

## **Section 6.8, Marijuana Establishments & Medical Marijuana Treatment Centers Bylaw**

### **FINAL DRAFT**

*\*Approved May 12, 2018 at the Annual Town Meeting*

**ADD THE FOLLOWING TO THE END OF SECTION 6, SPECIAL REGULATIONS, AS A NEW SECTION 6.8**

### **6.8 MARIJUANA ESTABLISHMENTS (ME) MEDICAL MARIJUANA TREATMENT CENTERS (MMTC)**

#### **6.8.1 Purpose.**

The purpose of this section is to provide for the placement of Marijuana Establishments (MEs) and Medical Marijuana Treatment Centers (MMTCs) in suitable locations in the Town of Becket (the Town) in recognition of and in accordance with “The Regulation of the Use and Distribution of Marijuana Not Medically Prescribed”, M.G.L. c. 94G and “Medical Use of Marijuana”, M.G.L. c. 941. The specific purpose of this section is to safeguard the built environment by permitting compliance with state law in a manner consistent with community and neighborhood concerns, while also ensuring that those entities permitted to operate an ME or MMTC, as defined herein, comply with the relevant provisions of Chapter 334 of the Acts of 2016, Chapter 351 of the Acts of 2016, Chapter 55 of the Acts of 2017, and the regulations promulgated by the Cannabis Control Commission (CCC) found at 935 CMR 500.000 and 105 CMR 725.000 et seq.

#### **6.8.2 Definitions.**

**CRAFT MARIJUANA 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, or an appropriate business structure as determined by the CCC, and that is licensed to cultivate, obtain, manufacture, process, package and brand marijuana and marijuana products to deliver to MEs but not to consumers.

**INDEPENDENT TESTING LABORATORY** – a laboratory that is licensed by the CCC and is:

- (i) Accredited to the most current International Organization for Standardization 17025 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
- (ii) Independent financially from any MMTC or any licensee or ME for which it conducts a test
- (iii) Qualified to test marijuana in compliance with 935 CMR 500.160 and M.G.L. c. 94C, § 34.

**LICENSE** – the certificate issued by the CCC that confirms that the ME has met all applicable requirements pursuant to St. 2012, c. 334, as amended by St. 2017, c. 55 and 935 CMR 500.000. An ME may be eligible for a provisional or final license.

**MARIJUANA ESTABLISHMENT (ME)** – a Marijuana Cultivator, Craft Marijuana Cooperative, Marijuana Product Manufacturer, Marijuana Retailer, Independent Testing Laboratory, Marijuana Research Facility, Marijuana Transporter, or any other type of licensed marijuana-related business, except an MMTC.

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**MARIJUANA CULTIVATOR** – an entity licensed to cultivate, process, and package marijuana; to deliver marijuana to MEs; and to transfer marijuana to other MEs but not consumers.

**MARIJUANA CULTIVATION FACILITIES** – facilities that a Marijuana cultivator may be licensed to operate.

**MARIJUANA PRODUCT MANUFACTURER** – an entity licensed to obtain, manufacture, process, and package marijuana and marijuana products; to deliver marijuana and marijuana products to other MEs, and to transfer marijuana and marijuana products to other MEs but not 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 MEs and to deliver, sell, or otherwise transfer marijuana and marijuana products to other MEs and to consumers.

**MARIJUANA TRANSPORTER** – an entity, not otherwise licensed by the CCC, that is licensed to purchase, obtain, and possess cannabis or marijuana product solely for the purpose of transporting, temporary storage, sale and distribution to MEs, but not consumers.

**MEDICAL MARIJUANA TREATMENT CENTER (MMTC)** – a not-for-profit entity 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.

**MICRO-BUSINESS** – an ME that is licensed to act as a: licensed marijuana cultivator in an area less than 5,000 SF; licensed marijuana product manufacturer, and licensed marijuana delivery service in compliance with the operating procedures for each such license.

**RESEARCH FACILITY** – an entity licensed to engage in research projects by the CCC.

**SPECIAL PERMIT GRANTING AUTHORITY** – the Planning Board shall be the Special Permit Granting Authority (SPGA) for all MEs and MMTCs.

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#### **6.8.3 Designated Locations for MEs and MMTCs**

1. MEs and MMTCs may be sited on any property within the Town provided it is not restricted by any provision of this bylaw.
2. No ME or MMTC shall be located within 500 feet (500') of any licensed public or private school providing education in pre-k, kindergarten or any of grades 1-12, any public playground, or licensed daycare or other similar facility where organized youth activities occur. Distances shall be between the nearest property lines of each use. The SPGA may reduce this setback distance if it finds site-specific circumstances or barriers adequately separate the proposed marijuana use and a protected use. The burden shall be on the applicant to demonstrate that reducing the minimum setback will serve the purpose of the Section and address the concerns of the SPGA.

#### **6.8.4 Designated Number of MEs and MMTCs**

1. The total number of marijuana retailers shall not exceed fifty percent (50%), of the number of licenses issued within the Town for the retail sale of alcoholic beverages not to be drunk on the premises. Fractions of retailers shall be rounded up to the nearest whole number.
2. The aggregate number on non-retail MEs in the Town shall not exceed six (6) establishments in total.
3. The total number of MMTCs shall not be greater than two (2). In the event that the number of licensed packaged liquor stores allowed/issued within the Town decreases, any ME, if then exceeding the limitations as stated in Section 6.8.4.1 may remain in operation.
4. There shall be no restrictions on the number of any particular type of establishment permitted within the Town, other than as regulated in Section 6.8.4.1.

**6.8.5 Special Permit Required.** No ME or MMTC shall be operated or expanded without first obtaining a Special Permit from the Town SPGA in accordance with this Section and Section 9.3, **Special Permits.**

1. The SPGA shall be the Planning Board.

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2. A Special Permit shall only be valid for use by the applicant and will become null and void upon the sale or transfer of the license of an ME or MMTC or change in the location of the business.
3. In the event that the commonwealth's licensing authority suspends the license or registration of an ME or MMTC, the Special Permit shall be so suspended by the Town until the matter is resolved to the satisfaction of said licensing authority.
4. The Special Permit shall be considered null and void if meaningful construction has not begun on the project within two (2) years of obtaining said permit, as determined by the Building Inspector or their designee(s).
5. Conditions of Special Permit approval may include but are not limited to the following:
  - a. Street, side or rear setbacks greater than the minimum required by this bylaw;
  - b. Modification of the exterior features or appearances of the structure;
  - c. Limitation of size, number of occupants or hours of operation;
  - d. Regulation of number, design and location of access drivers or other traffic features;
  - e. Requirement of off-street parking or other special features beyond the minimum required by this or other applicable ordinances;
  - f. Proposed security precautions shall be adequate to protect the safety and well-being of users of the establishment.

#### **6.8.6 Marijuana Retailer and Medical Marijuana Treatment Center's Requirements & Performance Standards**

1. The minimum lot size for this shall be two (2) acres. The SPGA may modify or waive this requirement.
2. The minimum required front, side, and rear yard setbacks shall be forty feet (40').
3. In any residential area, any property line of an abutting residential or institutional use shall be provided with a continuous screening along such side and rear property lines.
4. In reviewing a Special Permit under this Section, the SPGA shall consider the impact of the proposal on the following:

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- a. Character of the neighborhood to include visual compatibility with surrounding uses.
- b. Proximity to other marijuana uses to prevent clustering.
- c. Relationship to surrounding uses to avoid unnecessary exposure to minors.
- d. The provision of adequate lighting to promote security for customers and the public.
- e. Hours of operation.
- f. Site design and other development related site impacts.

#### **6.8.7 Outdoor Cultivation Requirements & Performance Standards**

1. The minimum lot size for this use shall be five (5) acres.
2. The minimum required building setbacks shall be one-hundred feet (100') for front and side yards, and fifty feet (50') for rear yards. No marijuana shall be planted within a required building setback.
3. No fertilizers, compost, soils, material, machinery, or equipment shall be stored within the required front, side, and rear yard building setbacks.
4. In any residential area, any property line of an abutting residential or institutional use shall be provided with a continuous screened fence six feet (6') in height along all such property lines.
5. In reviewing a Special Permit under this Section, the SPGA shall consider the impact of the proposal on the following:
  - a. Character of the neighborhood to include visual compatibility with surrounding uses.
  - b. Proximity to other marijuana uses to prevent clustering.
  - c. Relationship to surrounding uses to avoid unnecessary exposure to minors.
  - d. The provision of adequate lighting to promote security for customers and the public.
  - e. Hours of operation.
  - f. Site design and other development related site impacts.

#### **6.8.8 Indoor Cultivation, Craft Cooperative, Micro Business, Manufacturing, Processing, Testing & Research Requirements and Performance Standards**

1. The minimum lot size for this use shall be two (2) acres.
2. The minimum required building setbacks shall be fifty feet (50') for front yards, and twenty feet (20') for side and rear yards.

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3. No fertilizers, compost, soils, materials, machinery, or equipment shall be stored outdoors within the required front, side, and rear yard setbacks.
4. In any residential area, any property line of an abutting residential or institutional use shall be provided with a continuous screening along such side and rear property lines.
5. In reviewing a Special Permit under this Section, the SPGA shall consider the impact of the proposal on the following:
  - a. Character of the neighborhood to include visual compatibility with surrounding uses.
  - b. Proximity to other marijuana uses to prevent clustering.
  - c. Relationship to surrounding uses to avoid unnecessary exposure to minors.
  - d. The provision of adequate lighting to promote security for customers and the public.
  - e. Hours of operation.
  - f. Site design and other development related site impacts.

#### **6.8.9 Additional Requirements & Performance Standards for MEs and MMTCs**

1. Hours of operation. Operating hours of a marijuana retailer shall be consistent with the regulations for "Alcoholic Liquors", M.G.L. c. 138, unless determined otherwise by the SPGA. Hours of operation shall apply to all sales, delivery and dispensing activities for the business. There shall be no hourly restrictions on all other MEs or MMTCs, unless imposed by said authority as part of site plan approval.
2. Signage. All signage must comply with the regulations set forth in Section 5.0 of the Zoning Bylaws for the Town and the regulations established by the CCC.
3. On-site consumptions of marijuana. On-site consumption is prohibited on or within the premises of any ME, except for research facilities and except as may be allowed in a cannabis membership club or other entity allowed by state law.
4. Visibility of activities. All activities of any ME shall be conducted indoors except for outdoor cultivation operations.
5. Paraphernalia. Devices, contrivances, instruments and paraphernalia for inhaling or otherwise consuming marijuana, including, but not limited to, rolling papers and related tools, water pipes and vaporizers may lawfully be sold at a marijuana retailer. No retail marijuana,

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marijuana products or paraphernalia shall be displayed or kept in a retail marijuana store so as to be visible from outside of the licensed premises.

6. Lighting. Outdoor light levels shall not exceed 1 foot-candle along property lines, nor 10-foot candles for any location on the property. Any light poles, new or existing, may not exceed eighteen feet (18') in overall height. All outdoor light fixtures must be shielded and aimed down to prevent light trespass onto adjacent properties. The SPGA may modify this requirement if, upon recommendation by the Police Chief, it is required for adequate safety and security.
7. Landscaping. Marijuana retailers shall be landscaped to harmonize the building with surrounding uses. Landscaping shall be provided at the rate of one (1) canopy tree for every thirty feet (30') of lineal road frontage and shall be located within fifteen feet (15') of the front property line(s). Existing trees may count toward this requirement and may be clustered. Landscaping must consist of native, non-invasive plant species. The SPGA may modify or waive this requirement.
8. Control of emissions. Sufficient measures and means of preventing smoke, odors, debris, dust, fluids and other substances from exiting an ME must be provided at all times. In the event that any odors, debris, dust, fluids or other substances exit a marijuana retailer, marijuana product manufacturer, research facility or independent testing laboratory, the owner of the subject premises and the licensee shall be jointly and severally liable for such conditions and shall be responsible for immediate, full cleanup and correction of such condition. The licensee shall properly dispose of all such materials, items and other substances in a safe, sanitary and secure manner and in accordance with all applicable federal, state and local laws and regulations.
9. Parking. Off-street parking must be provided as follows:
  - a. Marijuana cultivation facilities and marijuana product manufacturers: one (1) parking space for each employee plus adequate space for service and supply vehicles or one (1) parking space for each 1,000 square feet (SF) of gross floor area, whichever is greater.
  - b. Marijuana research facilities and independent testing laboratories: one (1) parking space for each 300 SF of gross floor area.
  - c. Marijuana retailers and MMTCs: one (1) parking space for each 250 SF of gross floor area.

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10. Marijuana retailers are prohibited from installing an on-site drive-through facility.
11. Fencing. As a condition of the Special Permit approval, the SPGA will determine the location, height and type of fencing, if applicable. Additional fencing may be required if determined necessary by the Police Chief. In no instance shall barbed-wire fencing be permitted.
12. Marijuana Waste Disposal. There shall be no outdoor storage of marijuana waste for any marijuana retailer. All marijuana waste generated shall be secured indoors, to be serviced by an authorized professional waste removal service company or medical waste company.
13. Marijuana retailers are prohibited from selling alcoholic beverages.

#### **6.8.10 Filing Requirements**

Applications for Special Permits shall be submitted to the Planning Board for approval. The Planning Board, acting as the SPGA, shall then approve, approve with conditions, or deny the site plan and Special Permit. No Special Permit shall take effect until such decision by the SPGA has been recorded at the Middle District Registry of Deeds. Said applications shall include the following, unless partially or completely waived by the SPGA:

1. Site Plan. In addition to the site plan contents required per Section 9.4.5, the site plan shall also include:
  - a. The names, mailing addresses, phone numbers, email addresses and signatures of the applicant, owner and operator.
  - b. Physical address (if one exists) and the map, lot and block number of the proposed site.
  - c. Security Plan. A security plan is required to ensure the safety of employees, patrons and the public to protect the premises from theft or other criminal activity. The security plan shall be reviewed and approved by the Police Chief. The following elements may be included in the security plan and are only required if deemed necessary by the Police Chief:
    - i. An interior floor plan (secured areas, window, doors, etc.)
    - ii. Exterior lighting
    - iii. Fencing



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- iv. Gates
  - v. Alarms
  - vi. Additional security measures not listed above.
2. Traffic Study. The SPGA may require a traffic study that includes an analysis of traffic generation, circulation and off-street parking demands to determine sufficient parking and optimum configuration for site ingress and egress.
  3. State License. A copy of the license or registration as an ME from the CCC or documentation that demonstrates that said facility and its owner/operators quality and are eligible to receive a Certification of Registration and meet all of the requirements of an ME in accordance with the regulations adopted by said commission, as amended.
  4. Site Control. Evidence that the applicant has site control and the right to use the site for an ME in the form of a deed, valid lease, or purchase & sale agreement or a notarized statement from the property owner certifying the applicant has firm site control.
  5. Applications for Site Plan Review shall include a project impact statement, which addresses potential impacts of the use on traffic, on-site parking, storm-water runoff, lighting, and landscaping.

#### **6.8.11 Discontinuance of Use.**

Any ME or MMTC under this Section shall be required to remove all material, plants, equipment, and other paraphernalia in compliance with regulations established by the CCC within thirty (30) days after the expiration or voiding of its license.

#### **6.8.12 No Town Liability: Indemnification.**

1. The applicant and all licensees waive and release the Town, its elected officials, employees and agents from any liability for injuries, damages or liabilities of any kind that result from any arrest or prosecution of the ME or MMTC owners, operators, employees, clients or customers for a violation of state or federal laws, rules, or regulations.
2. The applicant, in receiving approvals issued pursuant to this chapter, and all licensees, jointly and severally, if more than one, agree to indemnify, defend and hold harmless the Town, its elected officials, employees, attorneys, agents, insurers and self-insurance pool against all liability, claims and demands on account of any injury, loss or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property

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loss or damage or any other loss of any kind whatsoever, arising out of or in any manner connected with the operation of the ME or MMTC that is subject to the approval/license.

#### **6.8.13 Annual Inspection.**

1. The Building Inspector and Police Chief shall inspect any operating ME or MMTC within the Town annually to ensure compliance with this section and with any conditions imposed by the SPGA or condition of the Special Permit approval.
2. The first annual inspection shall be more than one (1) year after beginning operation, but before two (2) years after beginning operation.

#### **6.8.14 Other Laws Remain Applicable.**

1. Business License Required. At all times while a permit is in effect, the licensee shall possess a valid license.
2. To the extent that the state has adopted or adopts in the future any additional or stricter laws or regulations governing MEs or MMTCs, the additional or stricter regulation shall apply. Compliance with any applicable state law or regulation shall be deemed an additional requirement for issuance or denial of any license under this chapter, and noncompliance with any applicable state law or regulation shall be grounds for revocation or suspension of any license issued hereunder.
3. Any ME or MMTC may be required to demonstrate, upon demand by law enforcement officers of the Town and/or local licensing authority that the source and quantity of any marijuana found upon the licensed premises are in full compliance with any applicable state law or regulation.
4. The issuance of any license pursuant to this chapter shall not be deemed to create an exception, defense or immunity to any person in regard to any potential criminal liability the person may have for the cultivation, possession, sale, distribution or use of marijuana.
5. Prior to the issuance of a Special Permit or site plan approval, the ME or MMTC must have entered into a Host Community Agreement (HCA) with the Town. If, upon review by the Select Board, the ME is found to not be fully in compliance with the HCA, the Special Permit and/or the local license may be suspended or rescinded.

#### **6.8.15 Severability.**

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The provisions of this bylaw are severable, and the invalidity of any section, subdivision, subsection, paragraph or other part of this bylaw shall not affect the validity or effectiveness of the remainder of this bylaw.