

SECTION II DEFINITIONS

Cannabis Cultivation: 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. The cultivation and processing of medical marijuana in accordance with these regulations is considered to be a manufacturing use and is not agriculturally exempt from zoning. Note this term is not defined in 935 CMR 500.

Cannabis or Marijuana or Marihuana: All parts of any plant of the genus Cannabis, not excepted in 935 CMR 500.002: Cannabis or Marijuana or Marihuana(a) through (c) and whether growing or not; the seeds thereof; and resin extracted from any part of the plant; clones of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin including tetrahydrocannabinol as defined in M.G.L. c. 94G, § 1; provided that cannabis shall not include:

- (a) 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;
- (b) hemp; or
- (c) the weight of any other ingredient combined with cannabis or marijuana to prepare topical or oral administrations, food, drink or other products.

Cannabis or Marijuana Products: Cannabis or marijuana and its products unless otherwise indicated. These include products have been manufactured and contain 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.

Ceases to Operate: Marijuana Establishment closes and does not transact business for a period greater than 60 days with no substantial action taken to reopen. The Commission may determine that an establishment has ceased to operate based on its actual or apparent termination of operations.

Commission: 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: 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 up to a 3% host agreement revenue sharing. Note this term is not defined in 935 CMR 500.

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.

Hemp: The plant of the genus Cannabis or any part of the plant, whether growing or not, with a delta-9-tetrahydrocannabinol concentration that does not exceed 0.3% on a dry weight basis of any part of the plant of the genus Cannabis, or per volume or weight of cannabis or marijuana product, or the combined percent of delta-9-tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant of the genus Cannabis regardless of moisture content.

Host Community: A municipality in which a Marijuana Establishment is located or in which an applicant has proposed locating an establishment.

Marijuana Independent Testing Laboratory: A laboratory that is licensed by the Commission and is:

- (a) 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 Accrediting Cooperation mutual recognition arrangement or that is otherwise approved by the Commission;
- (b) independent financially from any Medical Marijuana Treatment Center (RMD), Marijuana Establishment or licensee for which it conducts a test; and
- (c) qualified to test cannabis or marijuana in compliance with 935 CMR 500.160 and M.G.L. c. 94C, § 34.

Licensee: A person or entity licensed by the Commission to operate a Marijuana Establishment under 935 CMR 500.000.

Manufacture: To compound, blend, extract, infuse or otherwise make or prepare a cannabis or marijuana product.

Marijuana Cultivator: An entity licensed to cultivate, process and package marijuana, and to transfer marijuana to other Marijuana Establishments, but not to consumers. A Craft Marijuana Cooperative is a type of Marijuana Cultivator.

Marijuana Establishment: A Marijuana Cultivator, Craft Marijuana Cooperative, Marijuana Product Manufacturer, Marijuana Retailer, Marijuana Independent Testing Laboratory, Marijuana Research Facility, Marijuana Transporter, or any other type of licensed marijuana-related business, except a medical marijuana treatment center. Marijuana establishments permitted in accordance with these regulations are considered to be a commercial and/or manufacturing use and are not considered being subject to any agricultural exemptions under zoning.

Marijuana Microbusiness: A colocated 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.

Marijuana Process or Processing: 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.

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

Marijuana Research Facility: An entity licensed to engage in research projects by the Commission.

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

Marijuana Transporter: 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 Marijuana Establishments, but not to consumers. Marijuana Transporters may be an Existing Licensee Transporter or Third Party Transporter.

Medical Marijuana Treatment Center, also known as a Registered Marijuana Dispensary (RMD): 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.

Propagation: The reproduction of cannabis or marijuana plants by seeds, cuttings, or grafting.

Provisional Marijuana Establishment License: A certificate issued by the Commission confirming that a Marijuana Establishment has completed the application process.

RMD Applicant: A previously Registered Marijuana Dispensary with a final or provisional certificate of registration in good standing with the DPH.

SECTION V USE REGULATIONS

Table 1. Use Regulations

Add:

Wholesale, Transportation and Industrial						
Principal Uses	Residential			Commercial		Industrial
	R-R	R-N	R-V	C-V	C-H	I-P
20. Craft Marijuana Cooperative	N	N	N	N	N	SPB
21. Marijuana Cultivator	N	N	N	N	N	SPB
22. Marijuana Product Manufacturer	N	N	N	N	N	SPB
23. Marijuana Retailer	N	N	N	N	SPB	SPB

24. Marijuana Independent Testing Laboratory	N	N	N	N	SPB	SPB
25. Marijuana Microbusiness	N	N	N	N	N	SPB
26. Marijuana Research Facility	N	N	N	N	N	SPB
27. Marijuana Transporter	N	N	N	N	SPB	SPB
28. Any other type of licensed marijuana-related business, except a medical marijuana treatment center	N	N	N	N	N	SPB

Section XVIII

Delete current Section XVIII Temporary Moratorium on Recreational Marijuana Establishments in its entirety.

Add a new Section XVIII Adult Use marijuana Establishments:

SECTION XVIII – ADULT USE MARIJUANA ESTABLISHMENTS

18-10 Adult Use Marijuana Establishments

1. Purposes

It is recognized that the nature of the substance cultivated, processed, and/or sold by marijuana establishments may have objectionable operational characteristics and should be located in such a way as to ensure the health, safety, and general well-being of the public as well as legally authorized adult customers seeking to legally purchase marijuana for their own use. The specific and separate regulation of Marijuana Establishments (hereafter also referred to as an ME) is necessary to advance these purposes and ensure that such facilities are not located within close proximity of minors and do not become concentrated in any one area within the Town of Southampton.

Subject to the provisions of this Zoning Bylaw, Chapter 40A of the Massachusetts General Laws, Chapter 94G of the Massachusetts General Laws and 105 CMR 725.000, Marijuana Establishments will be permitted to provide the opportunity for the legal cultivation, product manufacturing and retail sale of marijuana for non-medical adult marijuana use in a manner that complies with state regulations.

2. Applicability

Nothing in this section shall be construed to supersede federal and state laws governing the sale and distribution of marijuana. This section shall not be construed to prevent the conversion of a medical

marijuana treatment center licensed or registered no later than July 1, 2017 engaged in the cultivation, manufacture or sale of marijuana or marijuana products to a Marijuana Establishment, provided, however, any such medical marijuana treatment center obtains a special permit pursuant to this Section for any such conversion to an adult use Marijuana Establishment.

This bylaw does not apply to the cultivation of industrial hemp as is regulated by the Massachusetts Department of Agricultural Resources pursuant to General Laws, Chapter 128, Sections 116-123.

3. Additional Requirements/Conditions

In addition to the standard requirements for uses permitted By-right or requiring a Special Permit or Site Plan Approval, the following shall also apply to all Marijuana Establishments:

a. Use:

- 1) Any type of Marijuana Establishment may only be involved in the uses permitted by its definition and may not include other businesses or services.
- 2) No marijuana shall be smoked, eaten or otherwise consumed or ingested within the premises.
- 3) The hours of operation shall be set by the Special Permit Granting Authority, but in no event shall a Marijuana Establishment be open to the public, and no sale or other distribution of marijuana shall occur upon the premises or via delivery from the premises, between the hours of 8:00 p.m. and 8:00 a.m.
- 4) No marijuana establishment may commence operation or apply for a building permit prior to its receipt of all required permits and approvals including, but not limited, to its Final License from the Cannabis Control Commission.
- 5) The number of adult use marijuana retail establishments permitted to be located within the Town of Southamptton shall not exceed 50% of the number of licenses issued within the town/city for the retail sale of alcoholic beverages not to be drunk on the premises where sold under chapter 138 of the General Laws. For the purposes of determining this number, any fraction shall be rounded up to the next highest whole number.

b. Physical Requirements:

- 1) All aspects of the any marijuana establishment, except for the transportation of product or materials, relative to the acquisition, cultivation, possession, processing, sales, distribution, dispensing, or administration of marijuana, products containing marijuana, related supplies, or educational materials must take place at a fixed location within a fully enclosed building (including greenhouses) and shall not be visible from the exterior of the business. They may not be permitted to be located in a trailer, storage freight container, motor vehicle or other similar type potentially movable enclosure.
- 2) No outside storage is permitted.
- 3) No Marijuana Retailer shall have a gross floor area open to the public in excess of 2,500 square feet.
- 4) Ventilation – all marijuana establishments shall be ventilated in such a manner that no:
 - a) Pesticides, insecticides or other chemicals or products used in the cultivation or processing are dispersed into the outside atmosphere, and
 - b) No odor from marijuana or its processing can be detected by a person with an unimpaired and otherwise normal sense of smell at the exterior of the medical marijuana business or at any adjoining use or property.
- 5) Signage shall be displayed on the exterior of the marijuana establishment's entrance in plain sight of the public stating that "Access to this facility is limited to individuals 21 years or older." in text two inches in height.
- 6) All other signage must comply with all other applicable signage regulations in the Zoning Bylaw/Ordinance and 935 CMR 500

- 7) 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. 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.
- c. Location:
- 1) Marijuana establishments are encouraged to utilize existing vacant buildings where possible
 - 2) No marijuana establishment shall be located on a parcel which is within three hundred (300) feet (to 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) of a parcel occupied by a pre-existing public or private school (existing at the time the applicant's license application was received by the Cannabis Control Commission) providing education in kindergarten or any of grades 1-12.
 - 3) No marijuana retailer shall be located on a parcel which is within three hundred (300) feet (to 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 retailer is or will be located) of a parcel occupied by another marijuana retail facility.
 - 4) No marijuana establishment shall be located inside a building containing residential units, including transient housing such as motels and dormitories.
 - 5) No marijuana establishment is permitted to utilize or provide a drive-through service.
- d. Reporting Requirements.
- 1) Prior to the commencement of the operation or services provided by a marijuana establishment, it shall provide the Police Department, Fire Department, Building Commissioner/Inspector and the Special Permit Granting Authority with the names, phone numbers and email addresses of all management staff and key-holders, including a minimum of two (2) operators or managers of the facility identified as contact persons to whom one can provide notice if there are operating problems associated with the establishment. All such contact information shall be updated as needed to keep it current and accurate.
 - 2) The local Building Commissioner/Inspector, Board of Health, Police Department, Fire Department and Special Permit Granting Authority shall be notified in writing by the marijuana establishment facility owner/operator/ manager:
 - a) A minimum of 30 days prior to any change in ownership or management of that establishment.
 - b) A minimum of 12 hours following a violation or potential violation of any law or any criminal or potential criminal activities or attempts of violation of any law at the establishment.
 - 3) Permitted marijuana establishments shall file an annual written report to, and appear before, the Special Permit Granting Authority no later than January 31st of each calendar year, 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.
 - 4) The owner or manager of a marijuana establishment is required to respond by phone or email within twenty-four hours of contact by a town official concerning their marijuana establishment at the phone number or email address provided to the Town as the contact for the business.
- e. Issuance/Transfer/Discontinuance of Use
- 1) Special Permits shall be issued to the marijuana establishment owner.
 - 2) Special Permits shall be issued for a specific type of marijuana establishment on a specific site/parcel.

- 3) Special Permits shall be non-transferable to either another marijuana establishment owner or another site/parcel.
- 4) Special Permits shall have a term limited to the duration of the applicant's ownership/control of the premises as a marijuana establishment, and shall lapse/expire if:
 - a) A minimum of 12 hours following a violation or potential violation of any law or the marijuana establishment ceases operation (not providing the operation or services for which it is permitted) for 365 days, and/or
 - b) the marijuana establishment's registration/license by the Cannabis Control Commission expires or is terminated.
- 5) The marijuana establishment shall notify the Zoning Enforcement Officer and Special Permit Granting Authority in writing within 48 hours of such lapse, cessation, discontinuance or expiration or revocation.
- 6) A marijuana cultivation or product manufacturing establishment shall be required to remove all material, plants equipment and other paraphernalia prior to surrendering its state registration/license or ceasing its operation.
 - a) Prior to the issuance of a Building Permit for a marijuana establishment the applicant is required to post with the Town Treasurer a bond or other form of financial security acceptable to said Treasurer in an amount set by the Planning Board. The amount shall be sufficient to cover the costs of the town removing all materials, plants, equipment and other paraphernalia if the applicant fails to do so. The Building Inspector shall give the applicant 45 days' written notice in advance of taking such action. Should the applicant remove all materials, plants, equipment and other paraphernalia to the satisfaction of the Building Inspector prior to the expiration of the 45 days written notice, said bond shall be returned to the applicant.

4. Application Requirements

Applications for Special Permits and Site Plan Approvals for marijuana establishments will be processed in the order that they are filed with the town. The approval of a Special Permit for any marijuana establishment is up to the discretion of the Planning Board who will be making its determination based on selecting the marijuana establishments that it *finds* are in the best interests of the town and best comply with the standards and intent of this Bylaw. While the Planning Board is authorized to approve Special Permits for marijuana establishments in an amount up to, but not exceeding, 50% of the number of licenses issued within the town for the retail sale of alcoholic beverages not to be drunk on the premises where sold under chapter 138 of the General Laws, the Planning Board is not obligated to approve an application for a marijuana establishment that it doesn't *find* is in the best interests of the town and complies with the standards and intent of this Bylaw just because the maximum number of allowed Special Permits for a marijuana establishment haven't been approved.

In addition to the standard application requirements for Special Permits, such applications for a marijuana establishment shall include the following:

- a. The name and address of each owner and operator of the marijuana establishment facility/operation.
- b. A copy of an approved Host Agreement.
- c. A copy of its Provisional License from the Cannabis Control Commission pursuant to 935 CMR 500.
- d. If it's in conjunction with an approved RMD, a copy of its registration as an RMD from the Massachusetts Department of Public Health in accordance with 105 CMR 725.000 or from the Cannabis Control Commission in accordance with 935 CMR 500.

- e. Proof of Liability Insurance Coverage or Maintenance of Escrow as required in 935 CMR 500.
- f. Evidence that the Applicant has site control and right to use the site for a marijuana establishment facility in the form of a deed or valid purchase and sales agreement or, in the case of a lease a notarized statement from the property owner and a copy of the lease agreement.
- g. A notarized statement signed by the marijuana establishment organization's Chief Executive Officer and corporate attorney disclosing all of its designated representatives, including officers, directors, shareholders, partners, members, managers, 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 all such responsible individual persons.
- h. In addition to what is normally required in a Site Plan, details showing all exterior proposed security measures for the marijuana establishment including lighting, fencing, gates and alarms, etc. ensuring the safety of employees and patrons and to protect the premises from theft or other criminal activity.
- i. A detailed floor plan identifying the areas available and functional uses (including square footage).
- j. All signage being proposed for the facility.
- k. A pedestrian/vehicular traffic impact study, prepared by a registered professional engineer specializing in traffic engineering, to establish the marijuana establishment's impacts at peak demand times, including a line queue plan to ensure that the movement of pedestrian and/or vehicular traffic, including but not limited to, along the public right of ways will not be unreasonably obstructed.
- l. An odor control plan detailing the specific odor-emitting activities or processes to be conducted on-site, the source of those odors, the locations from which they are emitted from the facility, the frequency of such odor-emitting activities, the duration of such odor-emitting activities, and the administrative of odor control including maintenance of such controls.
- m. A Management Plan including a description of all activities to occur on site, including all provisions for the delivery of marijuana and related products to marijuana establishment or off-site direct delivery.
- n. Individual written plans which, at a minimum comply with the requirements of 935 CMR 500, relative to the marijuana establishment's:
 - 1) Operating procedures
 - 2) Marketing and advertising
 - 3) Waste disposal
 - 4) Transportation and delivery of marijuana or marijuana products
 - 5) Energy efficiency and conservation
 - 6) Security and Alarms
 - 7) Decommissioning of the marijuana establishment including a cost estimate taking into consideration the community's cost to undertake the decommissioning of the site.

5. Findings

In addition to the standard Findings for a Special Permit the Special Permit Granting Authority must also find all the following:

- a. That the Marijuana Establishment is consistent with and does not derogate from the purposes and intent of this Section and the Zoning Ordinance/Bylaw.
- b. That the marijuana establishment facility is designed to minimize any adverse visual or economic impacts on abutters and other parties in interest;
- c. That the marijuana establishment facility demonstrates that it meets or exceeds 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;
- d. That the applicant has satisfied all of the conditions and requirements of this Section and other applicable Sections of this Bylaw/Ordinance;
- e. That the marijuana establishment facility provides adequate security measures to ensure that no individual participant will pose a direct threat to the health or safety of other individuals, and that the storage and/or location of cultivation is adequately secured on-site or via delivery.
- f. That the marijuana establishment facility adequately addresses issues of traffic demand, circulation flow, parking and queuing, particularly at peak periods at the facility, and its impact on neighboring uses.

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Approved by the Southampton Planning Board

December 5, 2018