

CITY OF MARLBOROUGH MEETING POSTING

Meeting Name: City Council Urban Affairs Committee

Date: April 17, 2018

Time: 5:30 PM

Location: City Council Chamber, 2nd Floor, City Hall, 140 Main Street

RECEIVED
CITY CLERK'S OFFICE
CITY OF MARLBOROUGH

2018 APR 11 A 11:00

Continued Review:

02-05-2018 – **Order No. 18-1007163-2B (X18-1007151)**: Review of Proposed Zoning Ordinance Amendment to Chapter 650, several subsections as it pertains to Adult (formerly "Recreational") Use Marijuana.

-Refer to Urban Affairs Committee and Planning Board

-Public Hearing: February 26, 2018

THE LISTING OF TOPICS THAT THE CHAIR REASONABLY ANTICIPATES WILL BE DISCUSSED AT THE MEETING IS NOT INTENDED AS A GUARANTEE OF THE TOPICS THAT WILL HAVE BEEN DISCUSSED. NOT ALL TOPICS LISTED MAY IN FACT BE DISCUSSED, AND OTHER TOPICS NOT LISTED MAY ALSO BE BROUGHT UP FOR DISCUSSION TO THE EXTENT PERMITTED BY LAW.

The public should take due notice that the Marlborough City Council may have a quorum in attendance due to Standing Committees of the City Council consisting of both voting and non-voting members. However, members attending this duly posted meeting are participating and deliberating only in conjunction with the business of the Standing Committee.

Electronic devices, including laptops, cell phones, pagers, and PDAs must be turned off or put in silent mode upon entering the City Council Chamber, and any person violating this rule shall be asked to leave the chamber. Express authorization to utilize such devices may be granted by the President for recordkeeping purposes.

DRAFT ORDER (APRIL 6, 2018)

ADULT USE MARIJUANA, MARIJUANA ACCESSORIES RETAIL, AND MARIJUANA CULTIVATOR, TESTING LAB, MANUFACTURER OR TRANSPORTER AND REVISIONS TO MEDICAL MARIJUANA TREATMENT CENTERS WHICH ENABLE INTEGRATION OF THESE OTHER USES INTO SECTION 650-32.

ORDERED:

THAT, PURSUANT TO § 5 OF CHAPTER 40A OF THE GENERAL LAWS, THE CITY COUNCIL OF THE CITY OF MARLBOROUGH, HAVING SUBMITTED FOR ITS OWN CONSIDERATION CHANGES IN THE ZONING ORDINANCE OF THE CITY OF MARLBOROUGH, AS AMENDED, TO FURTHER AMEND CHAPTER 650, NOW ORDAINS THAT THE ZONING ORDINANCE OF THE CITY OF MARLBOROUGH, AS AMENDED, BE FURTHER AMENDED BY ADDING THERETO AS FOLLOWS:

1. Section 650-17, entitled “Table of Uses,” is hereby amended by inserting a new section for the use entitled “Adult use marijuana retail; marijuana accessories retail” as follows:

Adult use marijuana retail;	RR	A1	A2	A3	RB	RC	B	CA	LI	I	MV
marijuana accessories retail (46)	N	N	N	N	N	N	SP	N	SP	N	N

2. Section 650-17, entitled “Table of Uses,” is hereby amended by inserting a new section for the uses entitled “Medical and/or adult use marijuana cultivator, independent testing laboratory, product manufacturer or transporter” as follows:

Medical and/or adult use marijuana cultivator, independent testing laboratory, product manufacturer or transporter (47)	RR	A1	A2	A3	RB	RC	B	CA	LI	I	MV
	N	N	N	N	N	N	N	N	SP	SP	N

3. Section 650-18, entitled “Conditions for Uses,” is hereby amended by adding to said section a new paragraph (46), as follows:

(46) Adult use marijuana retail; marijuana accessories retail:

- (a) Shall only be located within those portions of the B and LI Districts located along Massachusetts State Highway Route 20 (Boston Post Road) from the Northborough town line to Massachusetts State Highway Route 495, and within those portions of the B and LI districts located along Massachusetts State Highway Route 20 (Boston Post Road) from the Sudbury town line to Phelps Street;

- (b) Shall have frontage on Massachusetts State Highway Route 20 (Boston Post Road);
and
 - (c) Shall be subject to the provisions of state law and of § 650-32, including but not limited to a Special Permit from the City Council (the “Special Permit Granting Authority”).
4. Section 650-18, entitled “Conditions for Uses,” is hereby amended by adding to said section a new paragraph (47), as follows:
- (47) Medical and/or adult use marijuana cultivator, independent testing laboratory, product manufacturer or transporter:
 - (a) Shall only be located within those portions of the I and LI Districts located west of Massachusetts State Highway Route 495;
 - (b) Shall be limited in number to one (1) of each type (cultivator, independent testing laboratory, product manufacturer or transporter), but in no event fewer than the number of medical marijuana treatment centers registered to engage in the same type of activity in the City of Marlborough;
 - (c) Shall be subject to the provisions of state law and of § 650-32, including but not limited to a Special Permit from the City Council (the “Special Permit Granting Authority”);
 - (d) All aspects of a medical and/or adult use marijuana cultivator, independent testing laboratory, product manufacturer or transporter concerning marijuana or products containing marijuana, related supplies or educational materials must take place in a fixed location within a fully enclosed building, with the exception of the actual transport of marijuana, marijuana products and related supplies, and shall not be visible from the exterior of the building; and
 - (e) No outside storage of marijuana, related supplies, equipment, or educational materials is permitted.
5. The title of Section 650-32, “MEDICAL MARIJUANA TREATMENT CENTER”, is hereby stricken and inserted in place thereof shall be the following new title for Section 650-32:
- “MEDICAL MARIJUANA TREATMENT CENTER; ADULT USE MARIJUANA RETAIL; MARIJUANA ACCESSORIES RETAIL; AND MEDICAL AND/OR ADULT USE MARIJUANA CULTIVATOR, INDEPENDENT TESTING LABORATORY, PRODUCT MANUFACTURER OR TRANSPORTER ”.

6. Paragraph A. of Section 650-32 is hereby amending by inserting at the beginning thereof the following words:

“MEDICAL MARIJUANA TREATMENT CENTERS”

7. Paragraph A. of Section 650-32 is hereby amended by (1) deleting the word “and” as said word is between the words “Massachusetts General Laws” and “105 CMR 725.000”, and by inserting a comma (“,”) in place thereof; and by (2) inserting after the words “105 CMR 725.000,” the following words:

“and the ordinances and regulations of the City of Marlborough, its boards and commissions”

8. Section 650-32 is hereby amended by inserting after Paragraph A. therein the following new paragraphs A1. and A2.:

A1. **ADULT USE MARIJUANA RETAIL; MARIJUANA ACCESSORIES RETAIL.** Subject to the provisions of this Zoning Ordinance, Chapter 40A of the Massachusetts General Laws, Chapter 94G of the Massachusetts General Laws, 935 CMR 500.000, and the ordinances of the City of Marlborough, its boards and commissions, all as amended, the City of Marlborough Zoning Ordinance will not prohibit the location of adult use marijuana retail business establishments and marijuana accessories business establishments within the City of Marlborough, but will instead regulate such businesses. To ensure that these businesses are located in such a way as to not pose a direct threat to the health or safety of children and other vulnerable populations, the provisions of this section will apply to all such businesses.

A2. **MEDICAL AND/OR ADULT USE MARIJUANA CULTIVATOR, INDEPENDENT TESTING LABORATORY, PRODUCT MANUFACTURER OR TRANSPORTER.** Subject to the provisions of this Zoning Ordinance, Chapter 40A of the Massachusetts General Laws, Chapter 94I of the Massachusetts General Laws, Chapter 94G of the Massachusetts General Laws, 105 CMR 725.000, 935 CMR 500.000, and the ordinances of the City of Marlborough, its boards and commissions, all as amended, the City of Marlborough Zoning Ordinance will not prohibit the location of cultivators, independent testing laboratories, product manufacturers, or transporters, for the purposes of medical marijuana or adult use marijuana, within the City of Marlborough, but will instead regulate such businesses. To ensure that these businesses are located in such a way as to not pose a direct threat to the health or safety of children and other vulnerable populations, the provisions of this section will apply to all such businesses.

9. Paragraph B. of Section 650-32 is hereby amended by striking therefrom the first paragraph in its entirety, and by inserting in place thereof the following new paragraph:

B. In the interpretation of this chapter, the meanings of words and phrases shall be according to the definitions included in Section 650-32 of the Code of the City of Marlborough entitled “Medical Marijuana Treatment Centers”, Chapter 369 of the Acts of 2012, Chapter 94I as amended, 105 CMR 725.000 as amended, Chapter 334 of the Acts of 2016, as amended by Chapter 55 of the Acts of 2017, M.G.L. c. c. 94G as amended, and 935 CMR 500.002 as amended, unless the context shows another sense to be intended. For purposes of this chapter, the following definitions shall also apply:

10. Paragraph B of Section 650-32 is hereby amended by striking therefrom the definition of MEDICAL MARIJUANA TREATMENT CENTER, and by inserting in place thereof the following revised definition:

MEDICAL MARIJUANA TREATMENT CENTER shall refer to the site(s) of dispensing, cultivation, and preparation of marijuana; shall mean a not-for-profit entity or a for-profit entity registered under 105 CMR 725.100 and known thereunder as a registered marijuana dispensary (RMD), that acquires, cultivates, possesses, processes (including development of related products such as edible marijuana-infused products (MIPs), tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers; and shall be subject to the regulations under § 650-32 of this Ordinance.

11. Paragraph B. of Section 650-32 is hereby amended by inserting in alphabetical order within the current definitions of said Paragraph B. the following new definitions:

ADULT USE MARIJUANA, including the words MARIJUANA and CANNABIS as those words pertain to adult use marijuana, means all parts of any plant of the genus Cannabis, not excepted in 935 CMR 500.002: Cannabis or Marijuana (a) through (c) and whether growing or not; the seeds thereof; and resin extracted from any part 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. 96G, § 1, as amended; provided that Adult Use Marijuana, Marijuana or Cannabis does not include 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; hemp; or the weight of any other ingredient combined with cannabis or marijuana to prepare topical or oral administrations, food, drink or other products.

ADULT USE MARIJUANA RETAIL means an entity licensed and registered under 935 CMR 500.050, as amended, as a Marijuana Retailer to purchase from a craft marijuana cooperative, marijuana cultivator, independent testing laboratory, product manufacturer or transporter and to sell or otherwise transfer the marijuana to consumers and to Marijuana Establishments.

MARIJUANA ACCESSORIES means equipment, products, devices or materials of any kind that are intended or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, injecting, inhaling or otherwise introducing marijuana or cannabis into the body.

MARIJUANA ACCESSORIES RETAIL means a retail business open to the public where an entity sells marijuana or cannabis accessories to consumers.

MEDICAL AND/OR ADULT USE MARIJUANA CULTIVATOR means an entity licensed and registered under 105 CMR 725.100 and/or 935 CMR 500.000, as amended, to cultivate, process and package marijuana, to deliver to Medical Marijuana Treatment Centers and/or to other Marijuana Establishments, but not to consumers.

MEDICAL AND/OR ADULT USE MARIJUANA INDEPENDENT TESTING LABORATORY means a laboratory that is licensed by the Cannabis Control Commission 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 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 Marijuana Establishment for which it conducts a test, and (iii) qualified to test marijuana in compliance with 105 CMR 725.031 and M.G.L. c. 94C, § 34 and/or 935 CMR 500.160 and M.G.L. c. 94G, § 34.

MEDICAL AND/OR ADULT USE MARIJUANA PRODUCT MANUFACTURER means an entity licensed to obtain, manufacture, process and package marijuana and marijuana products, to deliver marijuana and marijuana products to Marijuana Establishments and/or to Medical Marijuana Treatment Centers, but not to consumers.

MEDICAL AND/OR ADULT USE MARIJUANA TRANSPORTER “marijuana transporter” means an entity, not otherwise licensed by the Cannabis Commission, that is licensed to purchase, obtain, and possess marijuana and marijuana products solely for the purpose of transporting, temporary storage, sale and distribution to Marijuana Establishments and/or to Medical Marijuana Treatment Centers, not for sale to consumers.

MARIJUANA ESTABLISHMENT means a licensed marijuana cultivator, craft marijuana cooperative, marijuana product manufacturer, marijuana retailer, independent testing laboratory, marijuana research facility, marijuana transporter, or any other type of licenses marijuana-related business, except a Medical Marijuana Treatment Center.

12. Paragraph C. of Section 650-32 is hereby amended by striking from the first paragraph the words “Medical marijuana treatment center”, and by inserting in place thereof the following words:

“a Medical Marijuana Treatment Center, adult use marijuana retail business, marijuana accessories business, or medical and/or adult use marijuana cultivator, independent testing laboratory, product manufacturer or transporter,”

13. Paragraph C.15.b. of Section 650-32, entitled “Medical Marijuana Treatment Centers”, is hereby amended by inserting at the end of said paragraph, after the words “pick-up/drop-off area”, the following words:

“for clients, customers and products;”

14. Section 650-32 is hereby amended by inserting, after Paragraph F., a new paragraph F.1. as follows:

- F1. An adult use marijuana retail business, marijuana accessories retail business, medical and/or adult use marijuana cultivator, independent testing laboratory, product manufacturer or transporter shall not be located:
- a. Within a radius of five hundred (500) feet of a school (as defined in § 517-2 of the Code of the City of Marlborough, as amended) located within the City of Marlborough; and
 - b. Within a radius of five hundred (500) feet of a daycare center (as defined in § 517-2 of the Code of the City of Marlborough, as amended) located within the City of Marlborough.

The five hundred (500) foot distance in this paragraph F.1. is measured in a straight line from the nearest point of the building in which the school or daycare center in question is located to the nearest point of the building within which the proposed adult use marijuana retail business, marijuana accessories retail business, and medical and/or adult use marijuana cultivator, independent testing laboratory, product manufacturer or transporter would be located.

15. Paragraph G. of Section 650-32 is hereby amended by inserting at the end of said paragraph, after the words “Medical Marijuana Treatment Center”, the following words:

“(except for the administration of marijuana for the purposes of teaching use of vaporizers, or demonstration of use of other products as necessary), an adult use marijuana retail business, a marijuana accessories retail business, and to a medical and/or adult use marijuana cultivator, independent testing laboratory, product manufacturer or transporter.”

16. Section 650-32 is hereby amended by inserting therein a new paragraph H. as follows:
 - H. The number of Special Permits issued to adult use marijuana retail business establishments shall not exceed the number that is 20% of the number of liquor licenses for off-premises alcohol consumption that have been issued by the Licensing Board pursuant to M.G.L. c. 138, § 15.
17. Section 650-32 is hereby amended by inserting therein a new paragraph I. as follows:
 - I. An adult use marijuana retail business, marijuana accessories retail business, medical and/or adult use marijuana cultivator, independent testing laboratory, product manufacturer or transporter shall not be an allowable home occupation use or an allowable accessory use.
18. Section 650-32 is hereby amended by inserting therein a new paragraph J. as follows:
 - J. Social consumption establishments and mixed-use establishments for the consumption of adult use marijuana or of medical marijuana is prohibited.
19. Section 650-32 is hereby amended by inserting therein a new paragraph K. as follows:
 - K. Direct delivery to a consumer or client from a marijuana cultivator or product manufacturer is prohibited.
20. The effective date of these amendments shall be the date of their passage.

ADOPTED
In City Council
Order No 18-
Adopted

Approved by Mayor
Arthur G. Vigeant
Date:

A TRUE COPY
ATTEST:

DRAFT – WHAT WOULD IT LOOK LIKE FOR ALL MARIJUANA USES TO BE INTEGRATED TOGETHER INTO SECTION 650-32? (APRIL 6, 2018)

INTEGRATION INTO SECTION 650-32 OF ADULT USE MARIJUANA, MARIJUANA ACCESSORIES RETAIL, AND MARIJUANA CULTIVATOR, TESTING LAB, MANUFACTURER OR TRANSPORTER WITH MEDICAL MARIJUANA TREATMENT CENTERS (AS PER DRAFT ORDER DATED APRIL 6, 2018)

650- 17 TABLE OF USES

	RR	A1	A2	A3	RB	RC	B	CA	LI	I	MV
Medical marijuana treatment centers (45)	N	N	N	N	N	N	SP	N	SP	N	N

(45) Medical marijuana treatment centers:

- (a) Shall only be located within those portions of the B and LI Districts located along Massachusetts State Highway Route 20 (Boston Post Road) from the Northborough town line to Massachusetts State Highway Route 495, and within those portions of the B and LI districts located along Massachusetts State Highway Route 20 (Boston Post Road) from the Sudbury town line to Phelps Street;
- (b) Shall have frontage on Massachusetts State Highway Route 20 (Boston Post Road); and
- (c) Shall be subject to the provisions of local and state laws, standards and regulations, and ordinances including without limitation § 650-32 of the Zoning Ordinance of the City of Marlborough, any conditions imposed on licenses and permits held by the medical marijuana treatment center, agreements between the medical marijuana treatment center and the City of Marlborough, and a Special Permit from the City Council (the “Special Permit Granting Authority”).

	RR	A1	A2	A3	RB	RC	B	CA	LI	I	MV
Adult use marijuana retail; marijuana accessories retail (46)	N	N	N	N	N	N	SP	N	SP	N	N

(46) Adult use marijuana retail; marijuana accessories retail:

- (a) Shall only be located within those portions of the B and LI Districts located along Massachusetts State Highway Route 20 (Boston Post Road) from the Northborough town line to Massachusetts State Highway Route 495, and within those portions of the B and LI districts located along Massachusetts State Highway Route 20 (Boston Post Road) from the Sudbury town line to Phelps Street;

- (b) Shall have frontage on Massachusetts State Highway Route 20 (Boston Post Road); and
- (c) Shall be subject to the provisions of state law and of § 650-32, including but not limited to a Special Permit from the City Council (the “Special Permit Granting Authority”).

Medical and/or adult use marijuana cultivator, independent testing laboratory, product manufacturer or transporter (47)	RR	A1	A2	A3	RB	RC	B	CA	LI	I	MV
	N	N	N	N	N	N	N	N	SP	SP	N

- (47) Medical and/or adult use marijuana cultivator, independent testing laboratory, product manufacturer or transporter:
 - (a) Shall only be located within those portions of the I and LI Districts located west of Massachusetts State Highway Route 495;
 - (b) Shall be limited in number to one (1) of each type (cultivator, independent testing laboratory, product manufacturer or transporter), but in no event fewer than the number of medical marijuana treatment centers registered to engage in the same type of activity in the City of Marlborough;
 - (c) Shall be subject to the provisions of state law and of § 650-32, including but not limited to a Special Permit from the City Council (the “Special Permit Granting Authority”);
 - (d) All aspects of a medical and/or adult use marijuana cultivator, independent testing laboratory, product manufacturer or transporter concerning marijuana or products containing marijuana, related supplies or educational materials must take place in a fixed location within a fully enclosed building, with the exception of the actual transport of marijuana, marijuana products and related supplies, and shall not be visible from the exterior of the building; and
 - (e) No outside storage of marijuana, related supplies, equipment, or educational materials is permitted.

650-32 MEDICAL MARIJUANA TREATMENT CENTER; ADULT USE MARIJUANA RETAIL; MARIJUANA ACCESSORIES RETAIL; AND MEDICAL AND/OR ADULT USE MARIJUANA CULTIVATOR, INDEPENDENT TESTING LABORATORY, PRODUCT MANUFACTURER OR TRANSPORTER

- A. **MEDICAL MARIJUANA TREATMENT CENTER.** Subject to the provisions of this Zoning Ordinance, Chapter 40A of the Massachusetts General Laws, Chapter 94I of the Massachusetts General Laws, 105 CMR 725.000, and the ordinances and regulations of the City of Marlborough, its boards and commissions, all as amended, the City of Marlborough Zoning Ordinance will not prohibit the location of a center for medical marijuana treatment within the City of Marlborough, but will instead regulate such centers. A Medical Marijuana Treatment Center should provide medical support, security, oversight by a physician, and standards that meet or exceed 105 CMR 725.000. These Centers should not compete to provide streamlined care to patients and should not provide a location for patients to wait for treatment in the vicinity of children. Therefore, to ensure that these Centers are located in such a way as to not pose a direct threat to the health or safety of either qualifying patients or the public at large, the provisions of this section will apply to all such Centers
- A1. **ADULT USE MARIJUANA RETAIL; MARIJUANA ACCESSORIES RETAIL.** Subject to the provisions of this Zoning Ordinance, Chapter 40A of the Massachusetts General Laws, Chapter 94G of the Massachusetts General Laws, 935 CMR 500.000, and the ordinances and regulations of the City of Marlborough, its boards and commissions, all as amended, the City of Marlborough Zoning Ordinance will not prohibit the location of adult use marijuana retail business establishments and marijuana accessories business establishments within the City of Marlborough, but will instead regulate such businesses. To ensure that these businesses are located in such a way as to not pose a direct threat to the health or safety of children and other vulnerable populations, the provisions of this section will apply to all such businesses.
- A2. **MEDICAL AND/OR ADULT USE MARIJUANA CULTIVATOR, INDEPENDENT TESTING LABORATORY, PRODUCT MANUFACTURER OR TRANSPORTER.** Subject to the provisions of this Zoning Ordinance, Chapter 40A of the Massachusetts General Laws, Chapter 94I of the Massachusetts General Laws, Chapter 94G of the Massachusetts General Laws, 105 CMR 725.000, 935 CMR 500.00, and the ordinances and regulations of the City of Marlborough, its boards and commissions, all as amended, the City of Marlborough Zoning Ordinance will not prohibit the location of cultivators, independent testing laboratories, product manufacturers, or transporters, for the purposes of medical marijuana or adult use marijuana, within the City of Marlborough, but will instead regulate such businesses. To ensure that these businesses are located in such a way as to not pose a direct threat to the health or safety of children and other vulnerable populations, the provisions of this section will apply to all such businesses.
- B. In the interpretation of this chapter, the meanings of words and phrases shall be according to the definitions included in Section 650-32 of the Code of the City of Marlborough entitled “Medical Marijuana Treatment Centers”, Chapter 369 of the Acts of 2012, Chapter 94I as amended, 105 CMR 725.000 as amended, Chapter 334 of the Acts of 2016, as amended by Chapter 55 of the Acts of 2017, M.G.L. c.

c. 94G as amended, and 935 CMR 500.002 as amended, unless the context shows another sense to be intended. For purposes of this chapter, the following definitions shall also apply:

ADULT USE MARIJUANA, including the words **MARIJUANA** and **CANNABIS** as those words pertain to adult use marijuana, means all parts of any plant of the genus *Cannabis*, not excepted in 935 CMR 500.002: Cannabis or Marijuana (a) through (c) and whether growing or not; the seeds thereof; and resin extracted from any part 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. 96G, § 1, as amended; provided that Adult Use Marijuana, Marijuana or Cannabis does not include 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; hemp; or the weight of any other ingredient combined with cannabis or marijuana to prepare topical or oral administrations, food, drink or other products.

ADULT USE MARIJUANA RETAIL means an entity licensed and registered under 935 CMR 500.050, as amended, as a Marijuana Retailer to purchase from a craft marijuana cooperative, marijuana cultivator, independent testing laboratory, product manufacturer or transporter and to sell or otherwise transfer the marijuana to consumers and to Marijuana Establishments.

MARIJUANA ACCESSORIES means equipment, products, devices or materials of any kind that are intended or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, injecting, inhaling or otherwise introducing marijuana or cannabis into the body.

MARIJUANA ACCESSORIES RETAIL means a retail business open to the public where an entity sells marijuana or cannabis accessories to consumers.

MEDICAL AND/OR ADULT USE MARIJUANA CULTIVATOR means an entity licensed and registered under 105 CMR 725.100 and/or 935 CMR 500.000, as amended, to cultivate, process and package marijuana, to deliver to Medical Marijuana Treatment Centers and/or to other Marijuana Establishments, but not to consumers.

MEDICAL AND/OR ADULT USE MARIJUANA INDEPENDENT TESTING LABORATORY means a laboratory that is licensed by the Cannabis Control Commission 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 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 Marijuana Establishment for which it conducts a test, and (iii) qualified to test marijuana in compliance with 105 CMR 725.031 and M.G.L. c. 94C, § 34 and/or 935 CMR 500.160 and M.G.L. c. 94G, § 34.

MEDICAL AND/OR ADULT USE MARIJUANA PRODUCT MANUFACTURER means an entity licensed to obtain, manufacture, process and package marijuana and marijuana products, to deliver marijuana and marijuana products to Marijuana Establishments and/or to Medical Marijuana Treatment Centers, but not to consumers.

MEDICAL AND/OR ADULT USE MARIJUANA TRANSPORTER “marijuana transporter” means an entity, not otherwise licensed by the Cannabis Commission, that is licensed to purchase, obtain, and possess marijuana and marijuana products solely for the purpose of transporting, temporary storage, sale and distribution to Marijuana Establishments and/or to Medical Marijuana Treatment Centers, not for sale to consumers.

MARIJUANA ESTABLISHMENT means a licensed marijuana cultivator, craft marijuana cooperative, marijuana product manufacturer, marijuana retailer, independent testing laboratory, marijuana research facility, marijuana transporter, or any other type of licenses marijuana-related business, except a Medical Marijuana Treatment Center.

MARIJUANA-INFUSED PRODUCT (MIP) means a product infused with marijuana that is intended for use or consumption, including but not limited to edible products, ointments, aerosols, oils, and tinctures. These products, when created or sold by a Medical Marijuana Treatment Center business, shall not be considered a food or a drug as defined in M.G.L. c. 94, § 1.

MEDICAL MARIJUANA shall mean all parts of the plant *Cannabis sativa L.*, whether growing or not; the seeds thereof; and resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include 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, except the resin extracted therefrom, fiber, oil, or cake or the sterilized seed of the plant which is incapable of germination. The term also includes MIPs except where the context clearly indicates otherwise.

MEDICAL MARIJUANA TREATMENT CENTER shall refer to the site(s) of dispensing, cultivation, and preparation of marijuana; shall mean a not-for-profit entity or a for-profit entity registered under 105 CMR 725.100 and known thereunder as a registered marijuana dispensary (RMD), that acquires, cultivates, possesses, processes (including development of related products such as edible

marijuana-infused products (MIPs), tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers; and shall be subject to the regulations under § 650-32 of this Ordinance.

MEDICAL USE OF MARIJUANA shall mean the acquisition, cultivation, possession, processing (including development of related products such as Marijuana-Infused Products (MIPs) that are to be consumed by eating or drinking, tinctures, aerosols, oils, or ointments), transfer, transport, sale, distribution, dispensing, or administration of marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their personal caregivers.

PERSON shall mean an individual, non-profit entity, or for profit entity.

- C. In such zoning districts where a Special Permit is required for a Medical Marijuana Treatment Center, adult use marijuana retail business, marijuana accessories business, or medical and/or adult use marijuana cultivator, independent testing laboratory, product manufacturer or transporter, upon application, the Special Permit Granting Authority shall grant the Special Permit only upon its written determination that any adverse effects of the proposed use will not outweigh its beneficial impacts to the City or the neighborhood, in view of the particular characteristics of the site, and of the proposal in relation to that site. In addition to any specific factors that may be set forth in this Ordinance, the determination shall include, but is not limited to, consideration of each of the following:
1. Social, economic, or community needs which are served by the proposal;
 2. Traffic flow and safety, including parking and loading;
 3. Adequacy of utilities and other public services;
 4. Neighborhood character and social structures;
 5. Impacts on the natural environment;
 6. Potential fiscal impact, including impact on City services, tax base, and employment;
 7. Hours of operation;
 8. Requiring that contact information be provided to the Chief of Police, the Building Commissioner, and the Special Permit Granting Authority;
 9. Requiring payment of a community impact fee;
 10. Requiring the submission to the Special Permit Granting Authority of the same annual reports that must be provided to the Commonwealth of Massachusetts Department of Public Health and/or the Massachusetts Cannabis Control Commission;
 11. Requiring regular inspections by City officials or their agents, and access to the same records which are available for inspection to the Commonwealth of Massachusetts Department of Public Health and/or the Massachusetts Cannabis Control Commission;

12. Requiring employees to undergo a criminal background check, including but not limited to CORI and an additional background check, by the Police Chief who shall have the authority to disapprove the employment of any person(s) as a result of said background check;
 13. Requiring surveillance cameras, capable of 24-hour video recording, archiving recordings and ability to immediately produce images, in, on, around or at the premises;
 14. Prohibiting the sale of any materials or items unrelated to the purposes of registration by the Commonwealth of Massachusetts Department of Public Health and/or the Massachusetts Cannabis Control Commission, including, without limitation, tobacco products, clove cigarettes, or e-cigarettes;
 15. The ability for the Business to:
 - a. provide a secure indoor waiting area for clients;
 - b. provide an adequate and secure pick-up/drop-off area for clients, customers and products;
 - c. provide adequate security measures to ensure that no individual participant will pose a direct threat to the health or safety of other individuals; and
 - d. adequately address issues of traffic demand, parking, and queuing, especially at peak periods at the Business, and its impact on neighboring uses; and
 - e. provide opaque exterior windows.
 16. Signs and signage; and
 17. Names of businesses, business logos and symbols, subject to state and federal law and regulations.
- D. The Special Permit Granting Authority may require the applicant to provide a traffic study, at the applicant's expense, to establish the impacts of the peak traffic demand.
- E. Applicants for a Special Permit shall be subject to Site Plan Review under § 270-2 of the Code of the City of Marlborough.
- F. A medical marijuana treatment center shall not be located:
- a. Within a radius of five hundred (500) feet of a school (as defined in § 517-2 of the Code of the City of Marlborough, as amended) located within the City of Marlborough; and
 - b. Within a radius of five hundred (500) feet of a daycare center (as defined in § 517-2 of the Code of the City of Marlborough, as amended) located within the City of Marlborough.

The five hundred (500) foot distance in these section F. is measured in a straight line from the nearest point of the building in which the school or daycare center in question is located to the nearest point of the building within which the proposed Medical Marijuana Treatment Center would be located.

- F1. An adult use marijuana retail business or a marijuana accessories retail business, shall not be located:
- c. Within a radius of five hundred (500) feet of a school (as defined in § 517-2 of the Code of the City of Marlborough, as amended) located within the City of Marlborough; and
 - d. Within a radius of five hundred (500) feet of a daycare center (as defined in § 517-2 of the Code of the City of Marlborough, as amended) located within the City of Marlborough.

The five hundred (500) foot distance in this paragraph F.1. is measured in a straight line from the nearest point of the building in which the school or daycare center in question is located to the nearest point of the building within which the proposed adult use marijuana retail business, marijuana accessories retail business, and medical and/or adult use marijuana cultivator, independent testing laboratory, product manufacturer or transporter would be located.

- F2. A medical and/or adult use marijuana cultivator, independent testing laboratory, product manufacturer or transporter shall not be located:
- a. Within a radius of five hundred (500) feet of a school (as defined in § 517-2 of the Code of the City of Marlborough, as amended) located within the City of Marlborough; and
 - b. Within a radius of five hundred (500) feet of a daycare center (as defined in § 517-2 of the Code of the City of Marlborough, as amended) located within the City of Marlborough.

The five hundred (500) foot distance in this paragraph F.2. is measured in a straight line from the nearest point of the building in which the school or daycare center in question is located to the nearest point of the building within which the proposed adult use marijuana retail business, marijuana accessories retail business, and medical and/or adult use marijuana cultivator, independent testing laboratory, product manufacturer or transporter would be located.

- G. Chapter 412 of the Code of the City of Marlborough, as amended, prohibiting the smoking, ingesting, or other use or consumption of marijuana in any place accessible to the public, shall be construed as applying to the medical use of marijuana inside a Medical Marijuana Treatment Center (except for the administration of marijuana for the purposes of teaching use of vaporizers, or demonstration of use of other products as necessary), an adult use marijuana retail business, a marijuana accessories retail businesses, and to a medical and/or adult use marijuana cultivator, independent testing laboratory, product manufacturer or transporter.
- H. The number of Special Permits issued to adult use marijuana retail business establishments shall not exceed the number that is 20% of the number of liquor

licenses for off-premises alcohol consumption that have been issued by the Licensing Board pursuant to M.G.L. c. 138, § 15.

- I. A Medical Marijuana Treatment Center, adult use marijuana retail business, marijuana accessories retail business, medical and/or adult use marijuana cultivator, independent testing laboratory, product manufacturer or transporter shall not be an allowable home occupation use or an allowable accessory use.
- J. Social consumption establishments and mixed-use establishments for the consumption of adult use marijuana or of medical marijuana is prohibited.
- K. Direct delivery to a consumer or client from a marijuana cultivator or product manufacturer is prohibited.

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