

**Planning Board’s DRAFT Zoning-Related Warrant Articles  
03/12/18**

*Article \_\_\_\_\_.* To see if the Town will vote to amend the Zoning Bylaws, **ARTICLE 2. DISTRICT REGULATIONS**, Section 26.15 Permitted Accessory uses in Industrial I and Industrial II, by deleting the following italicized text, or take any action thereon:

- *Residential uses incidental and necessary to an industrial establishment;*

*Article \_\_\_\_\_.* To see if the Town will vote to amend the Zoning Bylaws, **ARTICLE 4. SPECIAL REGULATIONS** by deleting **Section 52. Registered Marijuana Dispensaries** in its entirety and replacing it with **Section 52. Recreational and Medical Marijuana Establishments**, or take any action thereon. Section 52 shall contain the following text:

**Section 52. Recreational and Medical Marijuana Establishments**

**52.1 Applicability.** The Planning Board may grant a special permit authorizing a Marijuana Establishment or a Registered Marijuana Dispensary as provided under Article 1, Section 14.11 of the Millbury Zoning Bylaws in conformance with the following regulations, conditions and limitations. For the purpose of this Section, the terms “Registered Marijuana Dispensary”, “Marijuana Establishment”, “Marijuana Cultivator”, “Independent Testing Laboratory”, “Marijuana Product Manufacturer”, “Marijuana Retailer” and “Other Type of Licensed Marijuana-Related Business” shall be as defined in Article 5, Definitions.

**52.2 Purpose and Intent.** The purposes of this Section are:

1. To provide for the placement of Marijuana Establishments and Registered Marijuana Dispensaries in appropriate places and under conditions in accordance with the provisions of Massachusetts General Laws Chapter 94G.
2. To protect the health, safety, and general well-being of Millbury residents, the public, patients seeking treatment, and customers seeking to purchase marijuana for recreational use, and patients seeking marijuana for medicinal purposes.
3. To minimize any adverse impacts of Marijuana Establishments and Registered Marijuana Dispensaries on abutters, residential neighborhoods and sensitive land uses.
4. To regulate the siting, design, security, safety, discontinuance, and quota of Marijuana Establishments and Registered Marijuana Dispensaries.

**52.3 Design Standards and Siting Requirements.** The following restrictions shall apply to uses under this Section 52:

1. No Marijuana Establishment or Registered Marijuana Dispensary shall be located within five hundred feet (500') of the property boundary line of any lot in use as a public or private pre-school, primary or secondary school, licensed daycare center, church, library, park, playground, or other Marijuana Establishment or Registered Marijuana Dispensary except for marijuana facilities that are owned or leased by the same operator. Distance shall be measured in a straight line from property boundary line to property boundary line.
2. A Marijuana Establishment or Registered Marijuana Dispensary shall be located within a fully-enclosed, permanent building and may not be located in a trailer, cargo container, motor vehicle or other similar non-permanent enclosure.
3. A Marijuana Establishment or Registered Marijuana Dispensary shall not have drive-thru service.
4. A Marijuana Establishment or Registered Marijuana Dispensary shall not be within a building containing residential units.
5. No smoking, burning or consumption of any product containing marijuana or marijuana-related products shall be permitted on the premises of a Marijuana Establishment or Registered Marijuana Dispensary with the exception of product testing performed at an Independent Testing Laboratory.
6. Marijuana, marijuana products, associated supplies, and/or promotional/advertising materials shall not be displayed or visible to a person from the exterior of a Marijuana Establishment.
7. A Marijuana Establishment or Registered Marijuana Dispensary shall not display signage or other marketing materials on the exterior of the building or in any manner visible from the public way, which, in the opinion of the Planning Board, may promote or encourage the use of marijuana or other drugs by minors.
8. A Marijuana Establishment or Registered Marijuana Dispensary shall be ventilated in such a manner that:
  - a) No pesticides, insecticides or other chemicals or products used in the cultivation or processing are dispersed into the outside atmosphere; and
  - b) No odor from marijuana or its processing can be detected by a person with an unimpaired and otherwise normal sense of smell at the exterior of the Marijuana Establishment / Registered Marijuana Dispensary or at any adjoining property.
9. The hours of operation of a Marijuana Establishment or Registered Marijuana Dispensary shall be determined by the Planning Board as a condition of the special permit.

**52.4 Application Procedure.** Applicants are required to submit an application conforming to the requirements of Section 14 and this Section 52. The application shall include a site plan and associated documents specified under Section 12.4 Site Plan Review, as well as the following additional information:

1. The name and address of each owner of the facility/operation.
2. Copies of all documentation demonstrating appropriate application status under the state law, or registration or license, issued to the applicant by the Commonwealth of Massachusetts and any of its agencies for the facility.
3. Evidence that the applicant has site control and the right to use the site for a Marijuana Establishment or Registered Marijuana Dispensary in the form of a deed or valid purchase and sale agreement, or, in the case of a lease, a notarized statement from the property owner and a copy of the lease agreement.
4. A description of all activities to occur on site, including all provisions for the delivery of marijuana and related products.
5. Details showing all proposed exterior security measures for the premises, including lighting, fencing, gates and alarms, etc., which seek to ensure the safety of employees and patrons and to protect the premises from theft and other criminal activity. A letter from the Town of Millbury Police Chief, or designee, acknowledging review and approval of the security plan for the Marijuana Establishment or Registered Marijuana Dispensary shall be submitted with the application. To the extent allowed by law, all such documents shall be confidential.
6. Details of the ventilation system.

**52.5 Specific Findings Required.** In addition to the findings required under Section 12.46 and all other applicable sections of the Zoning Bylaws, the Planning Board shall not issue a special permit for a Marijuana Establishment or Registered Marijuana Dispensary unless it finds that the use:

1. Minimizes through design any adverse impacts on abutters and other parties in interest, as defined in M.G.L Chapter 40A, Section 11.
2. Demonstrates to the satisfaction of the Planning Board that it meets all of the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and will comply with all applicable state laws and regulations.
3. Adequately addresses issues of site layout, security, ventilation, vehicular and pedestrian traffic, circulation, parking and queuing.
4. Satisfies all of the conditions and requirements set forth in this Section.

**52.6 Transfer/Discontinuance of Use.** Any Marijuana Establishment or Registered Marijuana Dispensary permitted under this section shall be required to remove all material, plants, equipment and other paraphernalia in compliance with 105 CMR 725.105 (J) and (O) prior to the expiration of its Department of Public Health (DPH) Registration, immediately following revocation or voiding of its DPH Registration, or following the expiration, revocation or voiding of its license issued by the Cannabis Control Commission.

**52.7 Quota.** All applications for a special permit pursuant to this Section shall be acted upon in the order in which they are filed. The Planning Board shall limit the number of special permits issued for Marijuana Retailers such that the total number of active special permits for Marijuana Retailers shall not exceed 20% of the number of licenses issued within Millbury for the retail sale of alcoholic beverages not to be drunk on the premises where sold under Section 15 of Massachusetts General Law Chapter 138. Said number shall be rounded up to the next whole number. The Planning Board shall limit the number of special permits issued for Marijuana Establishments other than Marijuana Retailers to one (1).

*Article \_\_\_\_\_.* To see if the Town will vote to amend the Zoning Bylaws, **ARTICLE 1. ADMINISTRATION AND PROCEDURE**, Section 14.11 Planning Board Authority, by adding the following italicized text and deleting the text with strikethrough, or take any action thereon:

- ~~i) Environmental analysis procedures under section 15.~~
- r) *Marijuana Establishment and Registered Marijuana Dispensary under Section 52.*

*Article \_\_\_\_\_.* To see if the Town will vote to amend the Zoning Bylaws, **ARTICLE 4. SPECIAL REGULATIONS**, Section 48.3, by adding the following italicized text, or take any action thereon:

**48.31 Node Classification I.**

Uses Permitted by Special Permit:  
*Marijuana Retailer in accordance with Section 52.*

**48.32 Node Classification II.**

Uses Permitted by Special Permit:  
*Marijuana Retailer in accordance with Section 52.*

*Article \_\_\_\_\_.* To see if the Town will vote to amend the Zoning Bylaws, **ARTICLE 2. DISTRICT REGULATIONS**, Section 26.22 Industrial II special permit uses, by adding the following italicized text, or take any action thereon:

- *Independent Testing Laboratory in accordance with Section 52*

- *Marijuana Cultivator in accordance with Section 52*
- *Marijuana Product Manufacturer in accordance with Section 52*
- *Other Type of Licensed Marijuana-Related Business in accordance with Section 52*

*Article \_\_\_\_\_.* To see if the Town will vote to amend the Zoning Bylaws, **ARTICLE 5. DEFINITIONS** by inserting the following definitions, or take any action thereon:

**Independent Testing Laboratory** – A laboratory that is licensed by the Cannabis Control Commission and is: 1) accredited to the most current version of the International Organization for Standardization 17025 by a third-party accrediting body that is a signatory of the International Laboratory Accreditation Accrediting Cooperation mutual recognition arrangement, or that is otherwise approved by the Cannabis Control Commission; 2) independent financially from any medical marijuana treatment center or any licensee or marijuana establishment for which it conducts a test; and 3) qualified to test marijuana in compliance with 935 CMR 500.160 and M.G.L. c. 94C, § 34.

**Marijuana Cultivator** – An entity licensed to cultivate, process, and package marijuana, to deliver marijuana to marijuana establishments, and to transfer marijuana to other marijuana establishments, but not to consumers.

**Marijuana Establishment** – A marijuana cultivator, independent testing laboratory, marijuana product manufacturer, marijuana retailer, or any other type of licensed marijuana-related business.

**Marijuana Product Manufacturer** – An entity licensed to obtain, manufacture, process, and package marijuana and marijuana products, to deliver marijuana and marijuana products to marijuana establishments, and to transfer marijuana and marijuana products to other marijuana establishments, but not consumers.

**Marijuana Products** – Products that have been manufactured and contain marijuana or an extract of marijuana, including concentrated forms of marijuana and products composed of marijuana and other ingredients that are intended for use or consumption, including edible products, beverages, topical products, ointments, oils, and tinctures.

**Marijuana Retailer** – An entity licensed to purchase and deliver marijuana and marijuana products from marijuana establishments and to deliver, sell or otherwise transfer marijuana and marijuana products to marijuana establishments and to consumers.

**Other Type of Licensed Marijuana-Related Business** – A licensed marijuana establishment other than a marijuana cultivator, independent testing laboratory, marijuana product manufacturer, or marijuana retailer.

*Article \_\_\_\_\_.* To see if the Town will vote to amend the Zoning Bylaws, **ARTICLE 4. SPECIAL REGULATIONS** by striking **Section 53. Temporary Moratorium on Marijuana**

**Establishments and the Sale or Distribution of Marijuana and Marijuana Products** in its entirety, or take any action thereon.

*Article \_\_\_\_\_*. To see if the Town will vote to amend the Zoning Bylaws, **ARTICLE 4. SPECIAL REGULATIONS, Section 53.3 Temporary Moratorium** by adding the italicized text and deleting the text with strikethrough from the second sentence in the first paragraph, or take any action thereon:

The Temporary Moratorium shall be in effect through ~~May 31, 2018~~ *December 31, 2018*.