

## **ARTICLE XXVIII: Marijuana Establishments and Medical Marijuana Treatment Centers**

### **§ 173-195. Purpose.**

- A. To provide for Marijuana Establishments and Medical Marijuana Treatment Centers ("MTC") in suitable locations and under reasonable conditions.
- B. To clarify that while an MTC may cultivate, process, and distribute marijuana, only those uses expressly authorized pursuant to a Special Permit issued in accordance with this Article XXVIII may occur at the premises.
- C. To regulate the siting, design, placement, operation, safety, monitoring, modification and removal of any Marijuana Establishment and MTC that may be located within the Town.
- D. To minimize the adverse impacts of any Marijuana Establishment and MTC 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.
- E. To limit the overall number of places where Marijuana may be sold and cultivated in Town.
- F. 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.

### **§ 173-196. 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 or Medical Use is prohibited unless permitted as a Marijuana Establishment or MTC under this Article XXVIII.
- B. No Marijuana Establishment or MTC 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, MGL c.94I, 935 CMR 500 et seq, and 935 CMR 501 et seq.

### **§ 173-197. Siting.**

- A. Marijuana Establishment
  - 1. 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.
  - 2. 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:

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- (a) Marijuana Cultivator;
- (b) Craft Marijuana Cooperative;
- (c) Marijuana Product Manufacturer;
- (d) Marijuana Research Facility;
- (e) Marijuana Laboratory, including a Standards Laboratory or an Independent Testing Laboratory;
- (f) Marijuana Transporter;
- (g) Marijuana Microbusiness; and
- (h) Marijuana Delivery Licensee, including Marijuana Courier and Marijuana Delivery Operator.

B. Medical Marijuana Treatment Center

1. The Registered Marijuana Overlay District is hereby established as an overlay district that shall include Assessors' Parcel R18-6-0 (500 Great Road) and those certain parcels within the Industrial A (IA) Zoning District as are shown on the map entitled "Registered Marijuana Dispensary Overlay District Zoning Map" dated March 17, 2014, on file with the Town Clerk and hereby made a part of this chapter. An MTC may be sited within this Overlay District only, subject to all of the provisions of this Article.

**§ 173-198. Limitations.**

- 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. The number of Delivery Licensees that may be located within the Town shall not exceed two.
- C. The number of MTCs within the Town shall not exceed one.
- D. The number of Marijuana Cultivators in Town shall not exceed one.
- E. The number of Craft Marijuana Cooperatives shall not exceed one.
- F. The number of Microbusinesses that cultivate marijuana within Town shall not exceed one.
- G. No Marijuana Establishment may deliver or cause the delivery of cannabis or marijuana products to consumers, including delivery of cannabis or marijuana products pursuant to a Delivery Endorsement or a Marijuana Delivery Agreement, unless specifically authorized by a special permit granted by the SPGA in accordance with this Bylaw or, for any Marijuana Establishment holding an existing special permit that is silent as to

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- delivery, by a modification of such existing special permit granted by the SPGA. Such special permit or modification to an existing special permit, as applicable, shall be obtained prior to the commencement of any delivery activity.
- H. Marijuana Establishments shall not offer cannabis or marijuana products for consumption on the premises.

**§ 173-199. Administration and procedure.**

- A. Marijuana Establishment and MTC 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.
- 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 or MTC and to discuss in general terms of the proposed 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”) or HCA waiver, as applicable, 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 or MTC'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 that propose cultivation, 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. For establishments that propose the cultivation, processing, or manufacturing of marijuana, an odor control plan that incorporates the best available control technology to ensure that emissions do not violate M.G.L. c.111 and Section 173-200.J.

**Commented [TH1]:** This change was requested by the Board to include "best available control technology" in the information supplied by an Applicant.

- 7. The quantity and source or sources of all marijuana and marijuana products that will be sold, as applicable.
- 8. The quantity of marijuana and marijuana products that will be cultivated, processed, manufactured, packaged, transported, tested, or studied, as applicable.
- 9. 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 Cannabis Control Commission.
- 10. Names and addresses of each owner, and where the owner is a business entity, the names and address of each owner of that establishment.
- 11. 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.
- 12. Copies of all licenses and permits issued to the Applicant by the Commonwealth of Massachusetts and any of its agencies.
- 13. Evidence that the applicant has site control and the right to use the proposed site as a Marijuana Establishment or MTC. Such evidence shall be in the form of a deed, purchase and sale agreement, lease, or other legally binding document.
- 14. 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 or MTC (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.

15. In addition to what is otherwise required to be shown on a site plan pursuant to Article IV, an applicant that proposes to provide delivery of cannabis or marijuana to consumers located off site (home delivery) shall include on the plans submitted to the SPGA any loading area to be used in connection with the home delivery operation, whether conducted by the establishment itself or a Marijuana Delivery Licensee, and/or the area where the establishment will park vehicles used for home delivery, including overnight parking. The applicant shall also provide a narrative description of how cannabis or marijuana will be loaded onto such vehicles for delivery. Additional traffic flow data shall be available upon request of the SPGA.

16. Certification to the SPGA that the applicant has filed copies of the special permit application as required by §173-199D.

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

**§ 173-200. Special permit requirements.**

A. Buffer Zones:

1. No Marijuana Establishment or MTC shall be located within 500 feet of any lot containing a 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 MTC. For purposes of § 173-200A.1, 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 or MTC is or will be located.
2. No Marijuana Establishment or MTC shall be closer than 500 feet from the nearest School Entrance, defined as the entrance(s) that provide ingress and egress to students of the preexisting public or private or private school providing education in kindergarten or any grades 1 through 12 at the time of the newspaper publication of the proposed Marijuana Establishment or MTC's community outreach meeting. For purposes of § 173-200A.2, the buffer zone distance of 500 feet shall be measured in a straight line from the geometric center of the Marijuana Establishment or MTC's Entrance, meaning the means the entrance or entrances that provides ingress and egress to Consumers, Registered Qualifying Patients and Caregivers to the Marijuana Establishment or MTC, to the geometric center of the nearest School Entrance, unless there is an Impassable 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 or MTC's Entrance to the geometric center of the nearest School Entrance. As used in this subpart, Impossible Barrier shall mean 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 or MTC's Entrance and a School Entrance inaccessible by a pedestrian or automobile.

- B. The SPGA may reduce the minimum distance requirement in § 173-200A 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 MTC in Littleton.
  - 2. Renewal of a special permit for an existing Marijuana Establishment or MTC where the use has been established after issuance of the original special permit.
  - 3. Change of permit holder for an existing Marijuana Establishment or MTC where the use 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 state law and siting of Marijuana Establishments or MTCs.
  - 5. The applicant demonstrates to the satisfaction of the SPGA that application of Section 173-200A will effectively prohibit the placement of a MTC within the Town.
- C. A Marijuana Establishment or MTC that seeks to expand or alter its operations outside those outlined in its original special permit shall obtain a new or amended special permit. This includes an increase in a cultivation tier for Marijuana Establishments.
- D. All delivery of cannabis or marijuana shall comply with the requirements of § 173-198.
- E. The SPGA shall not issue any special permit that would cause the Town to exceed the limits set forth in § 173-198.
- F. An MTC shall obtain a new special permit prior to converting to or collocating with a Marijuana Establishment. A Marijuana Establishment shall obtain a new special permit prior to converting to or collocating with a MTC.
- G. No smoking, burning, or consumption of any marijuana product shall be permitted at any Marijuana Establishment, except as may be authorized by law for purposes of cultivation, testing, research, or manufacturing.
- H. All shipping and receiving areas shall serve the Marijuana Establishment or MTC exclusively. In the case of a multi-use or multi-tenant site, the Marijuana Establishment or MTC shall be laid out and designed to ensure separation from other uses or tenants at the site.

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- I. The Marijuana Establishment or MTC shall have adequate water supply, stormwater systems, sewage disposal, and surface and subsurface drainage.
- J. Air Quality:
  1. The Marijuana Establishment or MTC shall operate within an enclosed structure. For purposes of this Section, greenhouse shall qualify as an enclosed structure; provided § 173-200.J.2 and § 173-200.J.3 are satisfied.
  2. The Marijuana Establishment shall incorporate the best available control technology to ensure that emissions do not violate M.G.L. c.111.
  3. The Marijuana Establishment shall utilize the best available control technology to ensure that no odor from marijuana can be detected by a person with a normal sense of smell at the property line.
- K. 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.
- L. 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 Cannabis Control Commission." The required text shall be a minimum of two inches in height. Signage shall otherwise be limited to that which is permitted under the Cannabis Control Commission's regulations and the Town's sign bylaw, as applicable.
- M. The Marijuana Establishment or MTC 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.
- N. 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 or obtain an HCA waiver.
- O. Unless otherwise exempt by law, no special permit shall be issued until the Applicant has held a community outreach meeting, as defined in the Cannabis Control Commission's regulations.

**§ 173-201. Special permit approval criteria.**

The SPGA may issue a special permit for a Marijuana Establishment or MTC 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 or MTC 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 final license pursuant to M.G.L. c. 94G or c. 94I 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 and MTC with a retail space, there shall be a secure indoor area for all customers.

**Commented [TH2]:** We consulted with the Health Agent and reviewed PB decisions on point to determine if additional changes would improve this section. We believe the section would not be improved with more specifics and we recommend that it stay as is.

- D. The Marijuana Establishment or MTC 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.

**§ 173-202. Special permit conditions.**

- A. The SPGA may impose reasonable conditions to improve site design, traffic flow, public safety, water quality, air quality, including odor, 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 or MTC.
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.

7. Conditions required to address impacts to air quality, including the imposition of odor control technologies and devices.

- 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 Littleton Police Department as required pursuant to 935 CMR 500.110(9) and 501.110(9) and within 24 hours of their occurrence. Such reports may be redacted as necessary to comply with any applicable state or federal laws or regulations.

**Commented [TH3]:** We consulted with the Health Agent and reviewed PB decisions on point to determine if additional changes would improve this section. We believe the section would not be improved with more specifics and we recommend that it stay as is.

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) and 501.105(10)(d) describing the establishment's liability insurance coverage and the annual security system audits required by 935 CMR 500.110(10) and 501.110(10) 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 or MTC Agent has completed training regarding the proper handling of marijuana prior to performing job functions. Such documentation must be provided to the Select Board within five business days of the completion of such training. Annually, the establishment shall provide documentation to the SPGA and the Select Board that all Marijuana Establishment Agents and MTC 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 or MTC.

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 MTC, or the expiration or termination of the permit holder's license from the Cannabis Control Commission.

5. The special permit shall expire upon the expiration or termination of an applicant's license from the Cannabis Control Commission.

**§ 173-203. No accessory use Marijuana Establishments.**

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Use of property as a Marijuana Establishment or MTC 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 or MTC may be allowed within Town on the basis that such use qualifies as a permissible accessory use.

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#### **Amendments to the Definition Section**

##### **§173-2 Terms Defined**

###### **MARIJUANA**

Marijuana as defined in MGL c. 94G, § 1, 935 CMR 500 et seq. and 935 CMR 501 et seq

**Commented [TH4]:** We were asked to consider a definition for "Cultivation". We believe this term is defined by the State, we recommend that the Town not specifically define "Cultivation".

###### **MARIJUANA FOR ADULT USE**

Marijuana and Marijuana products that are not designated and restricted for use by, and for the benefit of, Qualifying Patients in the treatment of Debilitating Medical Conditions as defined in 935 CMR 501 et seq.

###### **MARIJUANA FOR MEDICAL USE**

Means Marijuana that is designated and restricted for use by, and for the benefit of, Qualifying Patients in the treatment of Debilitating Medical Conditions as defined in 935 CMR 501 et seq.

###### **MEDICAL MARIJUANA TREATMENT CENTER (MTC)**

An entity that holds a medical use marijuana license from the Cannabis Control Commission pursuant to Chapter 94I of the Massachusetts General Laws. Unless otherwise specified, MTC refers to the site(s) of dispensing, cultivation, and preparation of marijuana.

###### **Registered Marijuana Dispensary - CUT**