



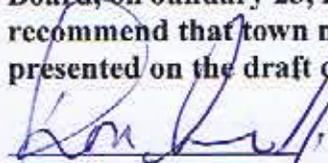
## MONTAGUE PLANNING BOARD

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### MARIJUANA ESTABLISHMENTS DRAFT ZONING BYLAW AMENDMENT FINAL Draft Approved by Planning Board 1/23/2018

#### PLANNING BOARD RECCOMENDATION

To the Board of Selectmen and Town Meeting, let it be known that the Montague Planning Board, on January 23, 2018, subsequent to public hearing that same night voted 5-0 to recommend that town meeting APPROVE the marijuana establishments bylaws as presented on the draft dated 1/23/2018.

  
Ron Sicard  
Chairman of the Planning Board

1/29/2018  
Date

#### PREAMBLE

This proposed zoning bylaw amendment would remove the existing bylaw for registered (medical) marijuana dispensaries and replace it with a broader regulation addressing both recreational and medicinal marijuana establishments in light of new regulations for recreational marijuana drafted by the Massachusetts Cannabis Control Commission. Under the bylaw amendment, the Zoning would regulate Marijuana establishments licensed by the Commonwealth of Massachusetts, inclusive of retail, cultivation, processing, research and testing establishments, and medical treatment facilities. These uses will be allowed by Special Permit and Site Plan Review in the following districts, subject to certain standards and conditions in section 7.10:

**Agriculture-Forestry District-** Marijuana cultivation

**Rural Business District-** Marijuana cultivation or production

**Central Business District-** Marijuana retailer

**General Business District-** Marijuana retailer, Medical Marijuana Treatment Center, cultivation, production, research, or testing

**Industrial District-** Medical Marijuana Treatment Center, Marijuana cultivation, production, research, or testing. Retailer allowed if accessory to cultivation or production as a primary use.

**Historic Industrial District-** Marijuana retailer, Medical Marijuana Treatment Center, cultivation, production, research, or testing

The proposed bylaw does not set a maximum number of retail establishments in Montague. The Zoning Board of Appeals is the Site Plan Review and Special Permit Granting Authority with the exception of the Industrial District where the Planning Board is the Site Plan Review and Special Permit Granting Authority.

## **PROPOSED AMENDEMENT TO TEXT OF ZONING BYLAWS**

Remove Section 7.10 (Registered Marijuana Dispensaries) in its entirety  
Add the following section:

### **7.10 Marijuana Establishments**

#### **7.10.1 Purpose**

The purpose of this Section is to provide for the orderly placement of medical and recreational marijuana establishments in areas where such a use is not inconsistent with the neighborhood character and in accordance with State law.

#### **7.10.2 General**

Marijuana Establishments may be allowed by special permit and site plan review from the Board of Appeals pursuant to Section 5.2, Section 7.10, and Section 8. The Planning Board shall be the Site Plan Review and Special Permit Granting Authority for Marijuana Establishments in the Industrial District. The Special Permit Granting Authorities shall consider the design of buildings, setbacks, visual impacts, outdoor lighting, security, hours of operation, odor control, traffic circulation, and consistency with current and abutting land uses.

#### **7.10.3 Standards and Conditions**

- a) No Marijuana Establishment shall locate any buildings, structures, or signs within 300 feet of a pre-existing public or private school providing education in kindergarten or grades 1 through 12, as measured from the nearest point of the school property.
- b) Marijuana plants, products, and paraphernalia shall not be visible from outside the building in which the Marijuana Establishment is located. No outside storage is permitted.
- c) No odor may be noxious or cause a nuisance, or impair public comfort and convenience. Marijuana Establishments shall incorporate odor control technology and provisions.
- d) The special permit shall be limited to the current applicant and shall provide that the permit shall lapse if the applicant ceases operating the Marijuana Establishment or if the applicant's license with the Commonwealth of Massachusetts expires or is terminated.
- e) The Special Permit Granting Authority may require additional conditions and set standards for performance and maintenance upon finding that such action is reasonably necessary to meet the purpose and intent of the Zoning Bylaws.

## **Section 5.2- Permitted Uses**

*Under Section 5.2.1 (b) Uses allowed by Special Permit from Board of Appeals in Agricultural-Forestry Districts*

Add: "Marijuana cultivation, in accordance with Section 7.10"

*Under Section 5.2.13 (b) Uses allowed by Special Permit from Board of Appeals in Rural Business District*

Add: "Marijuana cultivation or production, in accordance with Section 7.10"

*Under Section 5.2.5 (b) Uses allowed by Special Permit from Board of Appeals in General Business District*

Remove: "Registered Marijuana Dispensary, in accordance with Section 7.10"

Add: "Marijuana retailer, Medical Marijuana Treatment Center, cultivation, production, research or testing, in accordance with Section 7.10"

*Under Section 5.2.6 (b) Uses allowed by Special Permit from Zoning Board of Appeals in Industrial District*

Remove: "Registered Marijuana Dispensary, in accordance with Section 7.10"

*Under Section 5.2.6 (c) Uses allowed by Special Permit from Planning Board in Industrial District*

Add: "Marijuana cultivation, production, research or testing, Medical Marijuana Treatment Center, or retail if accessory to cultivation or production as a primary use, in accordance with Section 7.10"

*Under Section 5.2.6 (b) Uses allowed by Special Permit from Board of Appeals in Central Business District*

Remove: "Registered Marijuana Dispensary, in accordance with Section 7.10"

Add: "Marijuana retailer, in accordance with Section 7.10"

*Under Section 5.2.6 (b) Uses allowed by Special Permit from Board of Appeals in Historic Industrial District*

Remove: "Registered Marijuana Dispensary, in accordance with Section 7.10"

Add: "Marijuana retailer, Medical Marijuana Treatment Center, cultivation, production, research or testing, in accordance with Section 7.10"

## **Section 8.2 Site Plan Review: Applicability**

*Under Section 8.2(g) (applicability):*

Remove: "Registered Marijuana Dispensary, in accordance with Section 7.10"

Add: "Marijuana retailer, Medical Marijuana Treatment Center, cultivation, production, research or testing, in accordance with Section 7.10"

## **SECTION 2 Definitions**

Remove definition: "MEDICAL MARIJUANA DISPENSARY – A Medical Marijuana Treatment Center as defined in 105 CMR 725.004 and regulated in 105 CMR 725.100."

Add six Definitions:

- **MARIJUANA ESTABLISHMENT** – a marijuana cultivator, marijuana research facility or testing laboratory, marijuana product manufacturer, marijuana retailer or Medical Marijuana Treatment Center.
- **MARIJUANA RETAILER**- an entity licensed by the Commonwealth of Massachusetts 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 for recreational or medicinal purposes.
- **MARIJUANA CULTIVATOR**- an entity licensed by the Commonwealth of Massachusetts to cultivate, process, and package marijuana for adult use or medical use purposes, to deliver marijuana to marijuana establishments, and to transfer marijuana to other marijuana establishments, but not to consumers.
- **MARIJUANA PRODUCT MANUFACTURER**- an entity licensed by the Commonwealth of Massachusetts to obtain, manufacture, process, and package marijuana and marijuana products for adult use or medical use purposes, 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 RESEARCH FACILITY OR TESTING LABORATORY**- an entity licensed by the Commonwealth of Massachusetts to cultivate, purchase or otherwise acquire marijuana for the purpose of conducting research or testing regarding marijuana and marijuana products.
- **MEDICAL MARIJUANA TREATMENT CENTER** – an entity registered under 105 CMR 725.100 that acquires, cultivates, possesses, processes (including development of related products), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers.

**CURRENT BYLAW- to be replaced in entirety (for reference only)**

**7.10 Registered Marijuana Dispensaries**

**7.10.1 Purpose**

*The purpose of this Section is to provide for the orderly placement of Registered Marijuana Dispensaries (RMDs) in areas where such a facility is not inconsistent with the neighborhood character.*

**7.10.2 General**

*RMDs may be allowed by special permit and site plan review from the Board of Appeals pursuant to Section 5.2, Section 7.10, and Section 8.*

**7.10.3 Standards**

- (a) The special permit may be limited to the current applicant and to provide that the permit shall lapse if the applicant ceases operating the RMD or if the applicant's registration with the Massachusetts Department of Public Health expires or is terminated;*
- (b) The Board shall consider the design of buildings, setbacks, visual impacts, lighting, security issues, hours of operation, traffic circulation, and consistency with current and abutting land uses;*
- (c) The Board may require additional conditions and set standards for performance and maintenance upon finding that such action is reasonably necessary to meet the purpose and intent of the Zoning Bylaws;*

**Sections 5.2 and 8.2**

*Allowed by Special Permit and Site Plan Review from Zoning Board of Appeals in Central Business, General Business, Industrial, and Historic Industrial*

**SECTION 2 Definitions**

*REGISTERED MARIJUANA DISPENSARY (RMD):--A Medical Marijuana Treatment Center as defined in 105 CMR 725.004 and regulated in 105 CMR 725.100.*