

Zoning Bylaw Changes

1. Create new Section 199-9.11, “Marijuana Establishments,” A. – I. as follows:

ARTICLE IV. SPECIAL REGULATIONS

§199-9.11. Marijuana Establishments.

A. Purpose. The purpose of this section is to provide for the placement of Marijuana Establishments (MEs) in suitable locations in the Town of Lee (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. 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 a licensed ME, 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 et seq.

B. 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 marijuana 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 medical marijuana treatment center or any licensee or ME for which it conducts a test; and (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 a ME has met all applicable requirements pursuant to St. 2012, c. 334, as amended by St. 2017, c. 55 and 935 CMR 500.000. A 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 a medical marijuana treatment center.

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 to consumers.

MICRO-BUSINESS – a collocated ME 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 MEs.

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

C. Designated Locations for MEs. The locations designated by the Town of Lee where a ME may be sited are as follows:

- (1) Any ME, as defined in this bylaw, may be sited in the Industrial (I) zone district, as shown on the Zoning Map pursuant to G.L. c. 40A, §4, upon the approval of a Site Plan and Special Permit, in accordance with §199-13.3 and §199-13.4 of the Zoning Bylaw.
- (2) Marijuana Retailers, as defined in this bylaw, may be sited in the Central Business Corridor (CBC) and the Rural Business (RB) zone districts as shown on the Zoning Map pursuant to G.L. c. 40A, §4, upon the approval of a Site Plan and Special Permit, in accordance with §199-13.3 and §199-13.4 of the Zoning Bylaw.
- (3) Marijuana Independent Testing Laboratories and Research Facilities, as defined in this bylaw, may be sited in the Downtown Commercial Business Corridor (DCBC), Central

Business Corridor (CBC), Rural Business (RB) and the Office Park Light Industrial (OPLI) zone districts as shown on the Zoning Map pursuant to G.L. c. 40A, §4, upon the approval of a Site Plan and Special Permit, in accordance with §199-13.3 and §199-13.4 of the Zoning Bylaw.

- (4) Marijuana Cultivation Facilities, Marijuana Product Manufacturers and Marijuana Transporters, as defined in this bylaw, may be sited in the Rural Business (RB) and Office Park Light Industrial (OPLI) zone districts as shown on the Zoning Map pursuant to G.L. c. 40A, §4, upon the approval of a Site Plan and Special Permit, in accordance with §199-13.3 and §199-13.4 of the Zoning Bylaw.
- (5) No Marijuana Retailer may be located closer than five-hundred feet (500') from any school, place of worship, any type of child care facility as referenced in 606 CMR 7.02, or other similar facility where minors commonly congregate and are the primary population served by the facility. The setback distance shall be measured in a straight line from the nearest point of the property line of the proposed marijuana retailer and the nearest point of the property line of said facilities. There shall be no setback for all other MEs.
- (6) As part of the Special Permit process, the Special Permit Granting Authority may reduce the required setback distance as referenced in subsection C(5) if it finds site-specific circumstances or barriers adequately separate the proposed Marijuana Retailer and the protected uses. The burden shall be on the Applicant to demonstrate that reducing the minimum setback will serve the purpose of this section and address the concerns of the Special Permit Granting Authority.
- (7) No ME, except for Marijuana Transporters, shall be permitted to operate from a moveable, mobile or transitory location.

D. Designated Number of MEs.

- (1) The total number of Marijuana Retailers shall not exceed twenty percent (20%), 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 total number of non-retail ME's shall not exceed fourteen (14).
- (3) In the event that the number of licenses issued within the Town for the retail sale of alcoholic beverages not to be drunk on the premises decreases, any ME, if then exceeding the limits as noted in Subsection D.1, may remain in operation.

E. General Requirements. The following general requirements are established for all proposed operations of ME's.

- (1) Outside storage. No outside storage of marijuana, marijuana products, related supplies, or educational materials is permitted, except for outdoor, open-air cultivation facilities.
- (2) Hours of operation. A Marijuana Retailer may open no earlier than 8:00 AM and shall close no later than 8:00 PM the same day, Monday through Saturday, and from 10:00 AM until 8:00 PM on Sunday unless other hours of operation are set by the Special Permit Granting Authority as part of site plan approval. Hours of operation shall apply to all sales, delivery, and dispensing activities for the business. There shall be no hourly restrictions on non-retail marijuana facilities, unless imposed by the Special Permit Granting Authority as part of site plan approval.
- (3) Signage. All signage and advertising for ME's shall comply with all applicable state laws, as well as, the provisions of §199-7 of this chapter and all other applicable provisions of this code. Advertisements, signs, displays or other promotional material depicting retail marijuana uses or symbols shall not be shown or exhibited off the premises, or in any manner which is visible to the public from roadways, pedestrian sidewalks or walkways, or from other public areas. No signage associated with a Marijuana Retailer shall use the word "marijuana," "cannabis," or any other word or phrase commonly understood to refer to marijuana, unless such word or phrase is immediately preceded by the word "retail," provided that no signage shall contain words such as "reefer," "ganja," "weed" or other similar slang references to marijuana or cannabis.
- (4) On-site consumption of marijuana. The use, consumption, ingestion or inhalation of marijuana or marijuana products on or within the premises of any ME is prohibited, except for Research Facilities.
- (5) Visibility of activities. All activities of any ME, except for outdoor, open-air cultivation facilities, shall be conducted indoors.
- (6) 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, marijuana products, or paraphernalia shall be displayed or kept in a retail marijuana store so as to be visible from outside the licensed premises.
- (7) Control of emissions. Sufficient measures and means of preventing smoke, odors, debris, dust, fluids and other substances from exiting a ME must be provided at all times. In the event that any odors, debris, dust, fluids or other substances exit a ME, 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 clean-up 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.
- (8) The proposed ME shall provide appropriate landscaping and urban design features to harmonize the proposed project with abutting uses so as to protect and enhance the

aesthetics and architectural look and character of the surrounding neighborhood. This requirement may be modified or waived by the Special Permit Granting Authority.

- (9) Any violation will be corrected within 30 days and if not corrected within the required time, all operations of the ME shall be suspended until the violation is corrected.

F. Special Permit Required. No ME shall be operated or expanded without first obtaining a Special Permit from the Special Permit Granting Authority in accordance with this section and § 199-13.4, “Special Permits”.

- (1) The Special Permit Granting Authority for any ME shall be the Board of Selectmen.
- (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 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, the Special Permit shall be so suspended by the Town until the matter is resolved to the satisfaction of said licensing authority.

G. Filing Requirements. Applications to permit an ME must be submitted to the Select Board. Such applications for MEs shall include the following:

- (1) Site Plan. A site plan shall be submitted that includes all information required as per §199-13.3 and must also include the following:
 - I. The names, mailing addresses, phone numbers, email addresses and signatures of the applicant, owner and operator.
 - II. Physical address (if one exists), and the map, lot and block number of the proposed site.
- (2) Security Plan. A security plan shall be submitted, to ensure the safety of employees, patrons and the public to protect the premises from theft or criminal activity. The Police Chief, or their designee, shall offer comments to the Special Permit Granting Authority regarding the Security Plan. The security plan shall include, but not be limited to, the following:
 - I. An interior floorplan (including secured areas, windows, doors, etc.)
 - II. Exterior lighting
 - III. Exterior fencing (if any)
 - IV. Exterior gates (if any)
 - V. Alarms
- (3) 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.
- (4) The Special Permit Granting Authority may require a traffic study that includes an analysis of on-site circulation and parking demand to justify the number of

proposed parking spaces and the optimum configuration for site ingress and egress.

- H. Discontinuance of Use. Any ME under this Section shall be required to remove all material, marijuana products, equipment, signs, and other paraphernalia in compliance with regulations established by the CCC prior to expiration of its license or immediately following revocation or voiding of its licensure and/or registration. If the license holder discontinues use, the ME shall immediately notify the Lee Board of Selectmen, the Lee Police Chief and the Zoning Enforcement Officer.
- I. No town liability; indemnification.
- (1) The Applicant and all licensees waive and release the Town, its elected officials, employees, attorneys and agents from any liability for injuries, damages or liabilities of any kind that result from any arrest or prosecution of the ME 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 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 that is the subject of the approval/license.
- J. Other laws remain applicable.
- (1) Business License Required. At all times while a permit is in effect the licensee shall possess a valid business license as required by the Lee Town Code.
 - (2) To the extent that the state has adopted or adopts in the future any additional or stricter law or regulation governing the cultivation, manufacturing, testing, research or retail of marijuana or Marijuana Products, the additional or stricter regulation shall control the ME in the Town. 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 may be required to demonstrate, upon demand by law enforcement officers of the Lee Police Department and/or the 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 must have entered into a host community agreement with the Town. If, upon review by the Board of Selectmen, the ME is found to not be fully in compliance with the host community agreement, the Special Permit may be suspended or rescinded.

2. Create new Section X (Within the General Bylaws), “Recreational Marijuana Excise Tax”:

In accordance with Mass Acts 2017, Chapter 55, Section 13, and pursuant to MGL Chapter 64 N, Section 3, the Town of Lee hereby adopts a 3% gross sales tax applicable to marijuana retailers. The marijuana retailer shall pay the local sales tax imposed under this bylaw to the commissioner at the same time and in the same manner as the sales tax due to the commonwealth.