

5.00.00: DRAFT 04/19/2018 Special Requirements for Licensed Marijuana Establishments

5.10.00: Purpose

5.10.01: To provide for the establishment of Licensed Marijuana Establishments for both adult use and medical marijuana, in appropriate places and under reasonable conditions, in accordance with the applicable state laws and regulations. Specifically, Chapter 369 of the Acts of 2012 (An Act for the Humanitarian Medical Use of Marijuana), M.G.L. Ch. 94I (“Medical Use of Marijuana), 725 CMR 105.00 (Implementation of an Act for the Humanitarian Medical Use of Marijuana), M.G.L. Ch. 94G (Regulation of the Use and Distribution of Marijuana Not Medically Prescribed) and 935 CMR 500.00 (Adult-Use of Marijuana).

5.10.02: To minimize the adverse impacts of Licensed Marijuana Establishments on adjacent properties, residential neighborhoods, schools and other places where children congregate, and other land uses potentially incompatible with such Establishments.

5.10.03: To regulate the siting, design, placement, security, safety, monitoring, modification, and removal of Licensed Marijuana Establishments.

5.20.00: Applicability

5.20.01: The indoor cultivation, production, processing, assembly, packaging, retail or wholesale sale, trade, transportation, distribution or dispensing of Marijuana is prohibited unless permitted as a Licensed Marijuana Establishment under this Section 5.00.00.

5.20.02: No Licensed Marijuana Establishment shall be established except in compliance with the provisions of this Section 5.00.00.

5.30.00: Definitions

Active Recreation Area for Children: Recreational activities, such as organized sports, that require extensive facilities or that have a considerable environmental impact on the recreational site.

Marijuana: The same substance defined as “marijuana” under 935 CMR 500.00 for Adult Use Marijuana, and 105 CMR 725.004 for Medical Use Marijuana

Licensed Marijuana Establishment: A facility for the indoor cultivation, production, processing, assembly, packaging, retail or wholesale sale, trade, distribution or dispensing of Marijuana and Marijuana products for both medical and adult use.

Marijuana Cultivator: An entity licensed to cultivate, process and package marijuana for both medical and adult use, to deliver marijuana to marijuana establishments, but not to consumers.

Marijuana Product Manufacturer: An entity licensed to obtain, manufacture, process and package marijuana and marijuana products for medical and adult use, to deliver marijuana and marijuana products to marijuana establishments, but not to consumers.

Medical Marijuana Retailer: an entity licensed to acquire, sell, distribute, dispense Medical Use Marijuana and marijuana products that are designated and restricted for use by, and for the benefit of, Qualifying Patients in the treatment of Debilitating Medical Conditions or the symptoms thereof as set forth in Chapter 369 of the Acts of 2012 or G.L. c94I as it may supersede said Act.

Adult Use Marijuana Retailer: An entity licensed to purchase and transport marijuana and marijuana products for adult use from marijuana establishments and to deliver, sell or otherwise transfer marijuana and marijuana products to marijuana establishments and to consumers as defined in 935 CMR 500.02.

Marijuana Research Facility: A facility that may cultivate, purchase or otherwise acquire marijuana for the purpose of conducting research regarding marijuana and marijuana products. This may be an academic institution, non-profit corporation or domestic corporation or entity authorized to do business in the Commonwealth of Massachusetts

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 Social Consumption Operator: A marijuana retailer licensed to sell marijuana and marijuana products on its premises only to consumers or allow consumers to consume marijuana and marijuana products on its premises.

Marijuana Testing Facility: An entity licensed to test marijuana and marijuana products, including certification for potency and the presence of contaminants.

Micro-Business: A co-located 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 transportation or distribution facility: An entity with a fixed location that delivers marijuana and marijuana products to marijuana establishments and transfers marijuana and marijuana products to other marijuana establishments, but not to

consumers. This shall include the temporary storage of marijuana products on premises associated with transportation and distribution.

Special Permit Granting Authority: The local board assigned to review and administer the special permit for a given project or activity. The Planning Board is assigned as the Special Permit Granting Authority for Adult Use and Medical Marijuana special permit applications.

5.40.00: Eligible Locations

5.40.01: Licensed Marijuana Establishments, may be allowed by special permit of the Tyngsborough Planning Board, and provided the Licensed Marijuana Establishment meets the requirements of this Section 5.00.00.

- a) No marijuana establishment shall be located within 500 feet of any pre-existing public or private school, licensed day-care center, church, library, playground, or indoor and outdoor active recreation area for children.
- b) Adult use and Medical Marijuana retail establishments cannot be located within 500 feet of each other. This does not include legally co-located facilities. Non-retail marijuana establishments are allowed within 500 feet of each other.
- c) No Licensed Marijuana Establishment shall be located on a lot which directly abuts a residential district unless the 500-foot buffer requirements are met as described in 5.40.02.
- d) Licensed Marijuana Establishments shall be permitted in the following zones:

	R-1	R-2	R-3	B-1	B-2	B-3	B-4	I-1
Medical Marijuana retailer	O	O	O	O	O	SPB-R	O	O
Adult Use (Recreational) Marijuana retailer	O	O	O	O	O	SPB-R	O	O
Marijuana cultivator	O	O	O	O	O	O	O	SPB-R
Marijuana product manufacturer	O	O	O	O	O	O	O	SPB-R
Marijuana Testing Facility	O	O	O	O	O	SPB-R	O	SPB-R
Marijuana Research facility	O	O	O	O	O	SPB-R	O	SPB-R
Marijuana transportation or distribution facility	O	O	O	O	O	O	O	SPB-R
Microbusiness	O	O	O	O	O	O	O	SPB-R
Marijuana Social Consumption Operator	O	O	O	O	O	O	O	O

5.40.02 The 500-foot distance shall be measured in a straight line from the pre-existing building or facility in question to the nearest point of the proposed marijuana establishment's building.

5.50.00: General Requirements and Conditions for all Licensed Marijuana Establishments

5.50.01: All Licensed Marijuana establishments, except for transportation or distribution shall be contained within a building or structure and shall not be located inside a movable structure or mobile vehicle such as a trailer, van or truck. Outdoor cultivation is prohibited.

5.50.02: A Licensed Marijuana Establishment may not be located in a building that contains medical doctors' offices or the offices of any other professional practitioner authorized to prescribe medical marijuana.

5.50.03: The hours of operation of Licensed Marijuana Establishments shall be set by the Special Permit Granting Authority, as a condition of the special permit.

5.50.04: No smoking, burning, or consumption of any product containing marijuana or marijuana-related products shall be permitted on the premises of a Licensed Marijuana Establishment, except as legally permitted within a licensed research or testing facility.

5.50.05: No Licensed Marijuana Establishment shall be located inside a building containing residential units, including transient housing such as motels, hotels, or dormitories.

5.50.06: Licensed Marijuana Establishments shall provide the Tyngsborough Police Department, Tyngsborough Fire Department, Building Commissioner, Board of Health and the Special Permit Granting Authority with the names, telephone numbers and email addresses of all management staff and key holders, to whom one can provide notice if there are operating problems associated with the Licensed Marijuana Establishment.

5.50.07 The Licensed Marijuana Establishment shall allow law enforcement personnel, local public health, inspectional services, and other permit-granting agents, acting within their lawful jurisdiction, to enter and inspect the Licensed Marijuana Establishment for compliance with local and State regulations.

5.50.08 Prior to the issuance of a certificate of occupancy, all Licensed Marijuana Establishments shall file a security plan, operation and management plan and emergency plan to demonstrate there is limited undue burden on the city public safety officials as a result of the proposed business.

- a) The **security plan** shall include the details of all security measures for the site and transportation of marijuana and marijuana products to and from off-site premise to ensure the safety of employees and the public and protect the property from theft or other criminal activity. The security plan shall be submitted to the Tyngsborough Fire Department and Tyngsborough Police Department, with notice of such deliveries to the Special Permit Granting Authority. This report shall remain confidential. The security plan shall be resubmitted on an annual basis on January 31st, or within seven days of any change in management or ownership, building security, or any other operational aspect that may affect employee or public security.
- b) **The Operation and Management Plan:** Prior to issuance of the building permit, the Operation and Management Plan shall be submitted to the Building Department, Board of Health and Special Permit Granting Authority, with notice of such deliveries to the Special Permit Granting Authority. The plan shall include the following elements, as applicable: Organizational Structure, Location, Property Description, Hours of Operation and Staffing, indoor Cultivation Practices, processing practices, distribution practices, employee safety, general compliance, fire prevention, sanitation requirements, electrical system overview, ventilation system and air quality and waste refuse chemical remediation plan.
- c) **The Emergency Response Plan:** Prior to issuance of a Certificate of Occupancy, all Licensed marijuana establishments shall meet with Tyngsborough Police Department and Fire Department to discuss and identify emergency plans/contingency plans for the site. A written Emergency Response Plan shall be filed with the Tyngsborough Fire Department and Tyngsborough Police Department per M.G.L. Ch. 94G §12, with notice of such deliveries to the Special Permit Granting Authority.

5.50.09: The number Adult Use Marijuana Retail Establishments shall be limited to no more than 20% of the All-Alcohol Package Store Liquor Licenses for the Town.

5.60.00: Special Permit Requirements

5.60.01: A Licensed Marijuana Establishment shall only be allowed by special permit with site plan review by the Special Permit Granting Authority, in accordance with M.G.L. Ch. 40A, § 9, subject to the following statements, regulations, requirements, conditions and limitations.

5.60.02: A special permit for a Licensed Marijuana Establishment shall be limited to one or more of the following uses, but no more than three as specified in 935 CMR 500.000. that shall be prescribed by the Special Permit Granting Authority:

- a) Indoor Cultivation of Marijuana for adult or medical use.
- b) Processing and packaging of Marijuana for adult or medical use, including Marijuana that is in the form of smoking materials, food products, oils, aerosols, ointments, and other products;
- c) Independent Marijuana Testing;
- d) Research Laboratory;
- e) Retail sale or distribution of either adult or medical use Marijuana;
- f) Wholesale sale of Marijuana to other Licensed Marijuana Establishments located in the Town or another municipality in Massachusetts; and/or
- g) Marijuana transportation or distribution.

5.60.03: In addition to the application requirements set forth in Sections 5.50.00 and 5.60.00 of this Bylaw, a special permit application for a Licensed Marijuana Establishment shall include the following:

- a) The name and address of each owner of the Licensed Marijuana Establishment;
- b) Copies of all required licenses and permits issued to the Applicant by the Commonwealth of Massachusetts and any of its agencies for the Licensed Marijuana Establishment;
- c) Evidence of the Applicant's right to use the site for a Licensed Marijuana Establishment, such as a deed or lease;
- d) If the Applicant is a business organization, a statement under oath disclosing all of its owners, shareholders, partners, members, managers, directors, officers, 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 the owners of such entities unless the disclosure contains the names of individuals;
- e) A certified list of all "parties in interest" as defined in M.G.L. Ch. 40A § 11 taken from the most recent tax list of the Town and certified by the Town Assessor;
- f) Proposed security measures for the Licensed Marijuana Establishment, including lighting, fencing, gates and alarms, etc., to ensure the safety of persons and to protect the premises from theft. These security measures shall be reviewed by the Police Chief and Fire Chief or their designees, and a recommendation shall be made to the Special Permit Granting Authority.
- g) Fully executed Community Host Agreement.

5.60.04: Mandatory Findings - The Special Permit Granting Authority shall not issue a special permit for a Licensed Marijuana Establishment unless it finds that:

- a) The Licensed Marijuana Establishment is designed to minimize any adverse visual or economic impacts on abutters and other "parties in interest", as defined in M.G.L. c. 40A, § 11;

- b) The Licensed Marijuana Establishment is fully permitted by all applicable agencies of the Commonwealth of Massachusetts and is in compliance with all applicable state laws and regulations; and
- c) The Applicant has satisfied all of the conditions and requirements of Sections 5.40.00, 5.50.00, and 5.60.00.

5.60.05: Annual Reporting - A Licensed Marijuana Establishment permitted under this Bylaw shall, as a condition of its special permit, file an annual report no later than January 31st, providing a copy of all current applicable state licenses required under 935 CMR 500.00 and 105 CMR 725.000 for the Licensed Marijuana Establishment and/or its owners and demonstrate continued compliance with the conditions of the special permit as well as local and state regulations. A copy of the annual report shall also be filed with the Board of Health. Notice of delivery shall be made to the Special Permit Granting Authority.

5.60.06 Within 30 days of receiving a Compliance Inspection Report from the state, the Licensed Marijuana Establishment must forward the Compliance Inspection Report to the Board of Health and the Special Permit Granting Authority.

5.60.07: A special permit granted under this Section shall have a term limited to the duration of the Applicant's ownership of the Licensed Marijuana Establishment at the premises. A special permit may be transferred only with the approval of the Special Permit Granting Authority in the form of an amendment to the special permit with all information required in this Section 5.00.00.

5.60.08: Any violation of this Section 5.00.00 or any other state regulations or state laws shall be grounds for revocation of a special permit issued under this Section.

5.70.00: Abandonment or Discontinuance of Use

5.70.01: A special permit shall lapse if not exercised within one year of grant of special permit.

5.70.02: A Licensed Marijuana Establishment shall be required to remove all material, plants, equipment and other paraphernalia:

- a) Prior to surrendering its state-issued licenses or permits; or
- b) Within six months of ceasing operations, whichever comes first.

5.70.03: In the event the property ceases to be actively used as a Licensed Marijuana Establishment and/or any other allowed use under this Bylaw, any and all signs identifying or promoting the property for such uses shall be immediately removed. This shall include exterior and interior signs visible to the public. Should such signage fail to be removed within thirty calendar days, the Town, or its designee, shall have the right to enter upon the property with an appropriate court order/warrant and take such actions as are necessary to remove, cover, or

otherwise render any such signage non-visible to the public. The Town shall not be responsible for any damage caused to the property in association with carrying out such actions. Any costs incurred by the Town for such actions shall be the responsibility of the Licensed Marijuana Establishment.

5.80.00: Severability

5.80.01: If any provision of this Bylaw is held invalid by a court of competent jurisdiction, the remainder of the Bylaw shall not be affected. The invalidity of any section or sections or parts of any section or sections of this Bylaw shall not affect the validity of the remainder of the Bylaw.

DRAFT