.

MARIJUANA or Marihuana. All parts of any plant of the genus Cannabis, not excepted below and whether growing or not; the seeds thereof; and resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin including tetrahydrocannabinol as defined in MGL Chapter 94C Section 1; provided that “Marijuana” shall not include: (1) the mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil, or cake made from the seeds of the plant or the sterilized seed of the plant that is incapable of germination; (2) hemp; or (3) the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink or other products. Marijuana also includes marijuana products except where the context clearly indicates otherwise.

MARIJUANA CANOPY AREA. The outside boundary of an area of cultivated marijuana plants, including all portions of the plants. It is assumed that cultivators of marijuana plants will maximize leaf canopy inside this area to the greatest possible extent. The Town may require the area within the boundary to be determined by a Professional Land Surveyor licensed in the State of Massachusetts and the boundary to be shown on a plan stamped by such a surveyor.

MARIJUANA CULTIVATOR. An entity licensed to cultivate, process and package marijuana, to deliver marijuana to Marijuana Establishments and to transfer marijuana to other Marijuana Establishments, but not to consumers.

MARIJUANA ESTABLISHMENT. A marijuana cultivator, independent testing laboratory, marijuana product manufacturer, marijuana retailer or any other type of licensed recreational marijuana-related business. All Marijuana Establishments shall be located a minimum of 500

(five hundred) feet from any existing or known proposed licensed public or private schools. All Marijuana Establishments shall be licensed by the State, meet all applicable State regulations and State permit conditions, and conform to all provisions of this section.

MARIJUANA MICRO-BUSINESS. A Marijuana Establishment that is licensed to act as a: marijuana cultivator in an area less than 5,000 square feet; licensed marijuana product manufacturer, and licensed marijuana delivery service in compliance with the operating procedures for each license.

MARIJUANA PRODUCT MANUFACTURER. An entity licensed to compound, blend, extract, infuse or otherwise make or prepare a marijuana or marijuana products. This may include obtaining, manufacturing, and packaging marijuana and marijuana products, delivery of marijuana and marijuana products to Marijuana Establishments and transfer of marijuana and marijuana products to other Marijuana Establishments, but not to consumers.

MARIJUANA PRODUCTS. Products that have been manufactured and contain marijuana or an extract from 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.

MARIJUANA RETAILER. An entity licensed to purchase and deliver marijuana and marijuana products from Marijuana Establishments and to deliver, sell or otherwise transfer marijuana and marijuana products to Marijuana Establishments and to consumers.

MARIJUANA SOCIAL CONSUMPTION OPERATION. An entity licensed to purchase or otherwise acquire marijuana from licensed Marijuana Establishments and sell single servings of marijuana for consumption or use on its premises. .

SCHOOL. An institution for the purpose of learning and study, such as preschools, nursery schools, charter schools, public and private schools, and colleges and universities, but not including schools of dance, riding academies, martial arts studios, art studios, or other entities offering instruction in a single area.

SINGLE SALES OF MARIJUANA. As prescribed by 935 CMR 500.14, a Marijuana Retailer shall not sell to an individual more than one ounce of marijuana or its equivalent in marijuana products. One ounce of marijuana flower shall be equivalent to eight grams of concentrated forms of marijuana such as oils or wax.

SINGLE SERVINGS OF MARIJUANA INFUSED PRODUCTS. As defined in 935 CMR 500.150, a single serving of an edible marijuana infused product shall contain no more than five milligrams of active tetrahydrocannabinol (THC).

TIER ONE MARIJUANA CULTIVATOR. An entity licensed to cultivate marijuana with a total canopy area less than 1,000 square feet.

TIER TWO MARIJUANA CULTIVATOR. A Marijuana Establishment that is licensed to cultivate marijuana with a total canopy area of from 1,001 square feet to 5,000 square feet. Tier Two cultivation in the Residential/Agricultural Zoning District cannot take place within a building or structure and shall only be permitted out of doors.

- 2) By amending existing Section 6.4 Residential/Commercial District A, Paragraph 6.4.2 Special Permits by adding the following new Subparagraph 6.4.2.6 Marijuana Retailer:

6.4.2.6 Marijuana Retailer. A maximum of one Marijuana Retailer may be located in the Residential/Commercial A District, subject to approval of a special permit by the Zoning Board of Appeals. All special permits shall be subject to Section 12.3 Special Permits, Paragraph 12.3.3 Requirements, Marijuana Establishments. A Marijuana Retailer may be located in an existing or new retail store. Marijuana Social Consumption Operations shall not be permitted.

- 3) By amending existing Section 7: Residential/Agricultural District, Paragraph 7.2 Special Permits by adding the following new Subparagraph 7.2.12 Marijuana Cultivation of Limited Area:

7.2.12 Marijuana Cultivation of Limited Area.

7.2.12.1 Cultivation of up to 1,000 square feet of Canopy Area. A maximum of two sites for Tier One Marijuana Cultivation, cultivation by a Marijuana Micro-business or cultivation by a Craft Marijuana Cultivator Cooperative with the maximum canopy area not to exceed 1,000 square feet, may be located in the Residential / Agricultural Zoning District, subject to approval of a special permit by the Zoning Board of Appeals. Cultivation may be undertaken either outside or within a structure. No product manufacture or retail product sales to the general public shall be permitted on the site.

In order to maintain the residential character of the Residential/ Agricultural Zoning District, existing buildings such as barns or greenhouses shall be used for indoor cultivation where possible. Any new construction that requires a building permit shall harmonize with nearby architectural styles to the greatest possible extent.

Where the Marijuana Establishment would abut an existing Residential use, a landscape buffer up to a maximum of twenty feet, designed to visually shield the Establishment from the existing Residential use may be required. All landscape buffers shall comply with State Cannabis Control Commission security requirements.

7.2.12.2 Cultivation of up to 5,000 square feet of Canopy Area. A maximum of two sites for Tier Two Marijuana Cultivation, cultivation by a Marijuana Micro-business or cultivation by a Craft Marijuana Cultivator Cooperative with the maximum canopy area not to exceed 5,000 square feet may be located in the Residential/ Agricultural Zoning District subject to approval of a special permit by the Zoning Board of Appeals. Cultivation of canopy area of 1,001 square feet or greater shall be undertaken out of

doors and shall not be permitted within a structure. No product manufacture or retail product sales to the general public shall be permitted on the site.

No more than one cultivation operation, whether Tier One or Tier Two, shall be permitted per site. A Marijuana Micro-business or Craft Marijuana Cultivator Cooperative on any site in the Residential/Agricultural Zoning District shall not exceed 5,000 square feet of canopy area.

Security fencing shall be as inconspicuous as possible and compatible with the surrounding neighborhood. In no case shall barbed wire topped fence or similar style be permitted. All lighting shall be shielded and downward directed so as not to shed light onto adjacent properties. Where the Marijuana Establishment would abut an existing Residential use, a landscape buffer up to a maximum of twenty feet, designed to visually shield the Establishment from the existing Residential use may be required. All landscape buffers shall comply with State Cannabis Control Commission security requirements.

All special permits shall be subject to Section 12.3 Special Permits, Paragraph 12.3.3 Requirements, Marijuana Establishments.

- 4) By amending existing Section 8: Industrial, Paragraph 8.2 Special Permits by adding the following new Subparagraph 8.2.5 Marijuana Cultivator and Marijuana Product Manufacturer:

8.2.5 Marijuana Cultivator and Marijuana Product Manufacturer. A maximum of one location in the Industrial Zoning District may be used as the site of a Marijuana Cultivator and/or a Marijuana Product Manufacturer subject to approval of a special permit by the Zoning Board of Appeals.

All special permits shall be subject to Section 12.3 Special Permits, Paragraph 12.3.3 Requirements, Marijuana Establishments.

- 5.) By amending Section 12.3 Special Permits by adding a new Paragraph 12.3.3 Requirements, Marijuana Establishments, as follows:

12.3.3 Requirements, Marijuana Establishments. Prior to the start of site work, construction activities, or start of operation, the special permit issued by the Zoning Board of Appeals must be recorded at the Middlesex County Registry of Deeds and proof of recordation provided to the Building Inspector.

Applications. All applications for special permits shall include the following, with the number of copies sufficient for Zoning Board of Appeals members and Town departments:

- a. A completed special permit application form and associated check;
- b. A complete copy of the application for a license from the State of Massachusetts as a Marijuana Establishment as required under 935 CMR 500;
- c. An executed Host Community Agreement as required under 935 CMR 500.101;
- d. A site plan showing new construction, if any, and all paved areas such as driveways and parking, lighting and fencing; intended screening/landscape buffers; the

boundaries of any proposed outdoor growing area(s) and how they will be identified on the ground;

- e. A narrative describing the management and general operation of the facility, including the amounts and types of fertilizers, pesticides and herbicides to be used and maintained on the site and how they will be stored and disposed of the method of water recycling or disposal from indoor growing, and the type, size and anticipated out of doors noise generated from the ventilation system;
- f. A lighting plan including photometrics;
- g. A security plan;
- h. A fire protection plan, and
- i. A list of other federal, state and local approvals required for the Marijuana Establishment.

At the discretion of the Zoning Board of Appeals, the following may also be required:

- j. Elevations of proposed buildings;
- k. A plan or diagram of proposed signage, and
- l. The Zoning Board of Appeals may have additional requirements for material to be submitted with special permit applications.

Granting of Special Permits. The Zoning Board of Appeals shall be the special permit granting authority for special permits for Marijuana Establishments.

- a. Prior to approval of the special permit, the Zoning Board of Appeals shall make a finding that the proposed use is not offensive nor detrimental to the area, and does not adversely affect the natural or human environment, including wetlands, water resources, stormwater, soils, noise, odors, lighting, visual aesthetics, traffic, or the safety and welfare of the residents of the Town.
- b. The following condition shall be included in all special permits for Marijuana Cultivation, Marijuana Product Manufacturing where retail sales to the general public are not intended, or are prohibited by State law:
Sales, gifts or delivery of marijuana or marijuana products to the general public shall be prohibited.
- c. The Zoning Board of Appeals may require applicants for special permits for Marijuana Cultivator or Marijuana Product Manufacturer to post a surety bond, cash or other form of surety prior to the start of construction, in an amount deemed sufficient to guarantee completion of proposed site work and construction. Upon conclusion of the work, the applicant shall provide an as-built plan with certification from a Massachusetts Licensed Professional Engineer that all work is in conformance with the approved plan and setting forth deviations, if any exist.
- d. The Zoning Board of Appeals may add other conditions to the special permit as deemed appropriate to protect the natural and human environment.

6.) By deleting the “Temporary Moratorium on Recreational Marijuana Establishments” under Section 13: Changing the Zoning Bylaw.