



## Town of Chesterfield

### Town Clerk

422 Main Road, P.O. Box 13

Chesterfield, MA 01012

413-296-4741

[townclerk@townofchesterfieldma.com](mailto:townclerk@townofchesterfieldma.com)

### ZONING BY-LAW APPROVAL LEGAL NOTICE

September 19, 2023

I certify that the amendment to the **Chesterfield Zoning By-Laws to create a new by-law for "Adult Use Marijuana Establishments"**, as adopted under Articles 5 ;

of the Special Town Meeting and that convened on March 30, 2023 has been approved by the office of the Attorney General with their amendments noted in red. Full text of the article is attached to this notice with the details of the approval letter.

Any claims of invalidity by reason of any defect in the procedure of adoption or amendment may only be made within ninety days of such posting.

A true copy. Attest:

Sandra L. Wickland  
Chesterfield Town Clerk

Posted at:

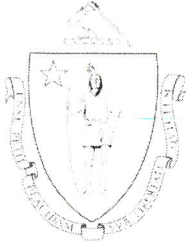
Chesterfield Post Office;  
the Town Office;  
and on the town website [www.townofchesterfieldma.com](http://www.townofchesterfieldma.com)

Posted:

Michael Malouin, Chesterfield Police Chief

Date:

9/19/23



THE COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF THE ATTORNEY GENERAL

CENTRAL MASSACHUSETTS DIVISION  
10 MECHANIC STREET, SUITE 301  
WORCESTER, MA 01608

ANDREA JOY CAMPBELL  
ATTORNEY GENERAL

(508) 792-7600  
(508) 795-1991 fax  
[www.mass.gov/ago](http://www.mass.gov/ago)

TOWN CLERK  
**received**  
9/8/2023

September 7, 2023

Sandra L. Wickland, Town Clerk  
Town of Chesterfield  
P.O. Box 13  
Chesterfield, MA 01012-0013

**Re: Chesterfield Special Town Meeting of March 30, 2023 -- Case # 10880  
Warrant Article # 5 (Zoning)**

Dear Ms. Wickland:

**Article 5** - We approve Article 5 from the March 30, 2023 Chesterfield Special Town Meeting except for the portions of: (1) Section 6.4.3 defining a "Medical Marijuana Treatment Center;" and (2) Section 6.4.4.3 (b) establishing the manner of measuring a buffer zone, that we disapprove because these provisions conflict with the Cannabis Control Commission's (CCC) regulations, 935 CMR 500.000, as explained in more detail below. Amherst v. Attorney General, 398 Mass. 793, 795-96 (1986) (requiring inconsistency with state law or the constitution for the Attorney General to disapprove a by-law).

**I. Summary of Article 5**

Under Article 5 the Town amended its zoning by-laws to add a new Section 6.4, "Adult Use Marijuana Establishments," to regulate the location and site development of Marijuana Establishments (ME) in the Town. Section 6.4.1, "Purpose." MEs are allowed in the Agricultural-Residential (AR-I) and Agricultural-Residential (AR-II) districts and prohibited in all other districts. Marijuana Retailers are allowed in the AR-I, AR-II and Town Center (TC) districts. See Table 1, "Schedule of Use Regulations." MEs require a special permit with site plan approval. Section 6.4.4.1 (a), "Uses." We offer comments for the Town's consideration on the new Section 6.4.

**II. Attorney General's Standard of Review of Zoning By-laws**

Our review of Article 5 is governed by G.L. c. 40, § 32. Pursuant to G.L. c. 40, § 32, the Attorney General has a "limited power of disapproval," and "[i]t is fundamental that every presumption is to be made in favor of the validity of municipal by-laws." Amherst v. Attorney General, 398 Mass. 793, 795-96 (1986). The Attorney General does not review the policy arguments for or against the enactment. Id. at 798-99 ("Neither we nor the Attorney General may

comment on the wisdom of the town's by-law.") "As a general proposition the cases dealing with the repugnancy or inconsistency of local regulations with State statutes have given considerable latitude to municipalities, requiring a sharp conflict between the local and State provisions before the local regulation has been held invalid." Bloom v. Worcester, 363 Mass. 136, 154 (1973). "

Article 5, as an amendment to the Town's zoning by-laws, must be accorded deference. W.R. Grace & Co. v. Cambridge City Council, 56 Mass. App. Ct. 559, 566 (2002) ("With respect to the exercise of their powers under the Zoning Act, we accord municipalities deference as to their legislative choices and their exercise of discretion regarding zoning orders."). When reviewing zoning by-laws for consistency with the Constitution or laws of the Commonwealth, the Attorney General's standard of review is equivalent to that of a court. "[T]he proper focus of review of a zoning enactment is whether it violates State law or constitutional provisions, is arbitrary or unreasonable, or is substantially unrelated to the public health, safety or general welfare." Durand v. IDC Bellingham, LLC, 440 Mass. 45, 57 (2003). However, a municipality has no power to adopt a zoning by-law that is "inconsistent with the constitution or laws enacted by the [Legislature]." Home Rule Amendment, Mass. Const. amend. art. 2, § 6.

### **III. Section 6.4.3's Definition of Medical Marijuana Treatment Center and Section 6.4.4.3 (b)'s Buffer Zone Measurement Conflicts with the CCC Regulations**

#### **1. Section 6.4.3 – Definition of Medical Marijuana Treatment Center**

Section 6.4.3 of the by-law defines a "Medical Marijuana Treatment Center or Registered Marijuana Dispensary (RMD)" as follows (with emphasis added):

A use operated by a **not-for-profit** entity registered and approved by the MA Department of Public Health in accordance with 105 CMR 725.000, and pursuant to all other applicable state laws and regulations, also to be known as a Medical Marijuana Treatment Center, that acquires, cultivates, possesses, processes (including development of related products such as food, 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 for medical use. An RMD shall explicitly include facilities which cultivate and process medical marijuana, and which may also dispense and deliver medical marijuana and related products.

Section 6.4.3 differs from the CCC regulations because it requires an RMD to be a "not-for-profit" entity. The CCC regulations, 935 CMR 500.002 (Adult Use of Marijuana) and 935 CMR 501.002 (Medical Use of Marijuana), updated effective January 8, 2021, define a Medical Marijuana Treatment Center, formerly known as a Registered Marijuana Dispensary (RMD), as follows:

Medical Marijuana Treatment Center (MTC), formerly known as a Registered Marijuana Dispensary (RMD), means an entity licensed under 935 CMR 501.101 that acquires, cultivates, possesses, Processes (including development of related products such as Edibles, MIPs, Tinctures, aerosols, oils, or

ointments), Repackages, 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. Unless otherwise specified, MTC refers to the site(s) of dispensing, cultivation, and preparation of Marijuana for medical use.

Section 6.4.3's requirements that an RMD be a not-for-profit entity conflicts with the current version of the CCC regulations that no longer require an RMD to be a not-for-profit entity. For this reason, we disapprove the text above in bold and underline. See West Street Associates LLC, 488 Mass. at 323 (invalidating local a bylaw requiring all medical marijuana dispensaries to be nonprofit organizations because CCC regulations no longer include the non-profit requirement). The Town should consult with Town Counsel with any questions on this issue.

In addition, the by-law provides that a RMD is an entity registered and approved by the MA Department of Public Health in accordance with 105 CMR 725.000. However, as a result of Chapter 55 of the Acts of 2017 ("An Act to Ensure Safe Access to Marijuana"), the administration and oversight of medical marijuana use was transferred from the Department of Public Health to the CCC. As part of the transfer of oversight and administration to the CCC, 105 CMR 725.000 *et seq.* was superseded by the CCC regulations governing marijuana use at 935 CMR 500.000 and 935 CMR 501.000. In light of this, the Town may wish to consult with Town Counsel regarding whether this text should be amended at a future Town Meeting.

Finally, with regards to the remaining approved text, we encourage the Town to discuss with Town Counsel the proper application to ensure it is applied in a manner consistent with 935 CMR 500.000 and 501.000. In particular, the CCC's definition of a MTC includes an entity that repackages or delivers marijuana or marijuana products, but these terms are missing from the Town's definition of MTC. In addition, the Town's definition uses the term "transfers" instead of the term "delivers." The Town should consult with Town Counsel to determine whether a future clarifying amendment is needed.

2. Section 6.4.4.3 (b) – Location; Buffer Zones

Section 6.4.4.3 (b) establishes a one-half mile buffer zone between a ME and school as follows, with emphasis added:

No Marijuana Establishment shall be located on a parcel which is within one-half mile **(to be measured in a straight line from the nearest point of the property line in question to the nearest point of the property line where the Marijuana Establishment will be located)** of a parcel occupied by a pre-existing public or private school (existing at the time the Applicant's license application was received by the Cannabis Control Commission) providing education in kindergarten or any of grades 1-12 or within 500 feet of any public park or public recreation areas.

We disapprove the text above in bold and underline establishing the manner of measuring the buffer zone because it conflicts with 935 CMR 500.110 (3)(a) that provides that the buffer



zone is measured from the “geometric center” of the entrance, not from “the nearest point of the property line,” as follows:

The buffer zone distance of 500 feet shall be measured in a straight line from the geometric center of the Marijuana Establishment Entrance to the geometric center of the nearest School Entrance, unless there is an Impassable Barrier within those 500 feet; in these cases, the buffer zone distance shall be measured along the center of the shortest publicly-accessible pedestrian travel path from the geometric center of the Marijuana Establishment Entrance to the geometric center of the nearest School Entrance.

For this reason, we disapprove and delete the text above shown in bold and underline. The Town should consult with Town Counsel with any questions.

Although we approve the remainder of Section 6.4.4.3 (b), we encourage the Town to consult with Town counsel regarding the application of the buffer zone requirements between a marijuana establishment and a “pre-existing public or private school” or “any public park or public recreation area.” General Laws Chapter 94G, Section 3 prohibits a Town from adopting by-laws that govern the time, place and manner of marijuana establishment operations that are “unreasonably impracticable” or in conflict with Chapter 94G or the CCC regulations, 935 CMR 500.000.<sup>1</sup> There are no appellate level decisions addressing the question whether buffer zones over 500 feet or buffer zone requirements from other uses (such as parks or recreation areas) would render it “unreasonably impracticable” for a marijuana establishment to operate in a municipality. However, in a case now pending before the Land Court, Benevolent Botanicals LLC v. City of Malden, Miscellaneous Case No. 22 Misc. 00076, 2022 WL 3924099 (August 31, 2022, Rubin, J.), the Land Court may address this question. The Town may wish to consult with Town Counsel on this issue and monitor developments in the Benevolent Botanicals case.

#### **IV. Additional Comments on the New Section 6.4**

##### **A. Section 6.4.3 – Definitions**

Although Section 6.4.3 provides that “[w]here the definitions...differ from 935 CMR 500, the State definitions will control in the event of a conflict,” the Town must ensure that the marijuana related definitions adopted under Section 6.4.3 are applied in a manner consistent with the CCC regulations, 935 CMR 500.000, “Adult Use of Marijuana,” that amended several marijuana related definitions. The Town should consult with Town Counsel to determine if future by-law amendments are needed in light of the recently updated CCC regulations. This is especially important given the court’s decision in West Street Associates LLC, 488 Mass. at 319 holding that towns are preempted from adopting by-law definitions that impose different

---

<sup>1</sup> General Laws Chapter 94G, Section 1 defines “unreasonably impracticable” as: “the measures necessary to comply with the regulations, ordinances or by-laws adopted pursuant to this chapter subject licensees to unreasonable risk or require such a high investment of risk, money, time or any other resource or asset that a reasonably prudent businessperson would not operate a marijuana establishment.”

requirements on marijuana establishments than those requirements imposed by the CCC. We offer comments on certain definitions.

#### 1. *Marijuana Research Facility*

The by-law defines a “Marijuana Research Facility” as: “[a]n entity licensed to engage in research projects by the Commission.” This definition differs from the CCC regulations that define a “Marijuana Research Facility” as: “the Premises at which a Marijuana Research Facility Licensee is approved to conduct research.”

The by-law’s definition of “Marijuana Research Facility” relates to the entity licensed to engage in research but the CCC regulations’ definition relates to the premises where a “Marijuana Research Facility Licensee” is approved to conduct the research, meaning the physical location at which a Licensee is approved to conduct research. The CCC regulations separately define a “Marijuana Research Facility Licensee” as follows:

Marijuana Research Facility Licensee means an academic institution, nonprofit corporation or domestic corporation or entity authorized to do business in the Commonwealth, including a licensed Marijuana Establishment or MTC, that is licensed to conduct research.

The by-law has consolidated the terms “research facility” and “research facility licensee” whereas the CCC regulations define those terms separately and the terms are not interchangeable. The Town must apply the by-law consistent with 935 CMR §§ 500.002. The Town should consult with Town Counsel regarding future amendments to the by-law to address this issue.

#### 2. *Marijuana Retailer*

Section 6.4.3 defines a “Marijuana Retailer,” as follows:

An entity licensed to purchase and transport cannabis or marijuana product from Marijuana Establishments and to sell or otherwise transfer this product to Marijuana Establishments and to consumers. Retailers are prohibited from delivery cannabis or marijuana products to consumers.

This definition differs from the CCC regulations definition in 935 CMR 500.002 that defines a Marijuana Retailer as follows:

means an entity licensed to purchase, Repackage, White Label, and transport Marijuana or Marijuana Product from Marijuana Establishments and to Transfer or otherwise Transfer this product to Marijuana Establishments and to sell to Consumers. Unless licensed, retailers are prohibited from offering Marijuana or Marijuana Products for the purposes of on-site social consumption on the Premises of a Marijuana Establishment.

The by-law's definition of "Marijuana Retailer" differs from the CCC regulations in that the by-law definition is not as broad as the CCC regulations definition that authorizes a Marijuana Retailer to "Repackage [and] White Label" (as those terms are defined in the CCC regulations) marijuana or marijuana products from a marijuana establishment. In addition, the by-law prohibits a marijuana retailer from "delivering cannabis or marijuana products to consumers." The delivery of marijuana or marijuana products from a marijuana establishment to a consumer is regulated in the CCC regulations. To deliver marijuana or marijuana products to a consumer, the CCC requires a "Delivery License" defined as "either a Marijuana Courier License or a Marijuana Delivery Operator License" or a "Delivery Endorsement" defined as an "authorization granted to Licensees in categories of Marijuana Establishments identified by the Commission to perform deliveries directly from the establishment to Consumers." See 935 CMR 500.002. The Town must apply this portion of the by-law consistent with the CCC regulations.

B. Section 6.4.4.2 (b) (1) – Physical Requirements; Lot Area Requirements

Section 6.4.4.2 (b) (1), "Lot area requirement" establishes a minimum lot size for cultivators as follows:

All outdoor marijuana cultivators shall be located on ten (10) or more acres of land. All indoor marijuana cultivators shall be located on five (5) or more acres of land.

General Law Chapter 94G, Section 3 authorizes a town to "adopt... by-laws that impose reasonable safeguards on the operation of marijuana establishments, provided they are not unreasonably impracticable and are not in conflict with this chapter or with regulations made pursuant to this chapter..." Chapter 94G, Section 1 further specifies that those "reasonable safeguards" are "unreasonably impracticable" when:

the measures necessary to comply with the regulations, ordinances or by-laws adopted pursuant to this chapter subject licensees to unreasonable risk or require such a high investment of risk, money, time or any other resource or asset that a reasonably prudent businessperson would not operate a marijuana establishment.

In reviewing Section 6.4.4.2 (b)(1), we considered whether the lot area requirement of ten acres for outdoor marijuana cultivators and five acres for indoor marijuana cultivators imposes an "unreasonably impracticable" by-law requirement in conflict with G.L. c. 94G, § 3. However, as explained in more detail below, given the circumstances present here, and the Attorney General's standard of review, we are not able to conclude that this provision is facially "unreasonably impracticable" and therefore we approve Section 6.4.4.2 (b)(1).

The Town is comprised of six zoning districts and marijuana establishments are allowed by special permit in three of the districts: Agricultural-Residential I (AR-I), Agricultural-Residential-II (AR-II) and the Town Center (TC) district. See Zoning By-law, Section 2.0, "Types of Districts." Section 3.2, "Dimensional and Density Regulations," requires a minimum lot size in the AR-I, AR-II and TC districts of 2 acres for most uses, including uses similar to

cultivation such as agricultural uses and commercial greenhouses. However, in the AR-I and AR-II districts, some uses, such as kennels and solar installations require a minimum lot size of five acres.

There are no judicial decisions interpreting what by-law requirements would qualify as “unreasonably impracticable” under G.L. c. 94G. This analysis will necessarily be a fact-specific one. Moreover, such a determination would in many cases require consideration of evidence and factual determinations that are outside the Attorney General’s limited standard of review of town by-laws under G.L. c. 40, § 32. Given our standard of review, and the lot area requirements for other uses in the Town, we cannot conclude that the by-law requirements here are so clearly onerous and impractical on their face that a reasonably prudent businessperson would not choose to operate marijuana cultivation with the by-law requirements in place.

However, the lot area requirements, could be “unreasonably impracticable” as applied to a particular cultivator or to a certain factual situation. To that end, we call the Town’s attention to guidance published by the CCC entitled, “Guidance on Equitable Cannabis Policies for Municipalities,” <https://mass-cannabis-control.com/wp-content/uploads/2018/11/Municipal-Equity-Guidance-August-22-1.pdf>. In that guidance, the CCC explains that real estate is one of the primary hurdles for small businesses and businesses owned by people from marginalized communities. See Guidance, pg. 3. When considering zoning restrictions related to real estate, including lot sizes, the CCC states that “[w]hen municipalities impose overly strict zoning rules and large buffer zones, they sharply limit the number of parcels available to potential operators” and the effect of this is that smaller operators are often outbid. Guidance, pg. 3. With regards to zoning considerations, the CCC’s guidance recommends that municipalities:

zone cannabis businesses based on the nature of their primary business operations. It may be most appropriate, for example, for cultivators, microbusinesses, and cooperatives to be zoned, respectively, as agricultural, industrial, and manufacturing businesses, while cannabis retailers would be zoned in the same manner as any other retailer. Manufacturers, as defined as a Marijuana Establishments, may be appropriate for multiple zones, as they may encompass small microbusinesses or companies creating edibles in commercial kitchens.

Guidance, pg. 4.<sup>2</sup>

The Town should consult with Town Counsel to ensure the proper application of Section 6.4.4.2 (b)(1). In addition, we encourage the Town to consult with Town Counsel to determine if a future amendment to Section 6.4.4.2 (b)(1) is needed in light of the CCC’s guidance as discussed above.

---

<sup>2</sup> See also CCC “Guidance for Municipalities on Equity and Host Community Agreements,” November 2021, <https://masscannabiscontrol.com/wp-content/uploads/2022/01/guidance-for-municipalities-on-equity-and-host-community-agreements-1.pdf>, pg. 20.

C. Section 6.4.4.2 (b) (11) – Physical Requirements; Energy Efficiency

Section 6.4.4.2 (b)(11) requires ME to “prepare and submit an energy efficiency plan” and to consider the use of renewable energy sources. We approve Section 6.4.4.2 (b)(11), but the Town must ensure that it is applied consistent with the CCC regulations, 935 CMR 500.000 *et seq.* The CCC regulations impose requirements related to energy efficiency and conservation. See, e.g., 935 CMR 500.103 (b) (requiring an applicant to submit an energy compliance letter prepared by a Massachusetts Licensed Professional Engineer or Massachusetts Licensed Registered Architect with supporting documentation); 935 CMR 500.105 (1) (q) (requiring a marijuana establishment to have a detailed written operating procedure that includes policies and procedures for energy efficiency and conservation); 935 CMR 500.105 (15) (requiring an applicant to demonstrate consideration of the factors related to energy efficiency and conservation as part of its operating plan and application for licensure); and 935 CMR 500.120 (11) (requiring a cultivator to “satisfy minimum energy efficiency and equipment standards established by the Commission” and be subject to minimum energy efficiency and equipment standards established by the CCC.)

The Town must ensure that any requirements imposed under Section 6.4.4.2 (b)(11) are consistent with the CCC regulations. The Town should consult with Town Counsel regarding this issue.

D. Section 6.4.5 – Application Requirements

Section 6.4.5 provides that “[a]pplicants are required to attend a duly advertised Planning Board meeting prior to submitting an application for a Special Permit to review the submission requirements for a complete application.” The Town should consult closely with Town Counsel when applying Section 6.4.5’s requirements to ensure the Town complies with the special permit requirements of G.L. c. 40A, § 9. General Laws Chapter 40A, Section 9 makes it clear that the special permit granting authority “shall hold a public hearing for which notice has been given as provided in section eleven, on any application for a special permit within sixty-five days from the date of filing of such application...Failure by the special permit granting authority to take final action within...ninety days...shall be deemed to be a grant of the special permit” (emphasis added).

The filing of a special permit application begins the administrative clock under G.L. c. 40A, §§ 9, 11, and 15. See Mark Bobrowski, Handbook of Massachusetts Land Use and Planning Law, § 10.03 (2003). Section 6.4.5 cannot be applied in a manner that would require the applicant to participate in a Planning Board meeting as a condition of submitting a special permit application because it could deny the applicant any rights that begin upon the filing of an application. The Town should consult with Town Counsel to determine if a future by-law amendment is needed to clarify this section.

V. **Conclusion**

We approve the new Section 6.4, “Adult Use Marijuana Establishments (ME)” except for the text in (1) Section 6.4.3 defining a “Medical Marijuana Treatment Center” to require it to be



a not-for-profit" entity; and (2) Section 6.4.4.3 (b) establishing the manner of measuring the buffer zone, that we disapprove. See Section III (A) and (B), above. The Town must ensure that the approved portions of the new Section 6.4 are applied consistent with G.L. c. 94G and the CCC's regulations at 935 CMR 500.000. The Town should consult with Town Counsel with any questions.

**Note:** Pursuant to G.L. c. 40, § 32, neither general nor zoning by-laws take effect unless the Town has first satisfied the posting/publishing requirements of that statute. Once this statutory duty is fulfilled, (1) general by-laws and amendments take effect on the date these posting and publishing requirements are satisfied unless a later effective date is prescribed in the by-law, and (2) zoning by-laws and amendments are deemed to have taken effect from the date they were approved by the Town Meeting, unless a later effective date is prescribed in the by-law.

Very truly yours,

ANDREA JOY CAMPBELL  
ATTORNEY GENERAL

*Nicole B. Caprioli*

By: Nicole B. Caprioli  
Assistant Attorney General  
Municipal Law Unit  
10 Mechanic Street, Suite 301  
Worcester, MA 01608  
(508) 792-7600 ext. 4418

cc: Town Counsel Jonathan D. Eichman

I certify that on March 30, 2023 at a Special Town Meeting the voters of Chesterfield passed under Article #5 to establish a new Zoning By-Law for Adult Use Marijuana Establishments. This was approved by the Office of the Attorney General on September 7, 2023 with amendments to Section 6.4.3 – Definition of Medical Marijuana Treatment Center and to Section 6.4.4.3 (b) – Location: Buffer Zones.

### **Zoning-By-Law – Adult Use Marijuana Establishments**

#### **6.4 Adult Use Marijuana Establishments**

- 6.4.1 Purpose**
- 6.4.2 Applicability**
- 6.4.3 Definitions**
- 6.4.4 Additional Requirements and Conditions**
  - 6.4.4.1 Uses**
  - 6.4.4.2 Physical Requirements**
  - 6.4.4.3 Location**
  - 6.4.4.4 Reporting**
  - 6.4.4.5 Issuance, Transfer, of Discontinuance of Use**
- 6.4.5 Application Requirements**
- 6.4.6 Required Findings**
- 6.4.7 Planning Board Obligation**
- 6.4.8 Enforcement**

#### **6.4 ADULT USE Marijuana Establishments (ME)**

##### **6.4.1 Purpose**

It is the purpose of this article to promote public health, safety and general welfare, and to support the availability of recreational and medical marijuana in accordance with state law and regulations (935 CMR 500.000 et.seq.) and (935 CMR 501.000 et. seq.). This bylaw contains regulations regarding the location and site development of MEs in order to maintain property values, protect and preserve the quality of residential neighborhoods, and protect the safety of children and young people in the vicinity of schools, public parks and other areas where children regularly congregate.

Marijuana Establishments are subject to the provisions of this Zoning Bylaw, Chapter 40A of the Massachusetts General Laws, Chapter 94G of the Massachusetts General Laws and 105 CMR 725.000.

## **Applicability**

Nothing in this section shall be construed to supersede any state laws governing the sale and distribution of marijuana. This bylaw does not apply to the cultivation of industrial hemp as is regulated by the Massachusetts Department of Agricultural Resources pursuant to General Laws, Chapter 128, Sections 116-123.

## **Definitions**

Where the definitions in this section differ from 935 CMR 500, the State definitions will control in the event of a conflict.

Cannabis Cultivation – The use of land and/or buildings for planting, tending, improving, harvesting, processing and packaging, the preparation and maintenance of soil and other media and promoting the growth of cannabis by a cannabis cultivator, micro-business, research facility, craft marijuana cultivator cooperative, or other entity licensed by the Commission for cannabis cultivation.

Cannabis or Marijuana or Marihuana – All parts of any plant of the genus Cannabis, not excepted in 935 CMR 500.002: Cannabis or Marijuana or Marihuana (a) through (c) and whether growing or not; the seeds thereof; and resin extracted from any part of the plant; clones 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. 94G, § 1; provided that cannabis shall not include:

- (a) 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;
- (b) hemp; or
- (c) the weight of any other ingredient combined with cannabis or marijuana to prepare topical or oral administrations, food, drink or other products.

Cannabis or Marijuana Products – Cannabis or marijuana and its products unless otherwise indicated. These include products that have been manufactured and contain cannabis or marijuana or an extract from cannabis or 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.

Ceases to Operate – Marijuana Establishment closes and does not transact business for a period greater than 60 days with no substantial action taken to reopen; the exception being growing operations that are idle during certain seasons as defined in their Special Permit application. The Commission may determine that an establishment has ceased to operate based on its actual or apparent termination of operations.

Commission – The Massachusetts Cannabis Control Commission established by M.G.L. c. 10, § 76, or its designee. The Commission has authority to implement the state marijuana laws, which include, but are not limited to, St. 2016, c. 334 as amended by St. 2017, c. 55,

M.G.L. c. 94G, and 935 CMR 500.000.

Community Host Agreement – An agreement, pursuant to General Laws, Chapter 94G, Section 3(d), between a Marijuana Establishment and a municipality setting forth additional conditions for the operation of a Marijuana Establishment, including stipulations of responsibility between the parties. The Select Board may limit the number of Community Host Agreements that are entered into. Note this term is not defined in 935 CMR 500.

Craft Marijuana Cooperative – A Marijuana Cultivator comprised of residents of the Commonwealth and organized as a limited liability company, limited liability partnership, or cooperative corporation under the laws of the Commonwealth. A cooperative is licensed to cultivate, obtain, manufacture, process, package and brand cannabis or marijuana products for transport to Marijuana Establishments, but not to consumers and is subject to the cultivation tier and other limits of this bylaw.

Cultivation Tiers: Levels of cannabis canopy allowed as defined in 935 CMR 500 and as further modified in this bylaw.

Delivery Endorsement – Means authorization granted to Licensees in categories of Marijuana Establishments identified by the Commission to perform deliveries directly from the establishment to consumers.

Hemp – The plant of the genus Cannabis or any part of the plant, whether growing or not, with a delta-9-tetrahydrocannabinol concentration that does not exceed 0.3% on a dry weight basis of any part of the plant of the genus Cannabis, or per volume or weight of cannabis or marijuana product, or the combined percent of delta-9-tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant of the genus Cannabis regardless of moisture content.

Host Community – A municipality in which a Marijuana Establishment is located or in which an Applicant has proposed locating an establishment.

Licensee – A person or entity licensed by the Commission to operate a Marijuana Establishment under 935 CMR 500.000.

Marijuana Courier – Means an entity licensed to deliver Finished Marijuana Products, Marijuana Accessories and Branded Goods directly to Consumers from a Marijuana Retailer, or directly to Registered Qualifying Patients or Caregivers from a Marijuana Treatment Center, but is not authorized to sell Marijuana or Marijuana Products directly to Consumers, Registered Qualifying Patients or Caregivers and is not authorized to Wholesale, Warehouse, Process, Repackage, or White Label. A Marijuana Courier is an additional license type under G.L. c. 94G, § 4(b)(1) that allows for limited delivery of Marijuana or Marijuana Products to Consumers; and shall not be considered to be a Marijuana Retailer under 935 CMR 500.002: Definitions or 935 CMR 500.050: Marijuana Establishments and shall be subject to 935 CMR 500.050(1)(b): Control Limitations.

Marijuana Cultivator – An entity licensed to cultivate, process and package marijuana, either indoor or outdoor, and to transfer marijuana to other Marijuana Establishments, but not to consumers. A Craft Marijuana Cooperative is a type of Marijuana Cultivator.

Marijuana Cultivator, Indoor – An indoor cultivator means one that cultivates the growth of marijuana plants within a building primarily through use of artificial light. An indoor marijuana cultivator shall be entirely enclosed in a building and activity therein shall not be visible to a public way or adjacent properties. All



indoor cultivators shall use artificial ventilation and filtering equipment to minimize the impact of odors on surrounding properties. Growing in greenhouses with solid walls and a roof is considered indoor growing.

Marijuana Cultivator, Outdoor – An outdoor cultivator means one that cultivates the growth of cannabis without the use of artificial lighting in the canopy area at any point in time. Artificial lighting used indoors is permissible only to maintain immature or vegetative mother plants. This aspect of outdoor growing must occur in a fully enclosed building without light being emitted if artificial lighting is used and should address the other appropriate design standards of this section related to indoor growing. Growing using hoop houses or other temporary structures is considered outdoor growing and must follow the requirements for outdoor growing.

Marijuana Delivery Operator – Means an entity licensed to purchase at Wholesale and Warehouse Finished Marijuana Products acquired from a Marijuana Cultivator, Marijuana Product Manufacturer, Microbusiness or Craft Marijuana Cooperative, and White Label, sell and deliver Finished Marijuana Products, Marijuana Accessories and Marijuana Branded Goods directly to Consumers, but is not authorized to Repackage Marijuana or Marijuana Products or operate a storefront under this license. A Delivery Operator is an additional license type under G.L. c. 94G, § 4(b)(1) that allows for limited delivery of Marijuana or Marijuana Products to Consumers; and shall not be considered to be a Marijuana Retailer under 935 CMR 500.002: Definitions or 935 CMR 500.050: Marijuana Establishments and shall be subject to 935 CMR 500.050(1)(b): Control Limitations.

Marijuana Establishment – A Marijuana Cultivator, Craft Marijuana Cooperative, Marijuana Product Manufacturer, Marijuana Retailer, Marijuana Independent Testing Laboratory, Marijuana Research Facility, Marijuana Courier, Marijuana Delivery Operator, Marijuana Microbusiness, or any other type of licensed marijuana-related business, except a medical marijuana treatment center. Marijuana Establishments permitted in accordance with these regulations are not considered subject to any agricultural exemptions under zoning.

Marijuana Independent Testing Laboratory – A laboratory that is licensed by the Commission and is:

- (a) accredited to the International Organization for Standardization 17025 (ISO/IEC 17025: 2017) 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;

(b) independent financially from any Medical Marijuana Treatment Center (RMD),

Marijuana Establishment or licensee for which it conducts a test; and

(c) qualified to test cannabis or marijuana in compliance with 935 CMR 500.160 and

M.G.L. c. 94C, § 34.

Marijuana Microbusiness – A colocated 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 Process or Processing – To harvest, dry, cure, trim and separate parts of the cannabis or marijuana plant by manual or mechanical means, except it shall not include manufacture as defined in 935 CMR 500.002.

Marijuana Product Manufacturer – An entity licensed to obtain, manufacture, process and package cannabis or marijuana products and to transfer these products to other Marijuana Establishments, but not to consumers.

Marijuana Research Facility – An entity licensed to engage in research projects by the Commission.

Marijuana Retailer – An entity licensed to purchase and transport cannabis or marijuana product from Marijuana Establishments and to sell or otherwise transfer this product to Marijuana Establishments and to consumers. Retailers are prohibited from delivering cannabis or marijuana products to consumers.

Marijuana Transporter – An entity, not otherwise licensed by the Commission, that is licensed to purchase, obtain, and possess cannabis or marijuana products solely for the purpose of transporting, temporary storage, sale and distribution to Marijuana Establishments, but not to consumers. Marijuana Transporters may be

an Existing Licensee Transporter or Third Party Transporter in conformance with 935 CMR 500.

Medical Marijuana Treatment Center or Registered Marijuana Dispensary (RMD) - A use operated by an entity registered and approved by the MA Department of Public Health in accordance with 105 CMR 725.000, and pursuant to all other applicable state laws and regulations, also to be known as a Medical Marijuana Treatment Center, that acquires, cultivates, possesses, processes (including development of related products such as food, 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. An RMD shall explicitly include facilities which cultivate and process medical marijuana, and which may also dispense and deliver medical marijuana and related products.

Propagation – The reproduction of cannabis or marijuana plants by seeds, cuttings, or grafting.

Provisional Marijuana Establishment License – A certificate issued by the Commission confirming that a Marijuana Establishment has completed the application process.

#### **6.4.2 Additional Requirements and Conditions**

In addition to the standard requirements for uses permitted by-right or requiring a Special Permit, as established in Sections 7.2 and 7.4, the following shall also apply to all Marijuana Establishments:

##### **6.4.2.1 Uses:**

- a. Marijuana Establishments of all types are required to submit to the Planning Board an application for a Special Permit with Site Plan approval that contains all the required information of a standard Special Permit and the additional requirements of this Section.
- b. Any type of Marijuana Establishment may only be involved in the uses permitted by its definition and may not include other businesses or services.
- c. No marijuana shall be smoked, eaten or

otherwise consumed or ingested within the premises.

- d. The hours of operation shall be set by the Planning Board consistent with the purposes of this bylaw.
- e. No Marijuana Establishment may commence operation prior to its receipt of all required permits and approvals including, but not limited, to its Final License from the Cannabis Control Commission.
- f. The number of adult use marijuana retail establishments permitted shall not exceed 20% of the number of licenses issued within the town for the retail sale of alcoholic beverages not to be drunk on the premises where sold under chapter 138 of the General Laws. For the purposes of determining this number, any fraction shall be rounded up to the next highest whole number. If the number is zero, one (1) adult use retail Marijuana Establishment is permitted.
- g. Delivery Operator: Any application for a Special Permit under this Section shall include the anticipated number of vehicles operating from the location, number of employees for all operations including fulfillment, administration, and vehicle drivers shall be identified and may be conditioned as such.
- h. Use Limitations:
  - 1. The number of Special Permits issued for each type of ME other than retail establishments addressed by Section 6.4.4.1.f. shall not exceed two indoor cultivator licenses (Marijuana Cultivator, Indoor; Craft Marijuana Cooperative, or Marijuana Microbusiness) and two outdoor cultivator licenses (Marijuana Cultivator, Outdoor; Craft Marijuana Cooperative, or Marijuana Microbusiness)
  - 2. The number of Special Permits issued for each type of ME other than retail establishments addressed by Section 6.4.4.1.f. shall not exceed one of each of the following types:

1. Marijuana Product Manufacturer
  2. Marijuana Independent Testing Laboratory
  3. Marijuana Research Facility
  4. Marijuana Transporter
  5. Marijuana Courier
  6. Marijuana Delivery Operator
  7. Marijuana Medical Treatment Center
- i. License Limitations: Each licensee (except a craft marijuana cooperative which is limited to one license) may have up to three licenses, as allowed by state law, but the total canopy coverage (growing space) authorized by the licenses within the Town of Chesterfield added together may not exceed Tier 5 or 40,000 square feet of canopy for outdoor growing and Tier 3 or 20,000 square feet of canopy for indoor growing.



#### 6.4.2.2 Physical Requirements

- a. All aspects of any Marijuana Establishment, except for the transportation of product or materials and outdoor cultivation growing beds, relative to the acquisition, cultivation, possession, processing, sales, distribution, dispensing, or administration of marijuana, products containing marijuana, related supplies, or educational materials must take place at a fixed location within a fully enclosed building (including greenhouses) and shall not be visible from the exterior of the buildings.

Marijuana Establishments may not be permitted to be located in or operated from a trailer, storage freight container, motor vehicle or other similar type potentially movable or transitory enclosure, except as permitted for delivery operator and courier licensees in accordance with 935 CMR 500.

- b. Marijuana Establishments shall abide by the following development standards: where these standards conflict with those in Section 7.2, the provisions herein shall apply.
  - 1. Lot area requirement: All outdoor marijuana cultivators shall be located on ten (10) or more acres of land. All indoor marijuana cultivators shall be located on five (5) or more acres of land.
  - 2. Facility setback requirements: Unless the Planning Board approves a Special Permit so authorizing narrower distances so doing will result in increased buffering elsewhere.
    - a. No part of any Marijuana Establishment shall be located less than 300 feet from the closest point of any property line of properties not owned by the Applicant.
    - b. No part of any physical structure or growing area shall be located less than 500 feet from an existing off-site residential structure.
  - 3. Screening: Cannabis plants, products, and

paraphernalia shall not be visible from the outside and shall comply with the requirements of 935 CMR 500. Any artificial screening device erected to eliminate the view from the public way or adjacent property shall also provide a vegetative screen and the Planning Board shall consider the surrounding landscape to determine if an artificial screen would be out of character with the neighborhood. All secure area fencing as required by the Massachusetts Cannabis Control Commission shall be supplemented with site appropriate native vegetation. Vegetation shall be designed to create 90% opacity and equal to the height of fencing within three years of planting. Any razor or barbed wire on required security fencing shall not be visible from the public way or abutting property.

4. Lighting: All MEs shall meet the security requirements of 935 CMR 500 without the use of visible outdoor lighting between dusk and dawn. Outdoor lighting on-site shall be limited to that necessary to provide safe egress from buildings and parking as required by the Massachusetts State Building Code and/or the Cannabis Control Commission, and shall be compliant with the site plan criteria as established in Section 7.2. The lighting shall be shielded and down-facing utilizing full cut-off optics to reduce light spill-over in conformance with dark sky principles. If an application is proposing greenhouses, lighting at night, whether originating from the interior or exterior of the structure, shall not result in any illumination or glow visible on the outside of the structure.
5. Odor dispersal plan: All Marijuana Cultivators, growing outdoors shall utilize best available technology and design methods which may include vegetative buffers or additional setbacks to mitigate potential cannabis plant odors. All Marijuana Cultivators growing indoors shall use the best available technology for reducing odor dispersion.
6. Ground and surface water protections: Applicants shall demonstrate protection of ground and surface water sources and the methods they are employing to minimize water usage and ensure safe disposal. Marijuana Establishments are required to prepare and submit a plan for water use, management, and efficiency. Applicants shall provide

expected water usage amounts and will address whether such amounts may impact nearby public or private drinking water supplies or other water resources in the area. No contamination of soils is permitted.

7. Waste water disposal: Applicants shall provide information on estimated quantities of wastewater to be disposed of, the proposed method of disposal, and any potential contaminants or hazardous materials that may be contained in the wastewater.
8. Indoor ventilation: All indoor marijuana cultivation operations shall be ventilated in such a manner that no pesticides, insecticides or other chemicals or products used in the cultivation or processing are dispersed into the outside atmosphere.
9. Signs: The following sign shall be placed on the exterior of the Marijuana Establishment's entrance in plain sight of the public stating that "Access to this facility is limited to individuals 21 years or older." in text at least two inches in height. All other signs must comply with all other applicable sign regulations in this Zoning Bylaw and 935 CMR 500.
10. Noise restrictions: During operational hours as determined by the Planning Board as part of the Special Permit approval, noise levels attributable to the ME should be managed and reduced where possible especially near property lines where residential or other noise sensitive uses are adjacent. During non-operational hours' noise at the property lines adjacent to residential or other noise sensitive uses shall not exceed 10 decibels (averaged) during nighttime hours above the sustained background noise levels.
11. Energy Efficiency: Marijuana Establishments are required to prepare and submit an energy efficiency plan. The use of renewable energy sources such as on-site solar should be considered.
12. Hazardous materials: Submission of a complete list all inorganic and organic chemicals, pesticides, fertilizers, fuels, and other potentially hazardous materials to be used or stored on the premises in quantities greater than those

associated with normal household use.

Depending on the quantities proposed to be used or stored on site, the Planning Board may request that a Hazardous Materials Management Plan be prepared to protect against the discharge of hazardous materials or wastes to the environment due to spillage, accidental damage, corrosion, leakage, or vandalism. The plan should include spill containment and clean-up procedures, and provisions for indoor, secured storage of hazardous materials and wastes with impervious floor surfaces.

- c. No Marijuana Retailer shall have a gross floor area open to the public in excess of 2,500 square feet.
- d. No Marijuana Establishment is permitted to utilize or provide a drive-through service.
- e. Marijuana Establishments are encouraged to utilize existing buildings where possible.

- **Location**

- a) Marijuana Establishments may be located only within the Town Center, Agricultural-Residential (AR-I) or Agricultural-Residential (AR-II) Zoning Districts with an approved Special Permit with Site Plan approval and as shown in Table 1, Schedule of Use Regulations.

### **TABLE 1 SCHEDULE OF USE REGULATIONS**

Definitions of the terms used in this table can be found in Section 6.4.3.

Bylaw Number	Land Use Classification	Standards and Conditions	Zoning Districts					
			TC	AR-I	AR-II	FP	WRP	WS
3.088.1	Craft Marijuana Cooperation	See Section 6.4	N	SPA	SPA	N	N	N
3.088.2	Marijuana Cultivator,	See Section 6.4	N	SPA	SPA	N	N	N

	Indoor/Outdoor							
3.088.3	Marijuana Product Manufacturer	See Section 6.4	N	SPA	SPA	N	N	N
3.088.4	Marijuana Retailer	See Section 6.4	SPA	SPA	SPA	N	N	N
3.088.5	Marijuana Independent Testing Laboratory	See Section 6.4	N	SPA	SPA	N	N	N
3.088.6	Marijuana Microbusiness	See Section 6.4	N	SPA	SPA	N	N	N
3.088.7	Marijuana Research Facility	See Section 6.4	N	SPA	SPA	N	N	N
3.088.8	Marijuana Transporter	See Section 6.4	N	SPA	SPA	N	N	N
3.088.9	Marijuana Courier	See Section 6.4	N	SPA	SPA	N	N	N
3.088.10	Marijuana Delivery Operator	See Section 6.4	N	SPA	SPA	N	N	N
3.088.11	Medical Marijuana Treatment Ctr.	See Section 6.4	N	SPA	SPA	N	N	N

b) No Marijuana Establishment shall be located on a parcel which is within one-half mile of a parcel occupied by a pre-existing public or private school (existing at the time the Applicant's license application was received by the Cannabis Control Commission) providing education in kindergarten or any of grades 1-12 or within 500 feet of any public park or public recreation area. The buffer zone distance of 500 feet shall be measured in a straight line from the geometric center of the Marijuana Establishment Entrance to the geometric center of the nearest School Entrance, unless there is an Impassable Barrier within those 500 feet, in these cases, the buffer zone distance shall be measured along the center of the shortest



publicly-accessible pedestrian travel path from the geometric center of the Marijuana Establishment Entrance to the geometric center of the nearest School Entrance.

- c) When a Marijuana Establishment applies for a Special Permit application and its proposed location is within one-quarter mile, measured in a straight line from property line to property line, of an existing Marijuana Establishment, the new application must consider the potential cumulative impacts of transportation, odor, noise, water use, groundwater impacts or any other design standard where the Planning Board must find conformance with this Section.

#### **6.4.4.4 Reporting Requirements**

- (a) .Prior to the commencement of the operation or services provided by a Marijuana Establishment, it shall provide the Police Department, Fire Department, Building Commissioner/Inspector and the Planning Board with the names, phone numbers and email addresses of all management staff and key-holders, including a minimum of two (2) operators or managers of the facility identified as contact persons to whom one can provide notice if there are operating problems associated with the establishment. All such contact information shall be updated as needed to keep it current and accurate.
- (b) The local Building Commissioner/Inspector, Board of Health, Police Department, Fire Department and Planning Board shall be notified in writing by the Marijuana Establishment facility owner/operator/ manager:
  - i. A minimum of 30 days prior to any change in ownership or management of that establishment.
  - ii. A minimum of 12 hours following a violation or potential violation of any law or any criminal or potential criminal activities or attempts of violation of any law at the establishment.
- (c) Permitted Marijuana Establishments shall file an annual written report to, and appear before, the Planning Board no later than one year from the initial Special Permit approval or no later than one year from their last appearance to

demonstrate continued compliance with the conditions of the Special Permit.

- (d) The owner or manager of a Marijuana Establishment is required to respond by phone or email within twenty-four hours of contact by a town official concerning their Marijuana Establishment at the phone number or email address provided to the town as the contact for the business.

- (e) All reports defined as public records sent to the state in any capacity by ME Special Permit holders shall be sent to the Select Board for distribution to appropriate town boards and commissions.

#### **6.4.4.5 Issuance, Transfer, or Discontinuance of Use**

- a) Special Permits shall be issued to the Marijuana
- b) Special Permits shall be issued for a specific type of Marijuana Establishment on a specific site or parcel.
- c. Special Permits shall be non-transferable to either another Marijuana Establishment owner or another site or parcel.
- d. Special Permits shall have a term limited to the duration of the Applicant's ownership or control of the premises as a Marijuana Establishment, and shall lapse or expire if:
  - i. the Marijuana Establishment ceases operation (not providing the operation or services for which it is permitted) for 365 days, and/or
  - ii. the Marijuana Establishment's registration or license by the Cannabis Control Commission expires or is terminated.
- e. The Marijuana Establishment shall notify the Building Inspector and Planning Board in writing within 48 hours of such lapse, cessation, discontinuance, expiration or revocation.

- f. Marijuana Establishments shall be required to remove all material, plants, equipment, and other paraphernalia prior to surrendering its state registration/license or ceasing its operation.
- g. Prior to the issuance of a Building Permit for a Marijuana Establishment the Applicant is required to post a minimum bond of \$5,000 with the Town Treasurer or other form of financial security acceptable to said Treasurer in an amount set by the Planning Board. The amount shall be sufficient to cover the costs of the town removing all materials, plants, equipment and other paraphernalia if the Applicant fails to do so. The Building Inspector shall give the Applicant 45 days' written notice in advance of taking such action. Should the Applicant remove all materials, plants, equipment, and other paraphernalia to the satisfaction of the Building Inspector prior to the expiration of the 45 days' written notice, said bond shall be returned to the Applicant. The security deposited with the Treasurer shall be held and expended in accordance with G.L. c.44, s.53G1/2 and investment earnings on the deposit, if any, shall be added to and treated as part of the security for all purposes.

#### **6.4.5 Application Requirements**

Applications for Special Permits with Site Plan Approvals for Marijuana Establishments will be processed in the order that complete applications are received by the Planning Board. The approval of a Special Permit for any Marijuana Establishment is up to the discretion of the Planning Board who will be making its determination based on each application's adherence to the standards stated in this bylaw and in other applicable sections of Section 7.0. Applicants are required to attend a duly advertised Planning Board meeting prior to submitting an application for a Special Permit to review the submission requirements for a complete application.

Applicants for permits for Marijuana Establishments shall provide, at their own expense, written documentation with supporting research to allow the Planning Board to make the required findings of a Special Permit application.

Documentation must be provided by qualified professionals with minimum qualifications that shall consist either of an educational degree in or related to the field at issue or three or more years of practice in the field at issue or a related field with expertise in the areas. The Planning Board may retain a technical expert or consultant to verify information presented by the Applicant. The cost for such a technical expert or consultant will be at the expense of the Applicant. To provide for such assistance, the Board may require the Applicant to deposit a sum of money with the Town, in an amount to be determined by the Board, to retain and utilize the services of such consultants. In the event that such sum is insufficient to fund the necessary consulting services, the Board may require additional deposits. Funds received by the Board pursuant to this rule shall be deposited with the Town Treasurer, who shall establish a special account for this purpose, consistent with the terms and provisions of G.L. c.44, §53G. Expenditures from this special account may be made at the direction of the Board without further appropriation.

In addition to the standard application requirements for Special Permits, applications for a Marijuana Establishment shall submit a Special Permit with Site Plan approval package that includes the following items. The Planning Board, may waive or modify submission requirements for certain items for specific applications, if requested by an Applicant.

- 6.4.5.1** The name and address of each owner and operator of the Marijuana Establishment facility/operation.
- 6.4.5.2** A copy of an approved Host Community Agreement.
- 6.4.5.3** A copy of its Provisional License application from the Cannabis Control Commission pursuant to 935 CMR 500.
- 6.4.5.4** If a Special Permit application is for a state approved Medical Marijuana Treatment Center (RMD), a copy of its registration as an RMD from the Massachusetts Department of Public Health in accordance with 105 CMR 725.000 or from the Cannabis Control Commission in accordance with 935 CMR 500.

- 6.4.5.5** Proof of application for Liability Insurance Coverage or Maintenance of Escrow as required in 935 CMR 500.
- 6.4.5.6** Evidence that the Applicant has site control and right to use the site for a Marijuana Establishment facility in the form of a deed or valid purchase and sales agreement or, in the case of a lease, a notarized statement from the property owner and a copy of the lease agreement.
- 6.4.5.7** A notarized statement signed by the Marijuana Establishment organization's Chief Executive Officer and corporate attorney disclosing all of its designated representatives, including officers, directors, shareholders, partners, members, managers, 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 all such responsible individual persons.
- 6.4.5.8** In addition to what is normally required in a Site Plan, details showing all exterior proposed security measures for the Marijuana Establishment including lighting, fencing, gates and alarms, etc. ensuring the safety of employees and patrons and to protect the premises from theft or other criminal activity.
- 6.4.5.9** A detailed floor plan identifying the areas available and functional uses (including square footage).
- 6.4.5.10** A copy of the Application of Intent and Management and Operations Profile for Delivery Operators.
- 6.4.5.11** All signage being proposed for the facility.
- 6.4.5.12** A pedestrian and vehicular traffic impact study to establish the Marijuana Establishment's impacts at peak demand times, including a line queue plan to ensure that the movement of pedestrian and/or vehicular traffic, including but not limited to, along the public rights-of-way will not be unreasonably obstructed.
- 6.4.5.13** An odor control plan that demonstrates conformance with Section 6.4.4.2.b.5. and detailing the specific odor-emitting activities or processes to be conducted on-site, the source of those odors, the locations from which they are emitted from the facility, the frequency of such odor-emitting activities, the duration of such odor-emitting activities, and the administrative of odor controls including maintenance of such controls.
- 6.4.5.14** A screening plan that demonstrates conformance with Section 6.4.4.2.b.3.
- 6.4.5.15** A lighting plan that demonstrates conformance

- with Section 6.4.4.2.b.4.
- 6.4.5.16** Information regarding proposed water use and source(s) and impacts on ground and surface waters which demonstrates conformance with Section 6.4.4.2.b.6
- 6.4.5.17** A study or statement demonstrating that noise levels meet the standards in Section 6.4.4.2.b.10.
- 6.4.5.18** A plan for the use of renewable energy sources which demonstrates conformance with Section 6.4.4.2.b.11.
- 6.4.5.19** A Management Plan including a description of all activities to occur on-site, including all provisions for the delivery of marijuana and related products to the Marijuana Establishment or off-site direct delivery.
- 6.4.5.20** Individual written plans which, at a minimum comply with the requirements of 935 CMR 500, relative to the Marijuana Establishment's:
- a. Operating procedures
  - b. Marketing and advertising
  - c. Waste disposal
  - d. Transportation and delivery of marijuana or marijuana products
  - e. Energy efficiency and conservation
  - f. Security and Alarms
  - g. Decommissioning of the Marijuana Establishment including a cost estimate reflecting the town's cost to undertake the decommissioning of the site if abandoned.

#### **6.4.6 Required Findings**

In addition to the standard Findings for a Special Permit, the Planning Board must also find that the following conditions are met:

- 6.4.6.1** That the application is consistent with and meets the purposes and intent of this Section and the Zoning Bylaw.
- 6.4.6.2** That the Marijuana Establishment is designed to minimize any adverse impacts on abutters and the community.
- 6.4.6.3** That the application demonstrates that it meets or exceeds all the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and it is or will be in compliance with all applicable state laws and regulations.
- 6.4.6.4** That the application has satisfied all of the conditions and requirements of this Section and

- other applicable Sections of this bylaw.
- 6.4.6.5 That the application provides adequate security measures to ensure that the application will not pose a direct threat to the health or safety of other individuals and that the storage and/or location of cultivation is adequately secured.
- 6.4.6.6 That the application adequately addresses issues of traffic demand, circulation flow, parking and queuing, particularly at peak periods at the facility, and its impact on neighboring uses.

#### **6.4.7 Planning Board Obligations**

While the Planning Board is authorized to approve Special Permits for retail Marijuana Establishments under certain circumstances (See Section 6.4.4.1.f), the Planning Board is not obligated to approve an application for a Marijuana Establishment of any kind that it does not find meets the standards stated in this bylaw and in other applicable sections of Section 7.0

#### **6.4.8 Enforcement**

Complaints of failures to meet the requirements of the approved Special Permit shall be investigated by the Zoning Enforcement Officer.

A true copy. Attest



Sandra L. Wickland

Town Seal

Pursuant to G.L., 40 c., Sec 32, this by-law notice of approval will be posted At the Chesterfield Post Office, The Chesterfield Town Hall bulletin board and on the town website.