

To see if the Town will vote to amend the Hadley Zone Bylaw Section III, subsection 3.1 by adding the following to the TABLE OF USES:

In the Table of Uses, the following use designations shall apply:

SPA: Use permitted with Site Plan Approval, issued by the Planning Board

SPB: Use permitted with Special Permit, issued by the Planning Board

Use	DISTRICT					
	R	AR	LoB	LiB	B	I
COMMERCIAL/RETAIL						
Craft Marijuana Cooperative	N	N	N	N	SPB/SPA	SPB/SPA
Marijuana Cultivator2 (Tiers 2-6)	N	N	N	N	SPB/SPA	SPB/SPA
Marijuana Cultivator3 (Tiers 2-11)	N	N	N	N	N	SPB/SPA
Marijuana Cultivator1 (Tier 1 only)	N	SPB/SPA	SPB/SPA	SPB/SPA	SPB/SPA	SPB/SPA
Marijuana Retailer	N	N	N	N	SPB/SPA	SPB/SPA
Marijuana Independent Testing Laboratory	N	N	N	N	N	SPB/SPA
Marijuana Microbusiness	N	N	N	N	SPB/SPA	SPB/SPA
INDUSTRIAL/ MANUFACTURING						
Marijuana Research Facility	N	N	N	N	N	SPB/SPA
Marijuana Product Manufacturer	N	N	N	N	N	SPB/SPA
Marijuana Transporter	N	N	N	N	N	SPB/SPA
any other type of licensed marijuana-related business, except a medical marijuana treatment center	N	N	N	N	N	SPB/SPA

and to amend the Zone Bylaw by adding a new SECTION XXX as follows:

Section XXX ADULT USE MARIJUANA ESTABLISHMENTS

30.1. Purposes

The purpose of this bylaw is to allow for the siting of state-licensed Marijuana Establishments (hereafter also referred to as MEs) in appropriate locations in accordance with applicable state laws and regulations regarding adult use marijuana in accordance state law, including M.G.L. c.94G and 935 CMR 500.00 and to impose reasonable safeguards to govern the time, place and manner of Marijuana Establishments to ensure public health, safety, well-being and mitigate against undue impacts on the natural and built environment of the town and its residents.

30.2. Definitions

Where not expressly defined herein, terms used in this bylaw shall be interpreted as defined in the regulations governing Medical Marijuana (105 CMR 725.000/ 935 CMR 501.000)) and Adult Use of Marijuana (935 CMR 500.000) and otherwise by their plain language.

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; or
- (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 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 Retailer closes and does not transact business for a period greater than 60 days with no substantial action taken to reopen.

Commission: The Massachusetts Cannabis Control Commission established by M.G.L. c. 10, § 76, or its designee.

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 to transport marijuana to Marijuana Establishments, but not 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 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 and up to a 3% community impact fee.

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

Manufacture: To compound, blend, extract, infuse or otherwise make or prepare a cannabis or marijuana product.

Marijuana 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 marijuana by an adult use marijuana cannabis cultivator, micro-business, research facility, craft marijuana cultivator cooperative, registered marijuana dispensary or other entity licensed by the Cannabis Control Commission for marijuana cultivation

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

Marijuana Establishment: A Marijuana Cultivator, Craft Marijuana Cooperative, Marijuana Product Manufacturer, Marijuana Retailer, Marijuana Microbusiness, Marijuana Independent Testing Laboratory, Marijuana Research Facility, Marijuana Transporter, or any other type of licensed marijuana-related business, except a Registered Marijuana Dispensary or Off-site Medical Marijuana Dispensary. Marijuana establishments

permitted in accordance with these regulations are considered to be a commercial and/or manufacturing use and are not considered being subject to any agricultural exemptions under zoning.

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

- (a) accredited by 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; and
- (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; and from offering cannabis or marijuana products for the purposes of on-site social consumption on the premises of a Marijuana Establishment.

Marijuana Transporter: An entity, not otherwise licensed by the Commission, that is licensed to purchase, obtain, and possess cannabis or marijuana product 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.

Medical Marijuana Treatment Center, also known as a Registered Marijuana Dispensary (RMD) and Off-site Medical Marijuana Dispensary (OMMD): A not-for-profit entity registered under 105 CMR 725.100: Registration of Registered Marijuana Dispensaries, that acquires, cultivates, possesses, processes (including development of related products such as edible cannabis or marijuana products, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing cannabis or marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers for medical use. Unless otherwise specified, RMD refers to the site(s) of dispensing, cultivation, and preparation of cannabis or marijuana for medical use.

30.3. Applicability

Nothing in this section shall be construed to supersede federal and state laws governing the sale and distribution of marijuana. This section shall not be construed to prevent the conversion of a Registered Marijuana Dispensary or an Off-site Medical Marijuana Dispensary to a Marijuana Establishment engaged in the same type of activity, provided, however, any such medical marijuana dispensary obtains a special permit pursuant to this Section for any such conversion to an adult use Marijuana Establishment.

30.4. Additional Requirements/Conditions

The Planning Board shall be the Special Permit Granting Authority/Site Plan Review Authority for Marijuana Establishments. In addition to the standard requirements for uses permitted By-right or requiring a Special Permit or Site Plan Approval, the following shall also apply to all Marijuana Establishments:

30.4.1 Use:

- 30.4.1.1 Any type of Marijuana Establishment may only be involved in the uses permitted by its definition and may not include other businesses or services. This excludes agricultural uses, such as growing other crops.
- 30.4.1.2 No marijuana shall be smoked, eaten or otherwise consumed or ingested within the premises of any Marijuana Establishment unless expressly permitted under this Bylaw and permitted by state law or regulation. The prohibition on on-site consumption shall also include private social clubs or any other establishment which allows for social consumption of marijuana or marijuana products on the premises, regardless of whether the product is sold to consumers on site.
- 30.4.1.3 The hours of operation shall be set by the Special Permit Granting Authority, but in no event shall a Marijuana Retailer be open to the public, and no sale or other distribution of marijuana shall occur upon the premises or via delivery from the premises, between the hours of 8:00 p.m. and 8:00 a.m.

30.4.1.4 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.

30.4.1.5 The number of adult use marijuana retail sales establishments permitted to be located within the Town of Hadley 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.

30.4.2 Physical Requirements:

30.4.2.1 All aspects of the marijuana establishment (except for the transportation of product or materials) relative to the acquisition, cultivation, possession, processing, storage, 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 or blackout style greenhouse and shall not be visible from the exterior of said building. Marijuana Establishments may not be operated within a trailer, storage freight container, motor vehicle or other similar type of potentially movable enclosure.

30.4.2.2 No Marijuana Retailer shall have a gross floor area open to the public in excess of 2,500 square feet.

30.4.2.3 Ventilation – all marijuana establishments shall be ventilated in such a manner that:

30.4.2.3.1 No pesticides, insecticides or other chemicals or products used in the cultivation or processing are dispersed into the outside atmosphere, and

30.4.2.3.2 No odor from marijuana or its processing can be detected by a person with an unimpaired and otherwise normal sense of smell at the property line of the marijuana business, and

30.4.2.3.3 Ensure emissions are in compliance MGL Chapter 111 §31C.

30.4.2.4 Signage shall be displayed 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 two inches in height.

All other signage must comply with all other applicable signage regulations in the Zoning Bylaw and 935 CMR 500.000.

30.4.2.5 Security lighting shall comply with § 8.8.9 of this Bylaw and 935 CMR 500.00.

30.4.2.6 Security lighting is discouraged in the Agricultural/Residential District, but if installed said structure setback in § 30.4.3.4 is changed to 1500 feet.

30.4.2.7 All lighting shall comply with the Zoning Bylaw and be shielded so as not to shed light onto adjacent properties or the sky above. The Planning Board may require any artificial lighting system to employ only components equipped with deflectors in order to mitigate potential light pollution.

30.4.2.8 Marijuana plants, products, and paraphernalia shall not be visible from outside the building in which the Marijuana Establishment is located.

- 30.4.2.9 No use shall be allowed at a marijuana establishment which creates a nuisance to abutters or to the surrounding area, or which creates any hazard, including but not limited to, fire, explosion, fumes, gas, smoke, odors, obnoxious dust, vapors, offensive sound or vibration, flashes, glare, objectionable effluent or electrical interference, which may impair the normal use and peaceful enjoyment of any property, structure or dwelling in the area.
- 30.4.2.10 Noise – no marijuana cultivation facility shall allow any noise to be emitted from its facility greater than 75dBA. Such noise level shall be measured at the cultivation facility’s boundary lines.

30.4.3 Location:

- 30.4.3.1 Marijuana establishments are encouraged to utilize existing vacant buildings where possible.
- 30.4.3.2 No marijuana establishment shall be located on a parcel which is within five hundred (500) feet (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 is or 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 licensed day care center.
- 30.4.3.3 No marijuana retailer or Tier 1 Cultivator shall be located on a parcel which is within three hundred (300) feet (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 retailer or Tier 1 Cultivator is or will be located) of a parcel occupied by another marijuana retailer or Tier 1 Cultivator.
- 30.4.3.4 All marijuana establishments shall have a setback at least 300 feet from the nearest property line of any residential dwelling, regardless of whether the dwelling is occupied or not. For purposes of this section, an unimproved residential lot or parcel approved by the Town of Hadley pursuant to a Definitive Subdivision Plan on record with the Hampshire County Registry of Deeds shall constitute a “residential dwelling”.
- 30.4.3.5 No marijuana establishment shall be located inside a building containing residential units, including transient housing such as motels and dormitories.
- 30.4.3.6 No marijuana establishment is permitted to provide a drive-through service.
- 30.4.3.7 Parking area for Craft Marijuana Cooperative, Marijuana Cultivator, and Marijuana Microbusiness establishments shall be defined as in § 5.4.1 of this Bylaw except that the area required for parking shall be: one (1) square foot of parking area for one (1) square foot of gross building area.

30.4.4 Reporting Requirements.

- 30.4.4.1 Prior to the commencement of the operation or services provided by a marijuana establishment, the owner/applicant 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 marijuana establishment 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.

30.4.4.2 The marijuana establishment owner/operator/manager shall notify, in writing, the local Building Commissioner/Inspector, Board of Health, Police Department, Fire Department and Planning Board for any of the following:

30.4.4.2.1 A minimum of thirty (30) days prior to any change in ownership or management of that establishment.

30.4.4.2.2 A minimum of one (1) business day 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.

30.4.4.3 Marijuana establishments shall file an annual written report to, and appear before, the Planning Board no later than January 31st of each calendar year, providing a copy of all current applicable state licenses for the marijuana establishment and/or its owners and demonstrate continued compliance with the conditions of the Special Permit/Site Plan Approval.

30.4.4.4 The owner or manager of a marijuana establishment shall respond by phone or email within twenty-four hours of contact by the Zoning Enforcement Officer concerning the marijuana establishment at the phone number or email address provided to the town as the contact for the business.

30.4.5 Issuance/Transfer/Discontinuance of Use

30.4.5.1 Special Permits/Site Plan Approvals shall be issued to the marijuana establishment licensee.

30.4.5.2 Special Permits/Site Plan Approvals shall be issued for a specific type of marijuana establishment on a specific site/parcel.

30.4.5.3 Special Permits/Site Plan Approvals shall be non-transferable to either another marijuana establishment owner or another site/parcel.

30.4.5.4 Special Permits/Site Plan Approvals shall lapse/expire if:

30.4.5.4.1 The marijuana establishment ceases operation for 365 days, and/or

30.4.5.4.2 The marijuana establishment's registration/license by the Cannabis Control Commission expires or is terminated.

30.4.5.5 The marijuana establishment shall notify the Zoning Enforcement Officer and Special Permit Granting Authority in writing within two (2) business days of such lapse, cessation, discontinuance or expiration or revocation.

30.4.5.6 A marijuana cultivation or product manufacturing establishment shall be required to remove all material, plants equipment and other paraphernalia prior to surrendering its state registration/license or ceasing its operation.

30.4.5.6.1 Prior to the issuance of a Building Permit for a marijuana establishment the applicant shall post with the Town Treasurer a bond 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 Zoning Enforcement Officer shall give the applicant forty-five (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 Zoning Enforcement Officer prior to the expiration of the 45 days written notice, said bond shall be returned to the applicant.

30.4.5.7 The initial special permit issued under this section shall be for a period of one (1) year and subsequent renewals shall be valid for two (2) years.

If no valid complaints have been received after two (2) successive renewals then there will be no need for further renewals after five years from the original approval. The permit application period for renewal shall be between January 1 and February 28 of each year. Publication of notice of said request for renewal shall be made in the same manner as would be required for an original application for a special permit. Said notice shall state that the renewal request will be granted automatically unless a written objection to the renewal is received by the Planning Board within twenty days (20) of the first publication of notice. The Planning Board itself may file a written objection if written complaints have been filed with the Town or for other reasons. In the event of such receipt on an objection, the Planning Board shall treat the application as one for a new special permit, beginning with publication and mailing of a notice of public hearing. The renewal shall then proceed in the manner of a regular special permit application,

30.5. Application Requirements

Complete applications for Special Permits and Site Plan Approvals for marijuana establishments will be processed in the order that they are filed with the Town.

In addition to the standard application requirements for Special Permits and Site Plan Approvals, such applications for a marijuana establishment shall include the following:

30.5.1 The name and address of each owner and operator of the marijuana establishment.

30.5.2 A copy of an approved Host Community Agreement.

30.5.3 Evidence that the Applicant has site control and right to use the site for a marijuana establishment 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.

30.5.4 A notarized statement signed by the marijuana establishment organization's Chief Executive Officer and corporate attorney disclosing names of the owners and

- managers 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.
- 30.5.5 In addition to what is normally required in a Site Plan, details showing all exterior proposed security measures for the marijuana establishment including lighting and fencing ensuring the safety of employees and patrons and to protect the premises from theft or other criminal activity.
- 30.5.6 All signage being proposed for the marijuana establishment.
- 30.5.7 A pedestrian/vehicular traffic impact study to establish the marijuana retail 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 right of ways will not be unreasonably obstructed.
- 30.5.8 An odor control plan 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 marijuana establishment, the frequency of such odor-emitting activities, the duration of such odor-emitting activities, and the administrative of odor control including maintenance of such controls.
- 30.5.9 A Management Plan including a description of all activities to occur on site, including all provisions for the transportation of marijuana and related products to marijuana establishments.
- 30.5.10 Individual written plans which, at a minimum comply with the requirements of 935 CMR 500, relative to the marijuana establishment:
- 30.5.10.1 Hour of Operation
 - 30.5.10.2 General Security Plans
 - 30.5.10.3 Decommissioning of the marijuana establishment including a cost estimate taking into consideration the community's cost to undertake the decommissioning of the site.

30.6. Findings

In addition to the standard Findings for a Special Permit or Site Plan Approval the Planning Board must also find all the following:

- 30.6.1 The proposed use of land or buildings of the marijuana establishment is consistent with and does not derogate from the intent of this Section and this Zoning Bylaw.
- 30.6.2 That the proposed use of land or buildings of the marijuana establishment is designed to minimize any adverse visual, odor or other environmental and economic impacts on abutters and other parties in interest;
- 30.6.3 That the marijuana establishment demonstrates that it meets or exceeds all the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and complies with all applicable state laws and regulations;
- 30.6.4 That the applicant has satisfied all of the conditions and requirements of this Section and other applicable Sections of this Zoning Bylaw;
- 30.6.5 That the marijuana establishment provides adequate security measures to ensure that no individual participant will pose a direct threat to the health or safety of the community, and that the storage and/or location of cultivation is adequately secured on-site or via delivery.

30.6.6 That the marijuana establishment adequately addresses issues of traffic demand, circulation flow, parking and queuing, particularly at peak periods at the marijuana establishment, and its impact on neighboring uses.