

PUBLIC HEARING DRAFT OF PROPOSED RECREATIONAL MARIJUANA BYLAW  
AMENDMENT

PB Article PB-2. To see if the Town will vote to amend Chapter 255 (Zoning) of the Town's Code in regard to Recreational Marijuana by amending: Section 255-10, Terms Defined, to insert various new terms and their definitions and to reorder the various terms alphabetically; in Section 255-19 Use Regulations Schedule by inserting new uses related to Recreational Marijuana, and in Article VII, Supplemental District Regulations, by inserting a new Section 255-49 Recreational Marijuana Establishments as detailed in the Planning Board's Report to Town Meeting or take any other action thereto.

The proposed are changes are as follows:

**1. Amend Section 255-10 of the South Hadley Zoning Bylaw by adding the following:**

1. *Cannabinoid* as defined in Chapter 94G, Massachusetts General Laws.
2. *Cannabinoid profile* as defined in Chapter 94G, Massachusetts General Laws.
3. *Close associate*, in regards to Recreational Marijuana, as defined in Chapter 94G, Massachusetts General Laws.
4. *Consumer*, in regards to Recreational Marijuana, as defined in Chapter 94G, Massachusetts General Laws.
5. *Controlling person*, in regards to Recreational Marijuana, as defined in Chapter 94G, Massachusetts General Laws.
6. *Commission*, in regards to Recreational Marijuana, as defined in Chapter 94G, Massachusetts General Laws.
7. *Craft marijuana cultivator cooperative* as defined in Chapter 94G, Massachusetts General Laws.
8. *Cultivation batch* as defined in Chapter 94G, Massachusetts General Laws.
9. *Experienced marijuana establishment operator* as defined in Chapter 94G, Massachusetts General Laws.
10. *Finished marijuana* as defined in Chapter 94G, Massachusetts General Laws.
11. *Hemp* as defined in Chapter 94G, Massachusetts General Laws.
12. *Host community*, in regards to Recreational Marijuana, as defined in Chapter 94G, Massachusetts General Laws.
13. *Independent testing laboratory*, in regards to Recreational Marijuana, as defined in Chapter 94G, Massachusetts General Laws.
14. *Laboratory agent*, in regards to Recreational Marijuana, as defined in Chapter 94G, Massachusetts General Laws.
15. *Licensee*, in regards to Recreational Marijuana, as defined in Chapter 94G, Massachusetts General Laws.
16. *Manufacture*, in regards to Recreational Marijuana, as defined in Chapter 94G, Massachusetts General Laws.
17. *Marijuana (aka Marihuana)* as defined in Chapter 94G, Massachusetts General Laws.
18. *Marijuana accessories* as defined in Chapter 94G, Massachusetts General Laws.
19. *Marijuana cultivator* as defined in Chapter 94G, Massachusetts General Laws.

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20. ***Marijuana establishment*** as defined in Chapter 94G, Massachusetts General Laws.
21. ***Marijuana product manufacturer*** as defined in Chapter 94G, Massachusetts General Laws.
22. ***Marijuana products***. as defined in Chapter 94G, Massachusetts General Laws.
23. ***Marijuana retailer*** as defined in Chapter 94G, Massachusetts General Laws.
24. ***Marijuana testing facility*** as defined in Chapter 94G, Massachusetts General Laws.
25. ***Mycotoxin*** as defined in Chapter 94G, Massachusetts General Laws.
26. ***Process*** , in regards to Recreational Marijuana, as defined in Chapter 94G, Massachusetts General Laws.
27. ***Processing***, in regards to Recreational Marijuana, as defined in Chapter 94G, Massachusetts General Laws.
28. ***Production batch***, in regards to Recreational Marijuana, as defined in Chapter 94G, Massachusetts General Laws.
29. ***Residual solvent***, in regards to Recreational Marijuana, as defined in Chapter 94G, Massachusetts General Laws.
30. ***Terpenoid*** as defined in Chapter 94G, Massachusetts General Laws.
31. ***Unreasonably impracticable***, in regards to Recreational Marijuana, as defined in Chapter 94G, Massachusetts General Laws.

2. **Amend Section 255-19 Use Regulations Schedule by inserting the following new uses related to Recreational Marijuana into the Business Use Classification and/or Industrial Use Classifications and indicate how they are to be permitted or prohibited and insert the footnotes as noted below.**

Uses to be Inserted:

The following uses shall be inserted into the Industrial Use Classification schedule

- Craft marijuana cultivator cooperative
- Marijuana cultivator
- Marijuana product manufacturer
- Marijuana testing facility

The following uses shall be inserted into the Business Use Classification schedule

- Marijuana testing facility
- Marijuana retailer

Where/How Permitted:

The following uses shall be noted as permitted by Site Plan Review only in the Industrial A and Industrial B zoning districts subject to special restrictions specified in Section 255-49

- Craft marijuana cultivator cooperative
- Marijuana cultivator
- Marijuana product manufacturer
- Marijuana testing facility

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The following uses shall be noted as permitted only by Special Permit in the Business A-1, Business A, Business B, and Business C zoning districts subject to special restrictions specified in Section 255-49

- Marijuana testing facility
- Marijuana retailer

Footnotes:

Each of the inserted uses shall include a reference to the following footnote which shall also be inserted on the appropriate portion of the Use Regulations Schedule:

Subject to the provisions of Section 255-49

**3. Amend Article VII, Supplemental District Regulations, by inserting a new Section 255-49 Recreational Marijuana**

**255-49 Recreational Marijuana**

A. Purpose - The purpose of this Section is to provide standards for the placement and operation of facilities and establishments associated with the cultivation, production, and sale of marijuana and accessory products by Marijuana Establishments as permitted in Chapter 255-Attachment 1 “Use Regulations Schedule”, that address public safety and health and minimize impacts on nearby residential uses.

B. Applicability - This Section applies to all specified Marijuana Establishments, as permitted in Chapter 255-Attachment 1 “Use Regulations Schedule”, proposed to be constructed after the effective date of this Section. This Section also pertains to physical modifications that materially alter the type, configuration, or size of these establishments or related equipment.

C. Prohibited Locations –

(1) The building(s) in which a Marijuana Establishment are permitted shall not be located:

(a) Within three hundred (300) feet of any building:

- i. containing another Marijuana Establishment except that a Marijuana Retailer may be located within the same building as a Marijuana product manufacturer which is providing some or all of the product for the retailer; or
- ii. in which is located a public or private elementary school, middle school, secondary school, preparatory school, licensed daycare center, or any other facility in which children commonly congregate in an organized ongoing formal basis; or
- iii. owned by and operated as part of the campus of any private or public institution of higher learning, or
- iv. housing a public library; or

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- v. any residential use, or
  - (b) Within a building containing residential units, including transient housing or group housing such as hotels, motels, lodging houses, or dormitories.
  - (2) The property which is proposed to be permitted for a Marijuana Establishment, at the time the application is received by the Planning Board, shall not be located within 500 feet of a pre-existing public or private school providing education in kindergarten or any of grades 1 through 12. If the parcel of land on which a proposed Marijuana Establishment is to be located is developed with one or more building occupied by more than one tenant, then the Planning Board shall interpret “property which to proposed to be permitted” to shall mean only the portion of the building or property which is actually proposed to be used by the Marijuana Establishment.
- D. Maximum Number of Marijuana Retail Establishments - There shall be no more than three (3) Marijuana Retailers licensed to operate or operating in the Town of South Hadley. In the event applications for multiple Retail Establishments are submitted which, if approved, would result in more than three (3) such establishments being located in South Hadley, the Planning Board shall delay a decision on any application which would result in more than three (3) such establishments until the appeal period for the third establishment has lapsed.
- E. Marijuana Retailer Hours of Operation – Marijuana Establishments engaged in the retail sale of marijuana shall be limited in their hours of operation as follows:
- (1) Monday through Saturday from 8:00 a.m. to 11:00 p.m.
  - (2) Sunday from 10:00 a.m. to 11:00 p.m.
- However, the Planning Board may limit the hours more restrictively if the Board finds that retail establishments in the immediate area engaged in the sale of off-premise consumed alcohol and/or cigarettes operate more restrictively than specified above.
- F. Physical Requirements -
- (1) All aspects of the use/facility relative to the acquisition, cultivation, possession, processing, 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 and shall not be visible from the exterior of the business.
  - (2) No outside storage is permitted. This prohibition applies to all aspects of the product and waste associated with the Marijuana Establishment.
  - (3) Ventilation – all Marijuana Establishments shall be ventilated in such a manner that no:
    - (a) pesticides, insecticides or other chemicals or products used in the cultivation or processing are dispersed into the outside atmosphere
    - (b) odor from marijuana cannot be detected by a person with a normal sense of smell at the exterior of the medical marijuana business or at any adjoining use or property.

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(c) Signage shall conform to Section 255-85 of the South Hadley Zoning Bylaw and requirements of State laws and regulations governing such facilities. i.

G. Special Application Requirements - Above and beyond the standard application requirements for Special Permits, an application for a use under this section shall include the following:

- (1) The name and address of each owner of the facility/operation;
- (2) Copies of all required registrations issued to the applicant by the Commonwealth of Massachusetts and any of its agencies for the facility;
- (3) 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 and a copy of the lease agreement;
- (4) 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;
- (5) In addition to what is normally required in a site plan and/or Special Permit application under Article IX and Article XII of the South Hadley Zoning Bylaw, respectively, details showing all exterior proposed security measures for the premises, 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 (however, this should not be at the same detail as the Security Plan to be submitted to the Chief of Police under G(7) below).
- (6) A Management Plan (inclusive of the Operations Maintenance Plan) as required under the Special Permit Rules and Regulations, including a description of all activities to occur on site, including all provisions for the delivery of Marijuana products to and/or from the site as well as the disposal of waste material.
  - (a) Modifications – Any changes to the plans approved by the Planning Board shall be submitted to the Town Planner/Planning Director for determination if further Planning Board review is warranted prior to issuance of the building permit. If further Planning Board review is deemed warranted, such further review and approval by the Planning Board shall be obtained prior to issuance of the building permit.
  - (b) Updating – Project Proponent shall be responsible for updating the Operations and Maintenance Plan a) whenever personnel with responsibilities identified in the plan change and b) no less than every 5 years .
- (7) Demonstration that the facility's security plan has been approved by the Police Chief. This plan must detail all exterior and interior proposed security measures for the premise, including but not limit to; video monitoring and recording, lighting, fencing, and alarms ensuring the safety of employees and to protect the premises from theft or other criminal activity. This plan must provide 24-hour security and monitoring for the facility, particularly, those portions of the building

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which are deemed by the Police Chief to be most vulnerable to unauthorized entry and least visible from the public ways.

- (8) A Waste Disposal Plan which provides details for disposal of the waste materials in accordance with applicable local and state laws and regulations.

- H. Deferred Application Review and Decision - In the event that Town Meeting votes to enact a ban on any of the five types of establishments regulated in part by Section 255-49, (Craft marijuana cultivator cooperative, Marijuana cultivator, Marijuana product manufacturer, Marijuana testing facility, and/or Marijuana retailer) the 65 day time period for holding a public hearing under sections 255-128 and 255-147 of the Zoning Bylaw shall not commence until such time as the vote on the Ballot Question is certified by the Town. Further, the Planning Board shall not render any decision on an application for such uses(s) unless and until the Ballot Question vote is certified. If such a ban passes Town Meeting and a subsequent Ballot Question vote, the Planning Board shall deny any application for such an establishment.

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