

*Review of the proposed bylaw by Town Counsel is recommended prior to the Public Hearing and Town Meeting Vote.*

## **SECTION XV: ADULT USE RECREATIONAL MARIJUANA ESTABLISHMENTS**

### **15-1 Purpose and Intent**

It is the purpose of this article to promote public health, safety and general welfare, and to support the availability of recreational marijuana in accordance with State law and regulations (935 CMR 500.000 et.seq.). To mitigate potential impacts to adjacent areas and the environment this bylaw will regulate the locations and site development to promote safe attractive business areas, prevent crime, maintain property values, protect and preserve the quality of residential neighborhoods and to protect the safety of children and young people in the vicinity of schools. ~~public parks and other areas where children congregate.~~ {delete given removal of setback requirements?}

### **15-2 Special Permit Granting Authority & Site Plan Review**

The Planning Board or Zoning Board of Appeals (ZBA) shall be the Special Permit Granting Authority (see Section 4-3) in accordance with M.G.L. Chapter 40A, Sections 9 and 9A. Special permits issued by the Planning Board or ZBA shall require a positive supermajority vote by Board Members. All proposed Marijuana Establishments require a Special Permit and/or Site Plan Review approval (see Section 4-3 Table of Use Regulations) and are subject to the requirements of Section XV.

### **15-3 Definitions**

**Craft Marijuana Cultivator Cooperative** - a marijuana cultivator comprised of residents of the Commonwealth organized as a limited liability company or limited liability partnership under the laws of the Commonwealth, or an appropriate business structure as determined by the Cannabis Control Commission, that is licensed to cultivate, obtain, manufacture, process, package and brand marijuana and marijuana products for delivery to marijuana establishments but not to consumers.

**Host Community Agreement** – A marijuana establishment seeking to operate in Buckland shall execute an agreement with the Select Board setting forth the conditions for having a marijuana establishment located within the host community. Such Host Community Agreement shall include, but not be limited to, all stipulations of responsibilities between Buckland and the marijuana establishment. A Host Community Agreement between a marijuana establishment and a host community will include a community impact fee for the host community. The community impact fee shall be reasonably related to the costs imposed upon the municipality by the operation of the marijuana establishment and shall not amount to more than 3 per cent of the gross sales of the marijuana establishment or a greater amount if allowed by the State. Such Host Community Agreement shall be effective for 5 years and can be renewed for successive 5

year periods at the option of the Town. Any cost to Buckland imposed by the operation of a marijuana establishment shall be documented and considered a public record.

**Independent Testing Laboratory** - a laboratory that is licensed by the State Cannabis Control Commission and is: (i) accredited to the most current International Organization for Standardization 17025 by a third-party accrediting body that is a signatory to the International Laboratory Accreditation Cooperation mutual recognition arrangement or that is otherwise approved by the Commission; (ii) independent financially from any medical marijuana treatment center or any licensee or marijuana establishment for which it conducts a test; and (iii) qualified to test marijuana in compliance with regulations promulgated by the Cannabis Control Commission.

**Licensee** - a person or entity licensed by the State Cannabis Control Commission to operate a marijuana establishment.

**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 marijuana-related business licensed by the Commonwealth of Massachusetts except a medical marijuana treatment center.

**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 to consumers.

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

**Marijuana Research Facility** – an entity licensed to engage in research projects by the State Cannabis Control Commission.

**Marijuana Retailer** – an entity licensed to purchase and transport marijuana and marijuana products from marijuana establishments and to sell or otherwise transfer marijuana and marijuana products to marijuana establishments and to consumers.

#### **15-4. Requirements Regarding the Allowed Locations for Marijuana Establishments**

- A. See Use Table Section 4-3 for locations for permitted Marijuana Establishments.
- B. Marijuana Establishments shall not be located within 500 feet of any public, parochial, or private school, where children attend classes in pre-school programs,

kindergarten programs, or grades one (1) to twelve (12). This setback shall include the grounds on which said public, parochial, or private school is located on. The distance between any Marijuana Establishment and any public, parochial, or private school, where children attend classes in pre-school programs, kindergarten programs or grades one (1) to twelve (12), shall be measured in a straight line, without regard to intervening structures, from the closest property line of any existing public, parochial, or private school to the property line of the Marijuana Establishment.

- C. Marijuana Establishments shall not be located within 100 feet from any existing neighboring residential use. The distance between a neighboring residential use and a Marijuana Establishment shall be measured in a straight line, without regard to intervening structures, from the closest property line of the residential property to the building or parking area of the Marijuana Establishment, whichever is closest.
- D. Marijuana Establishments may request a waiver from the Special Permit Granting Authority (SPGA) of the setback requirements of Sections 15-4 B. & 15-4 C. if there is no other feasible alternative. Setbacks may be reduced to no less than 30 feet in the Village Commercial and 50 feet in all other zoning districts. Such waiver may be granted in the SPGA's sole discretion.

#### **15-5 Site Development, Permitting Standards & Application**

The following site improvements and standards are required to protect public safety and neighboring property values, in addition to the Special Permit requirements found in Section IX and/or the Site Plan Review requirements found in Section XII. The Planning Board or ZBA is empowered hereunder to review and approve Special Permit applications for Marijuana Establishments and impose requirements for: buffering; odor control; noise; outdoor lighting; parking; access to the site from public roads; hazardous materials; and landscaping and buildings. The purpose of these requirements is to avoid site development which may result in negative environmental, neighborhood, or public safety impacts.

- A. Dimensional Requirements: Any building or structure containing a Marijuana Establishment shall meet the setback requirements of this Section XV and all other dimensional requirements of the appropriate district as specified in these bylaws (see Section V). Marijuana establishments are not eligible for an Exception to Dimensional Requirements for Yards under Section 5-3. For any property proposed to contain a Marijuana Establishment, the applicant for a Special Permit and/or Site Plan Review for such use shall demonstrate that the entire property shall comply with these requirements and controls following the establishment of such use thereon.
- B. Parking and Loading Requirements: On-site parking and loading shall be provided in accordance with the requirements of Section 8-5 of these bylaws. For any property proposed to contain a Marijuana Establishment, the applicant for a Special Permit and/or Site Plan Review for such use shall demonstrate that the entire property shall comply with these requirements and controls following the establishment of such use thereon.

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- C. Site Screening: Rear and side property lines shall be screened from any neighboring residential, educational, childcare or recreational uses or properties. Screening shall be by a solid stockade fence that is 3 1/2 feet tall within 20 feet of the street and 6 feet tall elsewhere on the property and/or a 10 foot wide vegetated planting of hardy evergreens and deciduous trees and shrubs no more than six (6) feet on center and no less than five (5) feet in height.
- D. Lighting & Security: Energy efficient site lighting shall be maintained at a minimum lumen as determined by the Buckland Police Department to ensure adequate visibility on the property to ensure public safety. Light standards may not exceed twenty (20) feet in height and shall be shielded from abutting properties and shall incorporate full cut off fixtures to reduce light pollution. Additional security features recommended by the Buckland Police Department, such as security cameras covering external areas with the capability to function with minimal lighting at night, shall be installed and maintained. Internal lighting in greenhouses shall be fully screened from abutters after sunset.
- E. Noise & Odors: No noise or odors shall be detectable at or beyond the property line of the Marijuana Establishment.
- F. Hazardous Materials: Submission of a complete list of 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 and/or ZBA 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.
- G. Driveways: No driveway to a Marijuana Establishment shall be within [redacted] feet of any existing residential use. No such premises shall have any driveway entrance or exit for motor vehicles within [redacted] feet of the property used by any school, public library, or church or other location where children congregate.
- H. Signs: All signs for a Marijuana Establishment must meet the requirements of Section 8-3 of this bylaw and the State Regulations (935 CMR 500.000 et. seq.) including the requirement that, no advertising signs shall be located within twenty feet of a public or private way and must be set back a minimum of twenty (20) feet from all property lines.
- I. Buildings: Appearance of buildings for Marijuana Establishments shall be consistent with the appearance of other buildings in Buckland, not employing unusual color or building design which would attract attention to the premises. In the Rural Residential and Commercial Zoning Districts new buildings for Marijuana Cultivators including Craft Marijuana Cultivators shall resemble local agricultural buildings, such as barns or greenhouses. Buildings containing Marijuana

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Establishments shall not exceed 10,000 square feet in the Rural Residential and Commercial Zoning Districts.

J. Cultivation: Marijuana products are required to be grown indoors in a greenhouse, barn or other agricultural building to minimize public nuisances including odors, noise, and lighting to neighboring properties.

K. Energy Efficiency: Marijuana establishments are required to prepare an energy efficiency plan. The use of renewable energy sources such as solar should be considered.

L. Water Efficiency: Marijuana Establishments are required to prepare a plan for water management and efficiency. Where public water is to be used, Marijuana Cultivators are required to receive certification from the Shelburne Falls Fire District Water Department that there is sufficient capacity for their projected water use.

M. Marketing: Marijuana Establishments shall not be allowed to disseminate or offer to disseminate marijuana marketing materials to minors or suffer minors to view displays or linger on the premises. No free samples may be provided by Marijuana Establishments to consumers.

N. Applications: If a Special Permit is required, the applicant requesting permission to operate any Marijuana Establishment must file their application with the Special Permit Granting Authority and the Town Clerk. Such application shall contain the information required by Section IX Special Permit and any rules and regulations established by the Special Permit Granting Authority and the State Cannabis Control Commission. The application shall also include:

1. Name and Address of the legal owner and Licensee of the Marijuana Establishment;
2. Name and Address of all persons having lawful, equity or security interests in the Marijuana Establishment;
3. Name and Address of the Manager of the Licensed Marijuana Establishment;
4. The number of proposed employees; and
5. Proposed security precautions.

O. Site Plan Review: If Site Plan Review is required, no Marijuana Establishment shall be established prior to submission and approval of a site plan by the Planning Board, pursuant to Section XII. The site plan shall, at the minimum, depict all existing and proposed buildings, parking spaces, driveways, service areas, security features and other outdoor spaces. The site plan shall show the distances between the proposed Marijuana Establishment and all existing uses within 1,000 feet of the property lines of the proposed Marijuana Establishment.

- P. Change in License or Owner: The Owner and Licensee of any Marijuana Establishment issued a Special Permit or receiving Site Plan approval pursuant this bylaw shall report, in writing, within 10 business days any change in the name of the legal owner of the Marijuana Establishment or any expiration or suspension of a license to the Building Inspector, ZBA and/or Planning Board. Any failure to meet this requirement of this Bylaw will result in the issuance of a cease and desist order by the Building Inspector requiring that all activities cease immediately.
- Q. Change of Ownership: A Special Permit issued or Site Plan approved under this Article shall lapse upon any transfer of ownership or legal interest of more than 10% or change in contractual interest in the subject premises or property. The Special Permit may be renewed or Site Plan approved thereafter only in accordance with this Article XV and/or Section IX (Special Permit) and Section XII (Site Plan Review).
- R. Host Community Agreement: Applicant shall submit the proposed Host Community Agreement that is required between a Marijuana Establishment and the Buckland Select Board at the time they submit their Application.

#### **15-6 Expiration**

A Special Permit to operate a Marijuana Establishment shall expire after a period of five calendar years from its date of issuance but shall be renewable for successive five-year periods thereafter, provided that a written request for such renewal is made to the Special Permit Granting Authority at least 60 calendar days prior to said expiration and that no objection to said renewal is made and sustained related to compliance with the conditions of the Special Permit as well as public safety factors applied at the time the Special Permit renewal is requested. *(Presumably Site Plans approved would not expire and there would not be a renewal process for uses allowed By Right with Site Plan Review (e.g. Recreational Marijuana Retail Uses and Other Manufacturing Uses allowed "By-right" with Site Plan Review).* In addition, a Host Community Agreement satisfactory to Buckland shall be provided if requested by the Town.

#### **15-7 Severability**

The invalidity of any provision of this Section shall not invalidate any other Section or provision thereof as provided in Section 11-4.