

**ADULT USE MARIJUANA ESTABLISHMENT ZONING BY-LAW  
PROPOSED ZONING AMENDMENTS**

(August 28, 2018)

1. In Section 1.4, Definitions and Abbreviations after the definition for 'Lot Frontage' insert six new definitions as follows:

**Lot Frontage** - The boundary of a lot on land coinciding with a street line if there are both rights of access and potential vehicular access across that boundary to a potential building site. Measured continuously along one street line between side lot lines. In the case of corner lots, measured on the street designated by the owner or, failing that, by the Building Inspector as the frontage street, between the side lot line and the midpoint of the corner radius.

**Marijuana, Adult Use Establishment (AUME)** - Collectively Marijuana Cultivator, Marijuana Independent Testing Laboratory, Marijuana Product Manufacturer, and Marijuana Retailer or any other type of licensed marijuana-related businesses.

**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 Independent Testing Laboratory** - A laboratory that is licensed by the Cannabis Control Commission (Commission) and is: (i) accredited to the most current version of the International Organization for Standardization 17025 by a third-party accrediting body that is signatory of the International Laboratory Accreditation Accrediting Cooperation with a 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 Commission pursuant to MGL Chapter 94G..

**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 without limitation 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.

2. In Section 3.3, Schedule of Use Regulations, after 'Registered Marijuana Dispensary' insert the uses 'Marijuana Cultivator', 'Marijuana Independent Testing Laboratory', 'Marijuana Product Manufacturer', and 'Marijuana Retailer' and refer each use to Section 6F, 'Adult Use Marijuana Establishment Overlay District', as follows:

### 3.3 Schedule of Use Regulations

USES	DISTRICTS							
	SR-A,B,C,D	GR	AH	LB I	LB II	LB III	GB	PL
<b><u>BUSINESS</u></b>								
Registered Marijuana Dispensary (See §6E)	N	N	N	N	SP	N	SP	N
<b>Marijuana Cultivator (See §6F)</b>	<b>N</b>	<b>N</b>	<b>N</b>	<b>N</b>	<b>SP</b>	<b>N</b>	<b>SP</b>	<b>N</b>
<b>Marijuana Independent Testing Laboratory (See §6F)</b>	<b>N</b>	<b>N</b>	<b>N</b>	<b>N</b>	<b>SP</b>	<b>N</b>	<b>SP</b>	<b>N</b>
<b>Marijuana Product Manufacturer (See §6F)</b>	<b>N</b>	<b>N</b>	<b>N</b>	<b>N</b>	<b>SP</b>	<b>N</b>	<b>SP</b>	<b>N</b>
<b>Marijuana Retailer (See §6F)</b>	<b>N</b>	<b>N</b>	<b>N</b>	<b>N</b>	<b>SP</b>	<b>N</b>	<b>SP</b>	<b>N</b>

3. Insert a new Section 6F, 'Adult Use Marijuana Establishment Overlay District', after Section 6E, 'Medical Marijuana Overlay District', as follows:

### **Section 6F Adult Use Marijuana Establishment Overlay District**

#### **6F.1 Purpose**

The purpose of the Adult Use Marijuana Establishment Overlay District (AUMEOD) is to provide for the limited placement of Adult Use Marijuana Establishments (AUME), as they are authorized in accordance with the "Act to Ensure Safe Access to Marijuana", adopted as Chapter 55 of the Acts of 2017, in locations suitable for lawful Adult Use Marijuana Establishment facilities and to minimize adverse impacts of AUMEs on adjacent properties, residential neighborhoods, historic districts, schools, playgrounds and other locations where minors congregate by regulating the siting, design, placement, security, and removal of AUMEs.

## **6F.2 Authority and Establishment**

The Planning Board shall be the Special Permit Granting Authority for Adult Use Marijuana Establishment (AUME) Special Permits.

The boundaries of the AUMEOD are shown on the Zoning Map on file with the Town Clerk and include the underlying Local Business II and General Business Zoning Districts. Within the AUMEOD, all requirements of the underlying districts remain in effect, except where these regulations provide an alternative to such requirements. Land within the AUMEOD may be used either for (1) an AUME, in which case the requirements set forth in this Section shall apply; or (2) a use allowed in the underlying zoning district, in which case the requirements of the underlying zoning district shall apply. If the provisions of the AUMEOD are silent on a zoning regulation, the requirements of the underlying zoning district shall apply. If the provisions of the AUMEOD conflict with the requirements of the underlying zoning district, the requirements of the AUMEOD shall control.

## **6F.3 Use Regulations**

- a. Uses under this Section may only be involved in the uses and activities permitted by the definition as limited by state law, and may not include other businesses or services in the same building.
- b. No marijuana shall be smoked, eaten or otherwise consumed or ingested on or outside the premises.
- c. The hours of operation shall be set by the Planning Board, but in no event shall a facility be open to the public, nor any sale or other distribution of marijuana occur upon the premises or via delivery from the premises, between the hours of 8:00 p.m. and 8:00 a.m.

## **6F.4 Physical and Locational Requirements**

- a. All aspects of the AUME must take place at a fixed location within a fully enclosed building and shall not be visible from the exterior of the business.
- b. Outside storage of marijuana, related supplies, or educational materials is prohibited
- c. All AUMEs shall be ventilated in such a manner that:
  - i. Pesticides, insecticides or other chemicals or products used in the cultivation or processing shall not be dispersed into the outside atmosphere; and

- ii. Odor from marijuana or its processing shall not be detected by a person with an impaired and otherwise normal sense of smell at the exterior of the AUME or at any adjoining use or property.
- d. The proposed use shall not display on-premises 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. Symbols and logos used to identify marijuana shall be prohibited in accordance with state law.
- e. AUMEs may not be located within 300 feet of a school, including a public or private elementary or secondary school.
- f. The distance under this Section is measured in a straight line from the nearest point of the property line of the protected uses identified in Section 6F.4 e. to the nearest point of the building in which the proposed AUME is to be located.

#### **6F.5 Application**

In addition to the materials required under Section 7.4.4 of the Zoning By-Law, the application for a Special Permit AUME shall include:

- A. Disclosure Statement - A notarized statement signed by the organization's Chief Executive Officer and corporate attorney disclosing all of its designated representatives, including officers and directors, shareholders, partners, members, managers, directors, officers 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.
- B. Evidence that the Applicant has site control and the right to use the site for a facility 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 or a redacted copy of the lease agreement.
- C. Description of Activities - A narrative providing information about the type and scale of all activities that will take place on the proposed site, including, but not limited to cultivating and processing of marijuana or marijuana infused products, on-site sales, off-site deliveries, distribution of educational materials, and other programs or activities.
- D. Floor Plans - a detailed floor plan of the premises of the proposed AUME that identifies the square footage available and describes the functional areas of the AUME;
- E. Site Plans - detailed site plans that include the following information:

- i. Compliance with the requirements for parking and loading spaces, for lot size, frontage, yards and heights and coverage of buildings, and all other provisions of this By-Law;
  - ii. Convenience and safety of vehicular and pedestrian movement on the site and for the location of driveway openings in relation to street traffic;
  - iii. Convenience and safety of vehicular and pedestrian movement off the site, if vehicular and pedestrian traffic off-site can reasonably be expected to be substantially affected by on-site changes;
  - iv. Adequacy as to the arrangement and the number of parking and loading spaces in relation to the proposed use of the premises, including designated parking for home delivery vehicle(s), as applicable;
  - v. Design and appearance of proposed buildings, structures, freestanding signs, screening and landscaping; and
  - vi. Adequacy of water supply, surface and subsurface drainage and light.
- F. Transportation Analysis - a quantitative analysis, prepared by a qualified transportation specialist acceptable to the Planning Board, modeling the expected origin and frequency of client and employee trips to the site, the expected modes of transportation used by clients and employees, and the frequency and scale of deliveries to and from the site.
- G. Context Map – a map depicting all properties and land uses within a 300 foot radius of the project site, including but not limited to all facilities identified in Section 6F.4 f. above.
- H. Building Elevations and Signage – Architectural drawings of all exterior building facades and all proposed signage, specifying materials and colors to be used.
- I. Registration Materials: Copies of registrations and licenses and a copy of a signed Host Agreement with the Town of Belmont, in accordance with M.G.L Chapter 94G and subsequent regulations, to the Planning Board prior to the issuance of a Certificate of Occupancy. Required licenses include: the state license from the Cannabis Control Commission (CCC) and the Sales Permit from the Town of Belmont Board of Health.
- J. Disposal Plan – a plan indicating how the unused and/or expired marijuana products will be disposed. Simply disposing the unused and/or expired marijuana products is prohibited.

#### **6F.6 Special Permit Criteria**

In granting a Special Permit for an AUME, in addition to the general criteria for issuance of a Special Permit as set forth in Section 7.4.3 of this Zoning By-Law, the Planning Board shall find that the following criteria are met:

1. The AUME meets all of the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and the Town of Belmont and will be in compliance with all applicable state and local laws and regulations.
2. The building and site have been designed to be compatible with other buildings in the area and to mitigate any adverse visual or economic impacts that might result from required security measures and restrictions on visibility into the building's interior.
3. The AUME provides a secure indoor waiting area and 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.
4. The site is designed such that it provides convenient, safe and secure access and egress for clients and employees arriving to and leaving from the site using all modes of transportation, including drivers, pedestrians, bicyclists and public transportation users.
5. Loading, refuse and service areas are designed to be secure and shielded from abutting uses.
6. Traffic generated by client trips, employee trips, deliveries to and from the AUME, and parking and queuing especially during peak periods at the AUME, shall not create a substantial adverse impact on nearby residential uses.

#### **6F.7 Special Permit Conditions on AUMEs**

The Planning Board shall impose conditions reasonably appropriate to improve site design, traffic flow, public safety, protect water quality, air quality, and significant environmental resources, preserve the character of the surrounding area and otherwise serve the purpose of this Section. In addition to any specific conditions applicable to the applicant's AUME, the Planning Board shall include the following conditions in any Special Permit granted under this By-Law:

- a. Hours of Operation.
- b. The Special Permit shall lapse within five years of its issuance. If the Special Permit holder wishes to renew the Permit, an application to renew the Special Permit must be submitted at least 120 days prior to the expiration of the Special Permit.
- c. The Special Permit shall be limited to the current applicant and is not transferable and shall lapse if the permit holder ceases operating the AUME.
- d. The Special Permit shall lapse upon the expiration or termination of the applicant's state license from the CCC or Sales Permit from the Town of Belmont's Board of Health.

- e. The permit holder shall provide to the Inspector of Buildings and Chief of the Police Department, the name, telephone number and electronic mail address of a contact person in the event that such person needs to be contacted after regular business hours to address an urgent issue. Such contact information shall be kept updated by the permit holder.
- f. The designated representatives shall file an annual report (one year from the issuance of a Certificate of Occupancy) with the Office of Community Development providing a copy of all current applicable state licenses for the AUME and to demonstrate continued compliance with the conditions of the Special Permit.

#### **6F.8 Exemption from AUME Special Permit Requirement**

AUMEs that demonstrate that they are protected pursuant to the agricultural exemption under G.L. c.40A §3 are not required to obtain a Special Permit, but shall apply for Site Plan Approval pursuant to Section 7.3 of the Zoning By-Law.

#### **6F.9 Severability**

If any provision of this Section shall be found invalid for any reason, such invalidity shall be construed as narrowly as possible, and the balance of the Section shall be deemed to be amended to the minimum extent necessary, so as to secure the purposes thereof, as set forth in Section 1.