

Town of East Brookfield

Article V Section 10

Adult Use Marijuana Establishments

Section 1. Purpose and Intent

To provide criteria for the placement of state-licensed Marijuana Establishments in appropriate places within the Town of East Brookfield in accordance with applicable state laws and regulations regarding adult use marijuana, 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 the health, safety, and general well-being of the Town's residents, the general public, and to minimize the adverse impacts of Marijuana Establishments on residential neighborhoods, schools and other places where children congregate, and other land uses potentially incompatible with said Marijuana Establishments.

Section 2. Definitions

Where not expressly defined herein, terms used in this bylaw shall be interpreted as defined in the regulations governing Adult Use of Marijuana (935 CMR 500.00) and otherwise by their plain language.

Section 3. Marijuana Establishment by Special Permit

- A. A Marijuana Establishment in the Town of East Brookfield shall require a Special Permit from the East Brookfield Zoning Board of Appeals. No use shall be allowed 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.
- B. Marijuana Establishments shall be allowed by Special Permit only in the following zoning district: Commercial
- C. On-site consumption of marijuana and marijuana products, as either a primary or accessory use, shall be prohibited at all Marijuana Establishments unless permitted by a local ballot initiative process, as allowed by M.G.L. c.94G §3(b). The prohibition of on-site social consumption shall 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.
- D. No activity shall be conducted at the Marijuana Establishment other than that for which the Special Permit has been issued.

- E. Any special permit granted for a Marijuana Establishment shall be specific to the applicant, shall be in effect concurrent with the applicant's ownership or leasehold on the property and shall expire (1) upon expiration of the applicant's lease, (2) upon sale or transfer of the applicant's property or business, or (3) upon the expiration or termination of the applicant's License by the Massachusetts Cannabis Control Commission.
- F. A new Special Permit application, or Special Permit application for renewal, must be submitted and approved for a Marijuana Establishment to continue operations in the event of a lapsed Special Permit.
- G. The holder of the Special Permit shall notify the Zoning Enforcement Officer, the Board of Selectmen and the Planning Board in writing within 48 hours of the cessation of operation of the Marijuana Establishment, or the expiration or termination of the Special Permit Holder's License with the Massachusetts Cannabis Control Commission.

Section 4. Special Permit Application Requirements

- A. A copy of the Provisional License from the Cannabis Control Commission, pursuant to 935 CMR 500, along with an electronic copy of the completed application submitted to the Cannabis Control Commission and all associated documentation filed with said application.
- B. Submission of a site plan depicting all dimensional, parking, and other requirements set forth by this bylaw.
- C. 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.
- D. A detailed floor plan identifying the areas available and functional uses (including square footage).
- E. A notarized statement signed by the Marijuana Establishment'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.
- F. Name, address and phone number of each owner and operator owner of the property.
- G. A copy of an approved Host Community Agreement.
- H. Name, address, phone number, and after-hours contact information of the manager of the Licensed Marijuana Establishment.

- I. 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 facility, 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.
- J. A pedestrian/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 right of ways will not be unreasonably obstructed.
- K. Detailed Plans 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.
- L. All signage being proposed for the facility.
- M. 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 Establishment.
- N. Individual written plans which, at a minimum comply with the requirements of 935 CMR 500, relative to the marijuana establishment's:
 - 1. Operating procedures
 - 2. Marketing and advertising
 - 3. Waste disposal
 - 4. Transportation and delivery of marijuana or marijuana products
 - 5. Energy efficiency and conservation
 - 6. Water use
 - 7. Security and Alarms

Section 5. Special Permit Standards

In addition to the standard requirements for uses permitted by Special Permit the following requirements shall also apply to all Marijuana Establishments:

A. General

- 1. All aspects of a Marijuana Establishment must take place at a fixed location within a fully enclosed building and shall not be visible from the exterior of the business.

2. No outside storage of marijuana, related supplies, or educational materials shall be permitted. Marijuana Establishments are not permitted as a home occupation.
3. No use shall be allowed in 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.

B. Buffer Requirements

No Marijuana Establishment may be located within the following buffer areas as listed below:

1. Five hundred (500 feet) from property used as a Public or Private school providing education in kindergarten or any of grades 1 through 12, Pre-School, Licensed Child Day Care Center.
2. Five hundred feet (500 feet) from any public space where children commonly congregate for a particular purpose in a structured and scheduled manner. For purposes of this bylaw, a child is defined as any individual under the age of eighteen (18) years of age.
3. Five hundred feet (500 feet) from any place of worship that is open to the general public.
4. Five hundred feet (500 feet) from any Town of East Brookfield-owned parks, playgrounds and/or recreational areas.

The distances under this section shall be measured in a straight line from the nearest point of the property line of the Marijuana Establishment, to the nearest point of the property line of the protected uses listed above.

C. Parking

Off street parking for a Marijuana Establishment shall be provided in accordance with the applicable provisions of Section 6 of the East Brookfield Zoning Bylaws.

D. Signage

All signage shall comply with all applicable regulations of the Cannabis Control Commission and the requirements of the East Brookfield Zoning Bylaw.

E. Product Visibility

No marijuana product or any accessory paraphernalia shall be visible to the general public from the exterior of the building or property line.

F. Hours of Operation

Hours of operation for marijuana retailers shall be established by the Zoning Board of Appeals, but in no event shall a Marijuana retailer be open to the public beyond the following operating hours: 10:00am-8:00pm Monday-Saturday and 12:00pm-6:00pm Sunday.

G. Ventilation/Odor

All Marijuana Establishments shall be ventilated in such a manner that 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 or at any adjoining property.

Section 6. Security Requirements

- A. All Marijuana Establishments shall provide adequate security measures to ensure that no individual participant will pose a direct threat to the health or safety of other individuals, and that the storage and/or location of cultivation of marijuana is adequately secured in enclosed, locked facilities.
- B. All applications for a Special Permit shall include a security plan describing all proposed security measures for including lighting, fencing, gates and alarms, and any other such measures including back up power that will satisfy the requirements of 935 CMR 500.110. Confidential copies shall be made available to the Fire and Police Chiefs for review and comment and not be made part of the public record for security reasons. The Police and Fire Chiefs shall have forty-five (45) days to review and comment on the information provided by the applicant. .

Section 7. Licensed Marijuana Establishment Operational Requirements

Before the Marijuana Establishment becomes operational, the applicant must provide the Police Department, the East Brookfield Board of Health and the Building Department, a copy of the Final License issued by the Massachusetts Cannabis Control Commission, in addition to the special permit.

The Marijuana Establishment shall post the Final License issued by the Massachusetts Cannabis Control Commission in a conspicuous location on the premises approved by the Zoning Enforcement Officer

Section 8. Number of Marijuana Retail Establishments

The number of Special Permits for Marijuana Retail Establishments in the Town of East Brookfield shall be limited to twenty percent (20%) of the number of licenses issued within the Town for the retail sale of alcohol not to be drunk on the premises where sold under Massachusetts General Laws Chapter 138, Section 15. For the purposes of determining this number, any fraction shall be rounded up to the next highest whole number.