

**Planning Board amendments in *bold italics***

DRAFT 5 8/2/2021

**§15** Marijuana Establishments and Medical Marijuana Treatment Centers.

- (a) Purpose. The purpose of this section is to provide for the placement of Marijuana Establishments (MEs) and Medical Marijuana Treatment Centers in suitable locations in the Town of Hinsdale 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 a ME or Medical Marijuana Treatment Center, 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. and 935 CMR 501.000 et seq.
- (b) Definitions.

*Where not expressly defined herein, the terms used in this bylaw shall be interpreted as defined in Chapter 941, Chapter 94G and the regulations promulgated by the Cannabis Control Commission (the Commission) from time to time thereunder, including without limitation, 935 CMR 500.000, 935 CMR 501.000, and otherwise by their plain language.*

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 Microbusiness***, Marijuana Retailer, Independent Testing Laboratory, ***Delivery Licensee***, Marijuana Research Facility Licensee, 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, and to transfer marijuana to other MEs, but not consumers.

MARIJUANA PRODUCT MANUFACTURER - an entity licensed to obtain, manufacture, process, and package marijuana and Marijuana Products and to transfer marijuana and Marijuana Products to other MEs, but not consumers.

MARIJUANA PRODUCTS — *marijuana and its products, unless otherwise Indicated. Marijuana Products includes* 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 Products include Marijuana-infused Products (MIPs) as defined in 935 CMR 500.002.*

MARIJUANA RETAILER — an entity licensed to purchase, *repackage, white label,* and transport 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 products solely for the purpose of transporting, temporary storage, sale and distribution to MEs, but not to consumers.

MEDICAL MARIJUANA TREATMENT CENTER - *an entity licensed under 935 CMR*

**501.101: Application Requirements** that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transports, sells, distributes, *delivers*, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to *registered* qualifying patients or their personal caregivers *for medical use*.

MICROBUSINESS —an entity that can be either a Tier 1 Marijuana Cultivator or Product Manufacturer or both, in compliance with the operating procedures for each license, *if in receipt of a Delivery Endorsement issued by the Commission, may deliver Marijuana or Marijuana Products produced at the licensed location directly to Consumers in compliance with established regulatory requirements for retail sale as it relates to delivery.* A Microbusiness that is a Marijuana Product Manufacturer may purchase no more than 2,000 pounds of marijuana per year from other MES for the purpose of Marijuana Product manufacturing by the Licensee.

RESEARCH FACILITY —*an academic institution, nonprofit corporation or domestic corporation or entity authorized to do business in the Commonwealth, including a licensed ME or Medical Marijuana Treatment Center, that is licensed to conduct research.*

(c) ***Designated Locations for MES and Medical Marijuana Treatment Centers.***

(1) ***Marijuana Cultivation Establishment and Product Manufacturing Establishments shall be located only:***

- a. ***Within the Adult Entertainment Overlay District on parcels of at least 10 acres Or***

- b. *Within the R-5 District on parcels of at least 15 acres; provided, however, that in no event shall this include any land within the R-1, R-IB, R-2 and R-3 Districts.*

(2) *Marijuana Establishments as noted in C.I above shall be set back at least:*

- a1. *Marijuana Cultivation Establishments shall be 150 feet from front, side and rear property lines of any directly abutting parcel in the Adult Entertainment Overlay District.*

*And:*

- a2. *Marijuana Product Manufacturing Establishments shall be 250 feet from front, side and rear property lines of any directly abutting parcel in the Adult Entertainment Overlay District.*

- b. *Marijuana Cultivation Establishments and Marijuana Product Manufacturing Establishments shall be 750 feet from front, side and rear property lines of any directly abutting parcel in a designated R5 District.*

(3) *Medical Marijuana Treatment Centers and retail ME's may be sited in the R-4 Business zone or the Adult Entertainment Overlay District.*

- (4) All *retail* ME's or Medical Marijuana Treatment Centers must be set back at least one hundred fifty feet (150') from any public or private school or licensed daycare center. Distances shall be measured from the geometric center of the Marijuana Establishment entrance to the geometric center of the above pre-existina uses, unless there is an Impassable Barrier, as defined by 935 CMR 500.002,

- (5) Each ME or Medical Marijuana Treatment Center and any part of their operation, including but not limited to, cultivation, processing, packaging, and sales, shall be operated from a fixed location. No marijuana establishment shall be permitted to operate from a moveable, mobile, or transitory location, except for Marijuana Transporters, as defined in 935 CMR 500.002.

(d) *Limit on Number of Marijuana Establishments and Medical Marijuana Treatment Centers.*

- (1) The total number of MES operated for retail sales shall not be greater than one (1), except that in no instance shall the number be fewer than twenty percent (20%), of the number of licenses issued within the Town for the retail sale of alcoholic beverages not to be consumed on the premises, as set forth in G.L. c. 94G Section 3(a)(ii). Fractions of establishments shall be rounded up to the nearest whole number.
- (2) The total number of non-retail MES shall not *exceed four (4).*

- (3) The total number of Medical Marijuana Treatment Centers shall not exceed one (1).
- (4) In the event that the number of licenses issued within the Town for the retail sale of alcoholic beverages not to be consumed on the premises decreases, any ME, if then exceeding the limits as noted in d. 1, may remain in operation.
- (e) **Special Permit Required.** No ME or Medical Marijuana Treatment Center shall be operated or expanded without first obtaining a Special Permit from the Town of Hinsdale Special Permit Granting Authority.
  - (1) The Special Permit Granting Authority for ME's and Medical Marijuana Treatment Centers shall be the Select Board.
  - (2) The Select Board shall within ten (10) days after receipt of an application for Special Permit, transmit a copy thereof for review to the Planning Board, as per §6-E(2), who shall provide a recommendation to the Select Board.
  - (3) 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 ME or Medical Marijuana Treatment Center or change in the location of the business.
  - (4) 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.
- (f) **Site Plan Review.** Site plans accompanying a Special Permit application to operate or expand a ME or Medical Marijuana Treatment Center shall be reviewed by the Planning Board. The Planning Board shall, within thirty-five (35) days of receipt, provide a recommendation to the Select Board to approve, approve with conditions or deny the Special Permit. The version of the site plan reviewed by the Select Board shall be joined to the final approval for the Special Permit, in the event of approval.
- (g) **General Requirements for MES and Medical Marijuana Treatment Centers.**
  - (1) **Outside storage.** No outside storage of marijuana, marijuana products, related supplies, or educational materials is permitted, except at open-air, outdoor cultivation facilities.
  - (2) **Visibility of activities.** All activities shall be conducted indoors, except for open-air, outdoor cultivation facilities or Marijuana Transporters.
  - (3) **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 be lawfully 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 of the licensed premises.
  - (4) **Hours of operation.** A marijuana retailer may not open earlier than 8:00 AM and shall close no later than 8:00 PM the same day, Monday through Saturday, and no earlier than 12:00 PM and no later than 6:00 PM on Sunday. There shall be no hourly restrictions on any other type of ME or Medical Marijuana Treatment Center, unless imposed by the Special Permit Granting Authority as part of Special Permit approval.

- (5) On-site consumption of marijuana. On-site consumption is prohibited on or within the premises of any ME, except for Research Facilities.
  - (6) Sale of alcohol. ME's or Medical Marijuana Treatment Centers are prohibited from selling alcoholic beverages
  - (7) ***Parking/traffic/pedestrian safety-traffic impact study may be required to establish peak demand times and ensure access to public ways is not unreasonably obstructed.***
- (h) ***Filing Requirements for MES or Medical Marijuana Treatment Centers.*** Special Permit applications must be submitted to the ***Select Board*** and shall include the following:
- (1) A Site Plan. A site plan, that will allow the Planning Board and the Special Permit Authority to evaluate all dimensions, abutters, clearances and pertinent data directly related to the parcel to be utilized, including but not limited to, building design features, outside surface finishes, landscaping and any other data providing full disclosure of the project. In addition to the to the site plan components listed in §6-E(3) and §2-A, definition of "site plan", the following information shall also be included:
    - i. The names, mailing addresses, phone numbers, email addresses, and signatures for the applicant, owner and operator.
    - ii. Physical address (if one exists) and the map, lot and block number of the proposed site.
    - iii. Property lines of the proposed site and all those within six hundred feet (600') of the property.
    - iv. Elevation contour lines at two-foot vertical intervals.
    - v. Outlines of all existing and proposed buildings and structures on the proposed site and those within six hundred feet (600') of the proposed site.
    - vi. Delineation of all wetland resources and associated buffer areas, in accordance with the Massachusetts Environmental Policy Act (MEPA) guidelines and regulations.
    - vii. Proposed changes to the site, including grading, cut and fill, landscaping, native vegetation for screening and vegetation to be removed or altered.
    - viii. Engineering controls at the site and on the access road to control erosion and sedimentation both during construction and after construction as a permanent measure. Such engineering controls shall conform to the Massachusetts Department of Environmental Protection's Storm water Policy.
  - (2) A 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 other criminal activity. The security plan shall be reviewed and approved by the local Police Chief, or their designee. The Security Plan shall include the following:
    - i. An interior floorplan (including secured areas, windows, doors, etc.)
    - ii. Exterior lighting
    - iii. Fencing (if any)
    - iv. Gates (if any)
    - v. Alarms
    - vi. Any other security measures as requested by the Police Chief.
  - (3) State License. A copy of the license or registration as a ME 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 ME in accordance with the regulations adopted by the Commission, as amended. Proof of license may also be accepted from the State Department of Health under certain circumstances for Medical Marijuana Treatment Centers.

- (i) **Discontinuance of Use.** Any marijuana use 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 thirty (30) days after the expiration or voiding of its license.
- (j) **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 Medical Marijuana Treatment Center 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 any ME or Medical Marijuana Treatment Center that is subject of the approval/license.
- (k) Other laws remain applicable.
  - (1) Business License Required. At all times while a permit is in effect the licensee shall possess a valid Town of Hinsdale business 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, research or retail of marijuana or Marijuana Products, the additional or stricter regulation shall control the ME or Medical Marijuana Treatment Center 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) Prior to the issuance of a Special Permit, the ME or Medical Marijuana Treatment Center must have entered into a Host Community Agreement (HCA) with the Town. If, upon review by the Special Permit Granting Authority, the ME or Medical Marijuana Treatment Center is found to not be fully in compliance with the HCA, the Special Permit and/or the local license may be suspended or rescinded.

AMEND TABLE OF CONTENTS BY ADDING THE ITALICIZED TEXT AS FOLLOWS
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SECTION 15 —Medical Marijuana Treatment Centers and *Marijuana Establishments (MEs)*

AMEND SECTION 4-PERMITTED USES BY ADDING THE BOLDED ITALICIZED TEXT AS FOLLOWS
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R-1c: The use of land or structures for the primary purpose of agriculture, horticulture or Floriculture ***except for commercial marijuana related cultivation operations.***

R-1B3: Any lawful agricultural use ***except commercial marijuana related cultivation operations.***

R-2 1a: Any use permitted in an R-1 residential district ***except for commercial marijuana related cultivation operations.***

R-3 2a: Any use determined by the Zoning Board of Appeals to be similar to one or more of the uses specifically authorized in the R-1 district ***except for commercial marijuana related cultivation operations.***

***R-4 2e: Buildings used for the operation of medical or non-medical marijuana sales establishments within the confines of Hinsdale Zoning Bylaw 4B.***

***R-5 2h: Marijuana Establishments***

