

ARTICLE XXVIII
Adult Use Marijuana Establishments
[Added 10-30-2017 STM, Art. 13; amended 5-7-2018 ATM, Art. 20]

§ 173-194. Purpose.

- A. To provide for Marijuana Establishments in suitable locations and under strict conditions.
- B. To regulate the siting, design, placement, operation, safety, monitoring, modification and removal of any Marijuana Establishment that may be located within the Town.
- C. To minimize the adverse impacts of any Marijuana Establishment on the Town, nearby properties, residential neighborhoods, schools and other places where minors congregate, local historic districts, and other land uses incompatible with said establishments.
- D. To limit the overall number of Marijuana Retailers that may be located within the Town to an appropriate amount, which shall not exceed the minimum number of Marijuana Retailers that are required by M.G.L. c. 94G to be allowed within the Town absent a ballot vote.
- E. To establish that on-premises consumption shall not be permitted unless the Town votes to authorize on-premises consumption pursuant to M.G.L. c. 94G, § 3.

§ 173-195. Applicability.

- A. The commercial cultivation, production, processing, manufacturing, packaging, testing, retail or wholesale trade, distribution, transporting, dispensing, researching and studying of Marijuana for Adult Use is prohibited unless permitted as a Marijuana Establishment under this Article XXVIII.
- B. No Marijuana Establishment shall be established except in compliance with the provisions of this Article XXVIII.
- C. Nothing in this Article XXVIII shall be construed to supersede federal and state laws governing the sale and distribution of narcotic drugs; nor shall any special permit issued pursuant to this Article XXVIII supersede federal, state or local laws.
- D. Where not expressly defined in § 173-2, all terms used herein shall be as defined in MGL C. 94G and 935 CMR 500 et seq.

§ 173-196. Siting.

- A. The Adult Use Marijuana Retail Overlay District is hereby established as an overlay district as shown on the map entitled "Adult Use Marijuana Establishment Overlay District-Retail" dated March 27, 2018, on file with the Town Clerk and hereby made a part of this chapter. A Marijuana Retail Establishment may be sited within this Overlay District only, subject to all of the provisions of this Article.
- B. The following classes of Marijuana Establishments may be sited within the Industrial A and Industrial B Districts only, subject to all of the provisions of this Article:
 - (1) Marijuana Cultivator;
 - (2) Craft Marijuana Cooperative;
 - (3) Marijuana Product Manufacturer;
 - (4) Marijuana Research Facility;
 - (5) Marijuana Testing Laboratory;
 - (6) Marijuana Transporter; and
 - (7) Marijuana Micro-business.

§ 173-197. Limitations on Marijuana Retailers.

- A. The number of Marijuana Retailers within the Town shall not exceed the minimum number that are required by M.G.L. c. 94G, § 3(a)(2)(ii), to be allowed within the Town absent a ballot vote.
- B. All Marijuana Establishments are prohibited from delivering cannabis or marijuana products to consumers, and from offering cannabis or marijuana products for consumption on the premises of a Marijuana Establishment.

§ 173-198. Administration and procedure.

- A. A Marijuana Establishment may be allowed in locations set forth in § 173-196 by special permit from the Planning Board (the "SPGA") in accordance with M.G.L. c. 40A, § 9, only subject to the procedures, regulations, requirements, conditions and limitations set forth herein. Only an applicant holding a valid license from the Cannabis Control Commission issued pursuant to M.G.L. c. 94G and 935 CMR 500 et seq., is eligible to apply for a special permit pursuant to this Article.

B. Applicants for a special permit pursuant to this Article XXVIII are strongly encouraged to meet with the SPGA at a public meeting to discuss the proposed application for a new Marijuana Establishment and to discuss in general terms of the proposed Marijuana Establishment prior to the formal submission of an application.

C. In addition to the standard Special Permit Application form, an applicant for a special permit under this Article shall also submit the following:

- (1) A copy of the final, executed Host Community Agreement ("HCA") between the applicant and the Town of Littleton.
- (2) A written description of the status of its application to the Cannabis Control Commission relative to the establishment at issue, or a copy of such license, as applicable.
- (3) A list of any waivers of regulations that the applicant seeks to obtain from the Cannabis Control Commission, or a copy of any such waivers that the Commission has issued to the applicant, as applicable.
- (4) Copies of all policies and procedures approved by the Cannabis Control Commission including without limitation the Marijuana Establishment's operating and safety procedures, or copies of such policies and procedures that the applicant intends to submit to the Commission, as applicable.
- (5) For applications for a Marijuana Cultivator, a Craft Marijuana Cooperatives, or a Marijuana Micro-Business, information demonstrating that the applicant has considered the following factors in its design and its operating plan:
 - (a) Identification of potential energy use reduction opportunities (such as natural lighting and energy efficiency measures), and a plan for implementation of such opportunities;
 - (b) Consideration of opportunities for renewable energy generation, including, where applicable, submission of building plans showing where energy generators could be placed on the site, and an explanation of why the identified opportunities were not pursued, if applicable;
 - (c) Strategies to reduce electric demand (such as lighting schedules, active load management, and energy storage); and

- (d) Engagement with energy efficiency programs offered pursuant to M.G.L. c. 25, § 21, or through the Littleton Light Department.
- (6) The quantity and source or sources of all marijuana and marijuana products that will be sold at the proposed Marijuana Establishment, as applicable.
- (7) The quantity of marijuana and marijuana products that will be cultivated, processed, manufactured, packaged, transported, tested, or studied at the Marijuana Establishment, as applicable.
- (8) Written statement confirming that no marijuana or marijuana products will be smoked, burned, or consumed on the premises as part of the cultivation, manufacturing, testing or researching operations, as applicable, or a statement explaining how any such uses have been authorized by the Commission.
- (9) Names and addresses of each owner of the Marijuana Establishment, and where the owner is a business entity, the names and address of each owner of that establishment.
- (10) If applicable, a copy of the Applicant's Articles of Organization, a current Certificate of Legal Existence from the Commonwealth, and the most recent annual report.
- (11) Copies of all licenses and permits issued to the Applicant by the Commonwealth of Massachusetts and any of its agencies.
- (12) Evidence that the applicant has site control and the right to use the proposed site as a Marijuana Establishment. Such evidence shall be in the form of a deed, purchase and sale agreement, lease, or other legally binding document.
- (13) In addition to what is otherwise required to be shown on a site plan pursuant to Article IV, the applicant shall provide details showing all exterior proposed security measures for the premises, including but not limited to lighting, fencing, gates and alarms to ensure the safety of employees and patrons and to protect the premises from theft or other criminal activity. The site plan shall further delineate various areas of the Marijuana Establishment (indoors and outdoors) such as public access areas, employee only access areas, storage, cultivation, preparation, waste disposal, administrative, transportation, loading and parking areas. Site plans and/or application narrative shall contain sufficient

information so that the SPGA can evaluate the design and operational standards contained in this Article XXVIII.

(14) Certification to the SPGA that the applicant has filed copies of the special permit application as required by § 173-198D.

D. Upon the filing of the special permit application with the SPGA, the Applicant shall simultaneously deliver copies of the full application to the Board of Selectmen, the Building Commissioner, the Board of Health, the Police Department and the Fire Department.

§ 173-199. Special permit requirements.

A. No Marijuana Establishment shall be located within 500 feet of any lot containing a school; licensed child care facility; public park, playground, athletic field or other public recreational land or facility; any use or facility where persons under the age of 18 commonly congregate to participate in scheduled or structured activities; religious facility; drug or alcohol rehabilitation facility; correctional facility, halfway house or similar facility; or any other non-collocated Marijuana Establishment or RMD. For purposes of this section, distances 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.

B. The SPGA may reduce the minimum distance requirement in § 173-199A as part of the issuance of a special permit in the following instances only:

- (1) Issuance of a special permit for a Marijuana Establishment to an entity with an existing RMD in Littleton.
- (2) Renewal of a special permit for an existing Marijuana Establishment where the use described in § 173-198A has been established after issuance of the original special permit.
- (3) Change of permit holder for an existing Marijuana Establishment where the use described in § 173-198A has been established after issuance of the original special permit.
- (4) Where the SPGA determines that reduction in the minimum distance is necessary for purposes of maintaining consistency with M.G.L. c. 94G, 935 CMR 500 and/or state guidance relative to local regulation and siting of adult use marijuana establishments.

- C. Marijuana Establishment that seeks to expand or alter its operations so as to come within a new class or sub-class of Marijuana Establishment, as identified 935 CMR 500.050(d), shall obtain a new special permit prior to undertaking such expansion or alteration.
- D. The SPGA shall not issue any special permit that would cause the Town to exceed the limits on Marijuana Retailers set forth in § 173-197.
- E. An RMD licensed under 105 CMR 725 et seq., and that holds a special permit pursuant to Article XXVII shall obtain a new special permit prior to converting to a Marijuana Establishment or commencing any operations regulated by M.G.L. c. 94G and 935 CMR 500 et seq.
- F. No smoking, burning, or consumption of any marijuana product shall be permitted at any Marijuana Establishment, except as may be authorized by 935 CMR 500 et seq for purposes of cultivation, testing, research, or manufacturing.
- G. All shipping and receiving areas shall serve the Marijuana Establishment exclusively. In the case of a multi-use or multi-tenant site, the Marijuana Establishment shall be laid out and designed to ensure separation from other uses or tenants at the site.
- H. The Marijuana Establishment shall have adequate water supply, stormwater systems, sewage disposal, and surface and subsurface drainage.
 - I. Adequate lighting, including night lighting that provides for monitoring or building and site security, including those measures to prevent diversion of marijuana and marijuana products cultivated outdoors.
 - J. A Marijuana Retailer shall post at a conspicuous location at the public entrance a sign that states "Only individuals 21 years of age or older, unless in possession of a registration card issued by the MA Department of Public Health." The required text shall be a minimum of two inches in height. Signage shall otherwise be limited to that which is permitted under 935 CMR 500 et seq. and the Town's sign bylaw.
 - K. The Marijuana Establishment shall provide and keep up to date contact information as required by the Chief of Police and Building Commissioner such as name, telephone number and

electronic mail address of a contact person who must be available 24 hours a day, seven days a week.

- L. No special permit shall be issued unless the applicant has executed a Host Community Agreement with the Town in accordance with M.G.L. c. 94G, § 3.
- M. No special permit shall be issued until the Applicant has held a community outreach hearing consistent with the Commission's Guidance for License Applicants on Community Outreach and 935 CMR 500.101(1)(a)(9) or (2)(b)(7), unless the proposed use is exempt from the hearing requirement under the regulations.

§ 173-200. Special permit approval criteria.

The SPGA may issue a special permit for a Marijuana Establishment only if it finds that the project satisfies the requirements of § 173-7C, this Article XXVIII, and the following additional special permit criteria:

- A. The Marijuana Establishment is fully permitted by all applicable agencies within the Commonwealth of Massachusetts and is in compliance with all State laws and regulations; provided, however, that issuance of a valid license pursuant to M.G.L. c. 94G may be a condition of the special permit.
- B. The proposed use is designed to minimize any adverse impacts on the on the residents of the Town;
- C. For a Marijuana Retail Establishment, there shall be a secure indoor area for all customers.
- D. The Marijuana Establishment adequately addresses issues of vehicular and pedestrian traffic, circulation and parking, especially during peak periods at the facility, and adequately mitigates the impacts of vehicular and pedestrian traffic on neighboring uses.

§ 173-201. Special permit conditions.

- A. In addition to compliance with M.G.L. c. 94G, and 935 CMR 500 et seq., the SPGA may impose reasonable conditions to improve site design, traffic flow, public safety, water quality, air quality, protection of significant environmental resources and the preservation of community character of the surrounding area including, without limitation, the following:

- (1) Minimization of the impacts of increased noise and traffic.

- (2) Imposition of security precautions related to the high value of products and cash transactions.
- (3) Deterring the presence of unauthorized or ineligible persons at, or near, the Marijuana Establishment.
- (4) Imposition of measures to prevent diversion of marijuana and marijuana products.
- (5) Conditions related to the design and construction of the facility to improve safety, security and conformance with community character.
- (6) Conditions, consistent with the State Building Code, relating to energy efficiency and conservation.

B. The SPGA shall include conditions concerning the following in any special permit granted pursuant to this Article:

- (1) Hours of operation, including dispatch for any home delivery.
- (2) Compliance with the Host Community Agreement.
- (3) The submission of a copy of the license from the Cannabis Control Commission with the SPGA and the Building Commissioner prior to the issuance of a building permit, certificate of occupancy, or commencement of use, whichever occurs first.
- (4) The reporting of any incidents to the Building Commissioner as required pursuant to 935 CMR 500.110(7) within 24 hours of their occurrence. Such reports may be redacted as necessary to comply with any applicable state or federal laws or regulations.
- (5) The reporting of any cease and desist order, quarantine order, suspension order, limiting sales order, notice of hearing or final action by the Cannabis Control Commission or the Division of Administrative Law Appeals, as applicable, regarding the Marijuana Establishment to the Building Commissioner within 48 hours of the applicant's receipt.
- (6) Copies of all reports submitted to any state agency, including, but not limited to, the reports required by 935 CMR 500.105(10)(d) describing the establishment's liability insurance coverage and the annual security system audits required by 935 CMR 500.110(8) shall be submitted to the SPGA within five business days of submission to the State.

Such reports may be redacted as necessary to comply with any applicable state or federal laws or regulations.

- (7) Documentation to the SPGA that each Marijuana Establishment Agent has completed training regarding the proper handling of marijuana prior to performing job functions. Such documentation must be provided to the Board within five business days of the completion of such training. Annually, the establishment shall provide documentation to the SPGA and the Board of Selectmen that all Marijuana Establishment Agents have received at least eight hours of on-going training.
- C. The issuance of a special permit pursuant to this Article shall also be subject to the following:
 - (1) The special permit shall expire within five years of the date of issue. If the applicant wishes to renew the special permit, an application to renew must be submitted at least 120 days prior to the expiration of the special permit.
 - (2) Special permits shall be limited to the original applicant(s) and shall expire on the date the special permit holder ceases operation of the Marijuana Establishment.
 - (3) The holder of a special permit shall annually file an affidavit with the Building Commissioner demonstrating that it is in good standing with respect to its license from the Cannabis Control Commission and any other applicable State licenses.
 - (4) The holder of a special permit shall notify the Building Commissioner and the SPGA in writing within 48 hours of the cessation of operation of the Marijuana Establishment or the expiration or termination of the permit holder's license from the Department of Public Health.
 - (5) Special permits shall lapse upon the expiration or termination of an applicant's license from the Cannabis Control Commission.

§ 173-202. No accessory use Marijuana Establishments.

Use of property as a Marijuana Establishment shall necessarily be deemed a principal use for purposes of the Zoning Bylaw, and shall be permitted exclusively in accordance with this Article XXVIII. No Marijuana Establishment may be allowed within Town on the basis that such use qualifies as a permissible accessory use.