

ADD THE FOLLOWING TO THE END OF SECTION 8 SPECIAL PROVISIONS - AS A NEW SECTION 8.11

§8.11. Licensed Marijuana Establishments.

A. Purpose. The purpose of this section is to provide for the placement of Licensed Marijuana Establishments in suitable locations in Clarksburg, in recognition of and in accordance with “The Regulation and Taxation of Marijuana Act,” G.L. c. 94G, in order to minimize potential adverse impacts of marijuana establishments. 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 marijuana establishment, as defined herein, comply with all of the provisions of Chapter 334 of the Acts of 2016.

B. Definitions.

LICENSED MARIJUANA ESTABLISHMENT – a marijuana cultivator, testing laboratory, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana-related business.

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

MARIJUANA PRODUCT MANUFACTURER – an entity licensed to obtain, manufacture, process and package marijuana and marijuana products, to deliver marijuana and marijuana products to marijuana establishments, and to transfer marijuana and marijuana products to other marijuana establishments 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 marijuana establishments and to deliver, sell, or otherwise transfer marijuana and marijuana products to marijuana establishments and to consumers.

MARIJUANA TESTING LABORATORY – a third-party entity licensed to test and research marijuana and marijuana products, able to perform work completely independent from any marijuana cultivator, processor, retailer or local government body within the Commonwealth.

C. Location. Licensed Marijuana Establishments may be sited as follows:

- 1) Any Licensed Marijuana Establishment may be sited in the Industrial (I-1) zone district, as shown on the Zoning Map, pursuant to G.L. c. 40A, §4, upon the issuance of a Special Permit from the Special Permit Granting Authority, per Section 6, Special Permits, of the Zoning Bylaw for the Town of Clarksburg.
- 2) Licensed Marijuana retailers may be sited in the Industrial-Service (I-S) zone district, as shown on the Zoning Map, pursuant to G.L. c. 40A §4, upon the issuance of a Special Permit from the Special Permit Granting Authority, per Section 6, Special Permits, of the Zoning Bylaw for the Town of Clarksburg.
- 3) Licensed Marijuana Establishments are prohibited in all other zone districts within the Town of Clarksburg.

D. Special Permit Required.

- 1) No licensed marijuana retailer shall be operated without first obtaining a Special Permit from the Special Permit Granting Authority in accordance with this Section and Section 6 “Special Permits”.
- 2) The Special Permit Granting Authority shall be the Select Board.
- 3) Applications for Special Permits shall be submitted to the Planning Board for preliminary review. The Planning Board shall then forward all materials to the Select Board along with a recommendation to approve, approve with conditions, or deny the site plan and Special Permit.
- 4) 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 a marijuana retailer or change in the location of the business.
- 5) In the event that the Commonwealth’s licensing authority suspends the license or registration of a marijuana establishment, the Special Permit shall be so suspended by the Town until the matter is resolved to the satisfaction of said licensing authority.
- 6) The Special Permit shall be considered null and void if meaningful construction has not begun on the project within 2 years of obtaining said permit, at the discretion of the Planning Board.

E. General Requirements. The following is required for all proposed operations of Licensed Marijuana Establishments.

- 1) Permanent location. Each licensed marijuana establishment and any part of its operation, including but not limited to, cultivation, processing, packaging, and sales, shall be operated from a fixed location within a fully enclosed building and shall not be visible from the exterior of the premises. No marijuana establishment shall be permitted to operate from a moveable, mobile or transitory location.
- 2) Outside storage. No outside storage of marijuana, marijuana products, related supplies, or educational materials is permitted.

- 3) 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, unless other hours of operation are set by the Town's Special Permit Granting Authority. Hours of operation shall apply to all sales, delivery and dispensing activities for the business. There shall be no hourly restrictions on marijuana testing, manufacturing or cultivation facilities, unless imposed by the Planning Board as part of site plan approval.
 - 4) Signage. All signage must comply with the regulations set forth in Section 8.6 of the Zoning Bylaw for the Town of Clarksburg.
 - 5) On-site consumption of marijuana. The use, consumption, ingestion or inhalation of marijuana or marijuana products on or within the premises of any Licensed Marijuana Establishment is prohibited.
 - 6) Visibility of activities. All activities of any licensed marijuana establishment, including any marijuana retailer, testing laboratory or manufacturer shall be conducted indoors.
 - 7) 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 marijuana retailer.
 - 8) 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 18' in overall height. All outdoor light fixtures must be shielded and aimed down to prevent light trespass onto adjacent properties. The Planning Board may modify this requirement if, upon recommendation by the Police Chief, it is required for adequate safety and security.
 - 9) Landscaping. Landscaping is required for marijuana retailers to harmonize the facility with abutting uses. Landscaping must be provided in the form of one canopy tree for every 20' of lineal road frontage, placed within 15' of the property line, and 1 shrub for every 10' of building frontage facing a public street, placed within 10' of the building footprint. Canopy trees must measure at least 2.5" in diameter upon planting. Shrubs must measure at least 2' tall upon planting. Existing trees and shrubs meeting the size and location requirements may be counted toward the required landscaping. Landscaping may be clustered. Landscaping must consist of native, non-invasive plant species. The Planning Board may modify or waive this requirement.
 - 10) Parking. Off-street parking must be provided for any Licensed Marijuana Establishment as specified in Section 8.5.
 - 11) Marijuana retail establishments are prohibited from installing an on-site drive through facility.
 - 12) Marijuana retail establishments are prohibited from selling alcoholic beverages.
- F. Filing Requirements. Applications to permit a Licensed Marijuana Establishment must be submitted to the Planning Board. Said applications shall include the following, unless partially or completely waived by the Planning Board or their designee:

SPECIAL TOWN MEETING VERSION

- 1) Site Plan. In addition to the site plan contents required per Section 6.6.3, 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 local Police Chief, or their designee. The following elements may be included in the security plan and are only required if deemed necessary by the Police Chief:
 - i. An interior floorplan (secured areas, windows, doors, etc.)
 - ii. Exterior lighting
 - iii. Fencing
 - iv. Gates
 - v. Alarms
 - vi. Additional security measures not listed above
 - 2) Traffic Study. The Planning Board may require a traffic study that includes an analysis of traffic generation, circulation and off-street parking demand to determine sufficient parking and optimum configuration for site ingress and egress.
 - 3) State License. A copy of the license or registration as a Licensed Marijuana Establishment from the Massachusetts Cannabis Control Commission or documentation that demonstrates that said facility and its owner/operators qualify and are eligible to receive a Certification of Registration and meet all of the requirements of a Licensed Marijuana Establishment 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 a Licensed Marijuana Establishment 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.
- G. Discontinuance of Use. Any Licensed Marijuana Establishment under this Section shall be required to remove all material, plants, equipment, and other paraphernalia in compliance with regulations established by the Cannabis Control Commission within 30 days after the expiration or voiding of its license.
- H. 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 Licensed Marijuana Establishment 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 Licensed Marijuana Establishment that is subject of the approval/license.

I. 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 law or regulation governing the cultivation, manufacturing, testing or retail of marijuana or marijuana products, the additional or stricter regulation shall control the establishment or operation of any marijuana retailer 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 Licensed Marijuana Establishment may be required to demonstrate, upon demand by law enforcement officers of the Town of Clarksburg and/or the local licensing authority, 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 Licensed Marijuana Establishment must have entered into a host community agreement (HCA) with the Town. If, upon review by the Select Board, the Licensed Marijuana Establishment is found to not be fully in compliance with the HCA, the special permit and/or the local license may be suspended or rescinded.

ADD THE FOLLOWING TO SECTION 4.8 TABLE OF USE – (C) AGRICULTURAL USES, (D) OFFICE AND LABORATORY, (E) RETAIL BUSINESS AND CONSUMER SERVICE, (F) LIGHT INDUSTRY AND WHOLESALE

Section 4.8: Table of Use Regulations						
Principal Uses	Zone Districts					
	U-C	A-R	R-30	C-1	I-1	I-S
C. Agricultural Uses						
6 <i>Marijuana Cultivator</i>	<i>N</i>	<i>N</i>	<i>N</i>	<i>N</i>	<i>SPP</i>	<i>N</i>
D. Office and Laboratory						
5 <i>Marijuana Testing Laboratory</i>	<i>N</i>	<i>N</i>	<i>N</i>	<i>N</i>	<i>SPP</i>	<i>N</i>
E. Retail Business and Consumer Service						
18 <i>Marijuana Retailer</i>	<i>N</i>	<i>N</i>	<i>N</i>	<i>N</i>	<i>SPP</i>	<i>SPP</i>
F. Light Industry and Wholesale						
9 <i>Marijuana Product Manufacturer</i>	<i>N</i>	<i>N</i>	<i>N</i>	<i>N</i>	<i>SPP</i>	<i>N</i>

For informational purposes only:

Y= Permitted by right

N= Not permitted

SPA = Permitted by right, requires Site Plan Approval

SPP = Special Permit Required from Planning Board

SPZ = Special Permit Required from ZBA

ADD THE FOLLOWING TO THE END OF SECTION 8.5 OFF-STREET PARKING REQUIREMENTS – 1(G) THROUGH 1(J)

1(g) Marijuana Cultivation Facilities: 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 of gross floor area, whichever is greater.

1(h) Marijuana Manufacturing Facilities: 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 of gross floor area, whichever is greater.

1(i) Marijuana Testing Laboratories: one (1) parking space for each 300 SF of gross floor area.

1(j) Marijuana Retail Stores: one (1) parking space for each 200 SF of gross floor area.