

**AN ORDINANCE AMENDING THE WORCESTER ZONING
ORDINANCE ADOPTED APRIL 2, 1991, RELATIVE TO
ADULT USE MARIJUANA**

Be it ordained by the City Council of the City of Worcester as follows:

SECTION 1. The City of Worcester Zoning Ordinance, adopted April 2, 1991, be and is hereby amended by inserting the following Section 15 at the end of Article IV as follows:

“Section 15 – Adult Use Marijuana

A. Purpose and Intent

The purpose of this Section is to provide for adult use marijuana establishments in the city of Worcester, in accordance with M.G.L. c. 94G and its implementing regulations at 935 CMR 500. It is the express purpose and intent of this Ordinance to minimize the adverse impacts adult use marijuana establishments may have on adjacent properties and to provide standards for the placement, design, siting, safety, security, monitoring, modification and discontinuance of adult use marijuana establishments subject to reasonable conditions that will protect the public health, safety and welfare. This Ordinance is intended to be used in conjunction with other regulations adopted by the city of Worcester designed to encourage appropriate land use and reasonable safeguards to govern the time, place and manner of Marijuana Establishment operations.

B. Administration

Special Permit Granting Authority (SPGA) shall be the Planning Board.

C. Applicability

Nothing in this section shall be construed to supersede federal and state laws governing the sale and distribution of marijuana. This section shall not be construed to prevent the conversion of a medical marijuana treatment center licensed or registered no later than July 1, 2017 engaged in the cultivation, manufacture or sale of marijuana or marijuana products to a Marijuana Establishment, provided, however, any such medical marijuana treatment center obtains a special permit pursuant to this Section for any such conversion to an adult use Marijuana Establishment.

D. 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 commission, and that is licensed to cultivate, obtain, manufacture, process, package and brand marijuana and marijuana products to deliver marijuana to Marijuana Establishments but not to consumers.

MARIJUANA: all parts of any plant of the genus *Cannabis*, not excepted below and whether growing or not; the seeds thereof; and resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin including tetrahydrocannabinol as defined in section 1 of chapter 94C; provided, however, that “marijuana” shall not include: (i) the mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil or cake made from the seeds of the plant or the sterilized seed of the plant that is incapable of germination; (ii) hemp; or (iii) the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink or other products.

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, including a Craft Marijuana Cultivator Cooperative.

MARIJUANA DELIVERY-ONLY-RETAILER: a marijuana retailer that does not provide a retail location accessible to the public, but is authorized to deliver directly from a marijuana cultivator facility, craft marijuana cultivator cooperative facility, marijuana product manufacturer facility, or micro-business.

MARIJUANA ESTABLISHMENT: a marijuana cultivator, independent testing laboratory, marijuana testing facility, marijuana product manufacturer, marijuana retailer, club, lodge, other private grounds (non-profit and private) allowing on-site consumption of marijuana or marijuana products, or any other type of licensed marijuana-related business.

MARIJUANA INDEPENDENT TESTING LABORATORY: a laboratory that is licensed by the 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 Accrediting Cooperation mutual recognition arrangement or that is otherwise approved by the Cannabis Control 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 935 CMR 500.160 and M.G.L. c. 94C, § 34.

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. Such uses shall be limited to 5,000 square feet or less in Business zoning districts.

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 Cannabis Control Commission.

MARIJUANA SOCIAL CONSUMPTION OPERATOR: a marijuana retailer licensed to purchase marijuana and marijuana products from marijuana establishment and to sell marijuana and marijuana products on its premises only to consumers or allow consumers to consume marijuana and marijuana products on its premises only.

MARIJUANA STOREFRONT RETAILER: a marijuana retailer that provides a retail location accessible to consumers 21 years of age or older or in possession of a registration card demonstrating that the individual is a registered qualifying patient with the Medical Use of Marijuana Program, if the retail store is co-located with a medical marijuana treatment center.

MARIJUANA TRANSPORTER: an entity, not otherwise licensed by the Cannabis Control Commission, that is licensed to purchase, obtain, and possess marijuana and marijuana products solely for the purpose of transporting, temporary storage, sale and distribution to marijuana establishments, not for sale to consumers.

MICRO-BUSINESS: a marijuana establishment that is licensed to act as a: licensed marijuana cultivator in an area less than 5,000 square feet; licensed marijuana product manufacturer, and licensed marijuana delivery service in compliance with the operating procedures for each such license. Such uses shall be limited to 5,000 square feet or less in total in Business zoning districts.

E. Use Regulations

1. A Marijuana Establishment shall be permitted in the zoning districts determined by **Table 4.1** and only then upon the issuance of a special permit by the Planning Board acting solely in accordance with the standards and procedures set forth in this section fifteen.
2. The number of Marijuana Retailers that shall be permitted is limited to 20% of the number of licenses issued within the city of Worcester for the retail sale of alcoholic beverages not be drunk on the premises where sold under section 15 of chapter 138.
3. A special permit for a Marijuana Establishment shall be limited to one or more of the following uses that shall be prescribed by the SPGA:
 - a) Club, lodge, other private grounds (non-profit and private) allowing on-site consumption of marijuana or marijuana products, but not operating as a licensed marijuana social consumption operator.
 - b) Marijuana Cultivator
 - c) Marijuana Delivery-Only-Retailer
 - d) Marijuana Independent Testing Laboratory
 - e) Marijuana Product Manufacturer
 - f) Marijuana Research Facility

- g) Marijuana Storefront Retailer
 - h) Marijuana Transporter
 - i) Micro-Business
4. Except for the conversion of a licensed Registered Marijuana Dispensary to an Adult Use Marijuana Establishment, no special permit shall be granted for any Marijuana Establishment sited within a radius of five hundred feet of a public or private, primary or secondary school, licensed daycare center, public library, public park or playground, nor for any Marijuana Storefront Retailer sited within a radius of five hundred feet of another Marijuana Storefront Retailer. The 500 foot distance under this section shall be measured in a straight line from the nearest point of the facility in question to the nearest point of the proposed Marijuana Establishment. Each applicant for a special permit under this section shall submit a plan signed by a licensed surveyor, depicting compliance with the linear distance requirements set forth herein.
 5. All aspects of a Marijuana Establishment relative to the cultivation, possession, processing, sales, distribution, dispensing or administration of marijuana, marijuana products, or related supplies must take place at a fixed location within a fully enclosed building and shall not be visible from the exterior of the building. A Marijuana Establishment shall not be located in a trailer, storage freight container, motor vehicle or other similar movable enclosure.
 6. No outside storage of marijuana, marijuana products, or related supplies is permitted.
 7. The hours of operation of a Marijuana Establishment shall be set by the SPGA, but in no event shall a Marijuana Establishment be open to the public, nor shall any sale or other distribution of marijuana occur upon the premises or via delivery from the premises between the hours of 11p.m. and 8 a.m. Monday through Saturday and before 10 a.m. on Sundays.
 8. The Marijuana Establishment shall provide an odor control plan that provides for proper and adequate ventilation at such facilities in such a manner so as to prevent pesticides, insecticides or other chemicals used in the cultivation or processing of marijuana or marijuana related products from being dispersed or released outside the facilities. All resulting odors, smoke, vapor, fumes, gases and particulate matter from marijuana or its processing or cultivation shall be effectively confined to the premises or so disposed of so as to avoid any air pollution.
 9. The Marijuana Establishment shall provide for adequate and proper security at the premises so as to avoid, deter and prevent illegal activities from taking place upon or about the applicant's premises.

10. No marijuana or marijuana product shall be smoked, eaten or otherwise consumed or ingested on the premises where sold. All Marijuana Establishments permitted under this section shall comply with all state and local laws, rules and regulations governing the smoking of tobacco.

11. No drive-through service shall be permitted at a Marijuana Establishment.

F. Dimensional Requirements

1. A Marijuana Establishment shall comply with the dimensional controls set forth in **Table 4.2.**

G. Abandonment or Discontinuance of Use

1. A special permit grant under this section shall lapse if not exercised within one year of issuance.

2. A Marijuana Establishment shall be required to remove all materials, plants, equipment and other paraphernalia within ninety days of ceasing operations or immediately following revocation of its license issued by the Cannabis Control Commission.

3. The SPGA may require the Marijuana Establishment to post a bond or other resources held in an escrow account in an amount sufficient to adequately support the dismantling and winding down of the Marijuana Establishment.

H. Special Permit Approval Criteria

1. After notice and public hearing, and after due consideration of the evidence submitted, including the reports and recommendations of city departments, the SPGA, in addition to the special permit criteria under Article II, may grant such a special permit provided that it finds that:

a) The Marijuana Establishment does not derogate from the purposes and intent of this Section and the Zoning Ordinance.

b) The application information submitted is adequate for the SPGA to consider approving the special permit request.

c) The proposed establishment is designed to minimize any adverse impacts on abutting properties.

d) The security plan provides sufficient assurance that adequate security controls have been implemented to ensure the protection of the public health and safety during hours of operation and that any marijuana or marijuana related products are adequately secured on-site or via delivery.

- e) The odor control plan proposed adequately provides for the ongoing safe operation of the establishment and minimizes any adverse impacts to abutting properties from odor-emitting activities to be conducted on-site.
- f) The proposed design and operation of the Marijuana Establishment will meet the requirements of this Section.

I. Application Requirements

1. All applicants are encouraged to contact the SPGA staff to schedule a pre-application meeting.
2. In addition to all the application requirements related to special permits under Article II, the applicant shall include the following at the time of application:
 - (a) Copies of all licenses, permits and documentation demonstrating application status, registration or licensure by the Commonwealth of Massachusetts Cannabis Control Commission, including but not limited to a copy of an executed host community agreement .
 - (b) A security plan showing the arrangement of pedestrian circulation and access to the public points of entry to the premises from the nearest public or private street or off-street parking area. The security plan shall detail how the property will be monitored so as to avoid, deter and prevent illegal activities from taking place upon or about the applicant's premises and shall show the location of any walkway structures, lighting, gates, fencing and landscaping.
 - (c) A list of all managers, officers, directors, persons or entities having direct or indirect authority over the management, policies, security operations or cultivation operations of the Marijuana Establishment.
 - (d) A list of all persons or entities contributing 10% or more of the initial capital to operate the Marijuana Establishment, including capital in the form of land or buildings.
 - (e) Proof that the Marijuana Establishment is registered to do business in the Commonwealth of Massachusetts as a domestic business corporation or another domestic business entity in compliance with 935 CMR 500 and is in good standing with the Secretary of the Commonwealth and Department of Revenue.
 - (f) Documentation of a bond or other resources held in an escrow account in an amount sufficient to adequately support the dismantling or winding down of the Marijuana Establishment, if required.
 - (g) 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

and engineering controls that will be implemented to control such odors, including maintenance of such controls.

(h) An applicant who is not the property owner shall submit evidence in the form of a deed, an executed lease or valid purchase and sale agreement documenting the applicant's contingent property interest and legal right to operate a Marijuana Establishment at the property.

SECTION 2. The City of Worcester Zoning Ordinance is hereby amended by inserting in Article IV, Section 2, Table 4.1 – Business Uses, the following new line 32. Marijuana Cultivator:

32. Marijuana Cultivator

RS 10	RS 7	RL 7	RG 5	BO 1	BO 2	BL 1	BG 2	BG 3	BG 4	BG 6	ML 0.5	ML 1.0	ML 2.0	MG 0.5	MG 1.0	MG 2.0	IP .33	IN S	IN H	A 1
N	N	N	N	N	N	N	N	N	N	N	SP	SP	SP	SP	SP	SP	N	N	N	SP

SECTION 3. The City of Worcester Zoning Ordinance is hereby amended by inserting in Article IV, Section 2, Table 4.1 – Business Uses, the following new line 33. Marijuana Independent Testing Laboratory/Marijuana Research Facility:

33. Marijuana Independent Testing Laboratory/Marijuana Research Facility

RS 10	RS 7	RL 7	RG 5	BO 1	BO 2	BL 1	BG 2	BG 3	BG 4	BG 6	ML 0.5	ML 1.0	ML 2.0	MG 0.5	MG 1.0	MG 2.0	IP .33	IN S	IN H	A 1
N	N	N	N	N	N	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	N	N	SP	SP

SECTION 4. The City of Worcester Zoning Ordinance is hereby amended by inserting in Article IV, Section 2, Table 4.1 – Business Uses, the following new line 34. Marijuana Product Manufacturer:

34. Marijuana Product Manufacturer

RS 10	RS 7	RL 7	RG 5	BO 1	BO 2	BL 1	BG 2	BG 3	BG 4	BG 6	ML 0.5	ML 1.0	ML 2.0	MG 0.5	MG 1.0	MG 2.0	IP .33	IN S	IN H	A 1
N	N	N	N	N	N	N	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	N	N	N	SP

SECTION 5. The City of Worcester Zoning Ordinance is hereby amended by inserting in Article IV, Section 2, Table 4.1 – Business Uses, the following new line 35. Marijuana Storefront Retailer/Marijuana Delivery Only Retailer:

35. Marijuana Storefront Retailer/Marijuana Delivery Only Retailer

RS 10	RS 7	RL 7	RG 5	BO 1	BO 2	BL 1	BG 2	BG 3	BG 4	BG 6	ML 0.5	ML 1.0	ML 2.0	MG 0.5	MG 1.0	MG 2.0	IP .33	IN S	IN H	A 1
N	N	N	N	N	N	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	N	N	N	N

SECTION 6. The City of Worcester Zoning Ordinance is hereby amended by inserting in Article IV, Section 2, Table 4.1 – Business Uses, the following new line 36. Marijuana Transporter:

36. Marijuana Transporter

RS 10	RS 7	RL 7	RG 5	BO 1	BO 2	BL 1	BG 2	BG 3	BG 4	BG 6	ML 0.5	ML 1.0	ML 2.0	MG 0.5	MG 1.0	MG 2.0	IP .33	IN S	IN H	A 1
N	N	N	N	N	N	N	N	N	N	N	SP	SP	SP	SP	SP	SP	N	N	N	N

SECTION 7. The City of Worcester Zoning Ordinance is hereby amended by inserting in Article IV, Section 2, Table 4.1 – Business Uses, the following new line 37. Micro-Business:

37. Micro-Business

RS 10	RS 7	RL 7	RG 5	BO 1	BO 2	BL 1	BG 2	BG 3	BG 4	BG 6	ML 0.5	ML 1.0	ML 2.0	MG 0.5	MG 1.0	MG 2.0	IP .33	IN S	IN H	A 1
N	N	N	N	N	N	N	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	N	N	N	SP

SECTION 8. The City of Worcester Zoning Ordinance is hereby amended by inserting in Article IV, Section 2, Table 4.1 – Business Uses, the following new line 38. Club, lodge, other private grounds (non-profit and private) allowing on-site consumption of marijuana or marijuana products.

38. Club, lodge, other private grounds (non-profit and private) allowing on-site consumption of marijuana or marijuana products.

RS 10	RS 7	RL 7	RG 5	BO 1	BO 2	BL 1	BG 2	BG 3	BG 4	BG 6	ML 0.5	ML 1.0	ML 2.0	MG 0.5	MG 1.0	MG 2.0	IP .33	IN S	IN H	A 1
N	N	N	N	N	N	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	N	N	N	N

SECTION 9. The City of Worcester Zoning Ordinance is hereby amended by inserting in Article IV, Section 2, Table 4.1, Notes to Table 4.1, the following new Note 14:

Note 14. Except for the conversion of a Registered Marijuana Dispensary to an Adult Use Marijuana Establishment, no Marijuana Establishment shall be sited within a radius of five hundred feet of a public or private, primary or secondary school, licensed daycare center, public library, public park or playground, nor for a Marijuana Storefront Retailer sited with a radius of five hundred feet of another Marijuana Storefront Retailer. The 500 foot distance under this note shall be measured in a straight line from the nearest point of the facility in question to the nearest point of the proposed Marijuana Establishment.

SECTION 10. The City of Worcester Zoning Ordinance is hereby amended by inserting in Article IV, Section 2, Table 4.1, Notes to Table 4.1, the following new Note 15:

Note 15. A Club, lodge, other private grounds (non-profit and private) allowing on-site consumption of marijuana or marijuana products shall obtain a special permit and conform to the special permit requirements set forth in Article IV, Section 15 relative to Adult Use Marijuana.

SECTION 11. The City of Worcester Zoning Ordinance is hereby amended by inserting in Article IV, Section 2, Table 4.1, Notes to Table 4.1, the following new Note 16:

Note 16. A Marijuana Product Manufacturer or a Micro-Business located in a Business zoning district is limited in size to no more than 5,000 square feet, excluding parking areas.

In City Council June 26, 2018

Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays.

A Copy. Attest:

Susan M. Ledoux, Clerk

Susan M. Ledoux

City Clerk