

ARTICLE X: Amend Zoning Bylaw Sections 1.3 Definitions, 3.3.2 Business District Uses Allowed by Special Permit from the Planning Board, 3.8 General Use Regulations Pertaining to All Districts, 3.10 Table of Principal Uses, 5.5 Registered Marijuana Establishment Overlay District

To see if the Town will vote to amend the Zoning Bylaw by amending Sections 1.3, 3.3.2, 3.8, 3.10, and 5.5 to read as stated below in sections A, B, C, D, and E of this article; and further that non-substantive changes to the numbering of this bylaw be permitted in order that it be in compliance with the numbering format of the Zoning Bylaw; or to take any other action relative thereto.

(Planning Board)

A) Amend Section 1.3 as stated below:

~~MARIJUANA RETAILER – A REGISTERED MARIJUANA ESTABLISHMENT providing 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.~~

MEDICAL MARIJUANA TREATMENT CENTER (**MTC**)– A not-for-profit entity registered under ~~105 CMR 725.100~~ **935 CMR 501.100**, ~~to be known as a REGISTERED MARIJUANA DISPENSARY (RMD);~~ that acquires, cultivates, possesses, processes (including development of related products such as edible MIPs, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers MARIJUANA, products containing MARIJUANA, related supplies, or educational materials to registered qualifying patients or their personal caregivers, as those terms are defined under ~~105 CMR 725.004~~ **935 CMR 501.002**. Unless otherwise specified, RMD **MTC** refers to the site(s) of dispensing, cultivation, and preparation of MARIJUANA.

MEDICAL USE OF MARIJUANA: The acquisition, cultivation, possession, processing (including development of related products such as tinctures, aerosols, or ointments), transfer, transportation, sale, distribution, dispensing, or administration of MARIJUANA, for the benefit of qualifying patients in the treatment of debilitating medical conditions, or the symptoms thereof, as those terms are defined under ~~105 CMR 725.004~~ **935 CMR 501.002**.

~~REGISTERED MARIJUANA DISPENSARY (RMD) – has the same meaning as MEDICAL MARIJUANA TREATMENT CENTER.~~

~~REGISTERED MARIJUANA DISPENSARY – A REGISTERED MARIJUANA ESTABLISHMENT, also known as a Medical Marijuana Treatment Center, is a not-for-profit entity registered under 105 CMR 725.000, that acquires, cultivates, processes (including development of related products such as edible marijuana infused products, tinctures, aerosols, oils or ointments), transfers, transports, sells, distributes, dispenses, administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their caregivers. Unless otherwise specified, REGISTERED MARIJUANA DISPENSARY refers to the site(s) of dispensing, cultivation and preparation of marijuana.~~

REGISTERED MARIJUANA ESTABLISHMENT – A Marijuana Establishment registered with the Cannabis Control Commission in accordance with 935 CMR 500 **or 935 CMR 501** as amended. A RECREATIONAL MARIJUANA RETAILER, MARIJUANA PRODUCT MANUFACTURER, CRAFT MARIJUANA CULTIVATOR COOPERATIVE, INDEPENDENT MARIJUANA TESTING LABORATORY, MARIJUANA MICROBUSINESS, MARIJUANA CULTIVATOR, MARIJUANA RESEARCH FACILITY, ~~REGISTERED MARIJUANA DISPENSARY~~ **MEDICAL MARIJUANA TREATMENT CENTER**, or any other type of MARIJUANA related entity that has been duly licensed by the Massachusetts Cannabis Control Commission, ~~Department of Public Health or relevant State agency.~~

B) Amend Section 3.3.2.11 as stated below:

- 3.3.2.11 MARIJUANA RETAILERS, including the retail component of a REGISTERED ~~MARIJUANA DISPENSARY~~ **MEDICAL MARIJUANA TREATMENT CENTER** provided that the maximum number of such Special Permits in effect at any one time shall be equal to 20% of the available off-premise liquor licenses available for issuance in the Town of Stow as amended in accordance with M.G.L c.138 s.17 and Sections 5.5.4.3 as amended.

C) Amend Section 3.8 as stated below:

- 3.8.4 CRAFT MARIJUANA CULTIVATOR COOPERATIVES, as defined in M.G.L. c.94G Section 1(i), shall be prohibited in the Town of Stow.
- ~~3.8.5 INDEPENDENT MARIJUANA TESTING LABORATORY, as defined in M.G.L. c.94G. Section 1, shall be prohibited in the Town of Stow~~
- 3.8.~~56~~ MARIJUANA CULTIVATORS, as defined in M.G.L. c.94G Section 1, shall be prohibited in the Town of Stow.
- 3.8.~~67~~ MARIJUANA MICROBUSINESS, as defined in Cannabis Control Commission regulations 935 CMR 500, shall be prohibited in the Town of Stow.
- ~~3.8.8 MARIJUANA PRODUCT MANUFACTURER, as defined in M.G.L. c.94G Section 1, shall be prohibited in the Town of Stow.~~
- ~~3.8.9 MARIJUANA RESEARCH FACILITIES, as defined in Cannabis Control Commission regulations 935 CMR 500, shall be prohibited in the Town of Stow.~~
- 3.8.~~740~~ MARIJUANA RETAILER, as defined in M.G.L. c.94G Section 1, shall be prohibited in the Town of Stow.

D) Amend Section 3.10 to read in its entirety as stated below:

Principal Uses	Residential	Business	Compact Business	Industrial	Commercial	Recreation Conservation	FloodPlain Wetlands	Refuse Disposal	Site Plan Approval
Retail Store as part of a REGISTERED MARIJUANA DISPENSARY <u>MEDICAL MARIJUANA TREATMENT CENTER</u>	N	SPP (1)(12)	N	N	N	N	N	N	(3)

- (12) The retail component of a ~~REGISTERED MARIJUANA DISPENSARY~~ **MEDICAL MARIJUANA TREATMENT CENTER** is allowed by Special Permit within the Business District, in accordance with Section 5.5 of the BYLAW and pursuant to ~~Department of Public Health Regulations 105 CMR 175.000 and Cannabis Control Commission Regulations 935 CMR 5010.~~

E) Amend Section 5.5 to read in its entirety as stated below:

5.5 REGISTERED MARIJUANA ESTABLISHMENT OVERLAY DISTRICT

5.5.1 Establishment - The REGISTERED MARIJUANA ESTABLISHMENT Overlay District is intended to provide for the siting and establishment of a REGISTERED MARIJUANA ESTABLISHMENTS, including REGISTERED MARIJUANA DISPENSARIES **MEDICAL MARIJUANA TREATMENT CENTERS**, in accordance with M.G.L c.94G, Massachusetts Department of Public Health **Chapter 55 of the Acts of 2017 (“An Act to Ensure Safe Access to Marijuana”)** regulations set forth in 105 CMR 725.000, and Cannabis Control Commission regulations set forth in 935 CMR 500.000. **(“Adult Use of Marijuana”) and 935 CMR 501 (“Medical Use of Marijuana”).**

This Section 5.5 is adopted for the purpose of regulating such uses as REGISTERED MARIJUANA ESTABLISHMENTS in the Town of Stow.

5.5.2 Purpose - The REGISTERED MARIJUANA ESTABLISHMENT Overlay District Bylaw and the Rules and Regulations for REGISTERED MARIJUANA ESTABLISHMENTS are designed to provide safe and efficient access to REGISTERED MARIJUANA ESTABLISHMENTS, and to minimize the adverse impacts of such facilities on abutting properties, residential neighborhoods, and schools through controls on site design, location, hours of operation, security and setbacks from incompatible USES as established in accordance with all applicable law.

5.5.3 Applicability

1. No REGISTERED MARIJUANA ESTABLISHMENT, including any and all accessory STRUCTURES and USES shall be allowed within the REGISTERED MARIJUANA ESTABLISHMENT Overlay District unless a Special Permit by the Planning Board is granted in accordance with the requirements set forth in this section of the Zoning Bylaw and the Rules and Regulations for RECREATIONAL MARIJUANA ESTABLISHMENTS.
2. REGISTERED MARIJUANA ESTABLISHMENTS shall comply with all applicable State and local laws, regulations, by-laws, permit conditions and agreements with the Town of Stow, including but not limited to M.G.L. Ch.94G, Ch.94I, 935 CMR 500, ~~405 CMR 725~~ **935 CMR 501**, the Town of Stow’s General Bylaws, Zoning Bylaws, all applicable Town and State building, fire, police and health codes, regulations and standards, as well as any conditions placed upon REGISTERED MARIJUANA ESTABLISHMENTS by State and local entities in relation to permits granted, including conditions and agreements in a Host Community Agreement entered into with the Town of Stow.
3. REGISTERED MARIJUANA ESTABLISHMENTS shall not be considered a form of agriculture pursuant to M.G.L Ch.40A s.3.

5.5.4 **General Requirements**

5.5.4.1 REGISTERED MARIJUANA ESTABLISHMENT Rules and Regulations -

The Planning Board shall adopt and maintain a set of regulations that contain the necessary policies, procedures and requirements to implement the provisions of this Bylaw.

5.5.4.2 REGISTERED MARIJUANA ESTABLISHMENTS shall execute and maintain a Host Community Agreement with the Town of Stow Select Board pursuant to the provisions of M.G.L. c.94G.

5.5.4.2.1 Nothing in this Bylaw shall cause to preclude the Town of Stow and a REGISTERED MARIJUANA ESTABLISHMENT from entering into a Host Community Agreement in accordance with 935 CMR 500.101(f).

5.5.4.3 Consistent with M.G.L c.94G Section 3[2](ii), Special Permits granted for the retail sale of MARIJUANA PRODUCTS by a MARIJUANA RETAILER, including through the retail component of a ~~REGISTERED MARIJUANA DISPENSARY~~ **MEDICAL MARIJUANA TREATMENT CENTER**, shall be limited to twenty percent (20%) of the off-premise liquor licenses available for issuance in the Town of Stow, in accordance with M.G.L c.138 §15. The maximum number of such Special Permits in effect at any one time shall be equal to 20% of the available off-premise liquor licenses available for issuance in the Town of Stow as amended in accordance with M.G.L c.138 s.17.

5.5.4.4 Application for a REGISTERED MARIJUANA ESTABLISHMENT Special Permit.

An application for a REGISTERED MARIJUANA ESTABLISHMENT Special Permit shall be submitted in writing pursuant to the requirements set forth in Section 5.5 of this Bylaw, the Town of Stow Planning Board's Rules and Regulations for REGISTERED MARIJUANA ESTABLISHMENTS, Town of Stow Site Plan Approval Rules and Regulations and Town of Stow Special Permit Rules and Regulations.

5.5.4.5 Limitation of Approval

A Special Permit authorizing the establishment of a REGISTERED MARIJUANA ESTABLISHMENT shall be valid only for the registered entity to which the Special Permit was issued, and only for the site on which the REGISTERED MARIJUANA ESTABLISHMENT has been authorized to locate. In the event that license and/or registration for a REGISTERED MARIJUANA ESTABLISHMENT has been revoked or suspended by the Cannabis Control Commission, or in such instance as the REGISTERED MARIJUANA ESTABLISHMENT license has been transferred to another controlling entity, or relocated to a different site within the REGISTERED MARIJUANA ESTABLISHMENT, the Special Permit shall become null and void and a new Special Permit shall be required to reestablish its USE.

5.5.4.6 Hours of operation for the REGISTERED MARIJUANA ESTABLISHMENT shall be set by the Special Permit Granting Authority

5.5.5 Location Requirements

5.5.5.1 All aspects of a REGISTERED MARIJUANA ESTABLISHMENT, including but not limited to sales, distribution, acquisition, cultivation, manufacture, processing, dispensing, and administration shall be contained within a building or structure. No REGISTERED MARIJUANA ESTABLISHMENT shall allow cultivation, processing, manufacture, sale or display of MARIJUANA PRODUCTS to be visible from a public place without the use of binoculars, aircraft or other optical aids.

The Planning Board may only allow outdoor activity at the site of a REGISTERED MARIJUANA ESTABLISHMENT under the following circumstances: The REGISTERED MARIJUANA ESTABLISHMENT **where it** utilizes vehicles as part of regular activity, in accordance with all safety, security and storage requirements of 935 CMR 500.

- 5.5.5.2 No REGISTERED MARIJUANA ESTABLISHMENT, including the retail component of a REGISTERED MARIJUANA DISPENSARY **MEDICAL MARIJUANA TREATMENT CENTER** in the Business District, shall be located within a building which houses residential DWELLING UNITS.
- 5.5.5.3 Manufacturing and extraction of MARIJUANA PRODUCTS shall not occur in any BUILDING containing assembly, education, health care, ambulatory health care, residential board and care, detention or correctional facilities.
- 5.5.5.4 No REGISTERED MARIJUANA ESTABLISHMENT shall be located within a moveable structure, trailer or truck. All sales related to the retail component of a REGISTERED MARIJUANA DISPENSARY **MEDICAL MARIJUANA TREATMENT CENTER** shall be conducted within a building or through home deliveries to qualified adults or patients pursuant to 935 CMR 500 or ~~105 CMR 725~~ **935 CMR 501** as amended. Nothing in this Section shall be cause to preclude the lawful transportation of MARIJUANA PRODUCTS as allowed through 935 CMR 500 or ~~105 CMR 725.000~~ **935 CMR 501**.
- 5.5.5.5 No REGISTERED MARIJUANA ESTABLISHMENT shall be permitted within (500') five hundred feet of the lot line of a pre-existing public or private school providing education in kindergarten or any of grades one (1) through twelve (12). The distance shall be measured in a straight line from the **geometric center of the REGISTERED MARIJUANA ESTABLISHMENT entrance to the geometric center of the nearest school entrance, unless there is an impassable barrier within those 500 feet; in such case, the buffer zone distance shall be measured along the center of the shortest publicly-accessible pedestrian travel path from the geometric center of the REGISTERED MARIJUANA ESTABLISHMENT entrance to the geometric center of the nearest school entrance.** nearest point of the property line in question to the nearest point of the property line where the REGISTERED MARIJUANA ESTABLISHMENT is or will be located.
- 5.5.5.6 The establishment and operation of the retail component of a REGISTERED MARIJUANA DISPENSARY **MEDICAL MARIJUANA TREATMENT CENTER** may only be permitted in the Business District in accordance with all applicable laws and regulations as stated in 935 CMR 500, **935 CMR 501**, Massachusetts Department of Public Health regulations set forth in ~~105 CMR 725.000~~ and the provisions outlined in this Section 5.5 - REGISTERED MARIJUANA ESTABLISHMENT Overlay District of the Zoning Bylaw. Despite the provisions herein, regarding the siting of the retail component of a REGISTERED MARIJUANA DISPENSARY **MEDICAL MARIJUANA TREATMENT CENTER**, the retail component of a REGISTERED MARIJUANA DISPENSARY **MEDICAL MARIJUANA TREATMENT CENTER** shall be governed by the provisions outlined in this Section 5.5 - REGISTERED MARIJUANA DISPENSARY Overlay District.

5.5.6 Security Requirements

- 5.5.6.1 REGISTERED MARIJUANA ESTABLISHMENTS shall maintain compliance with all security requirements set forth in 935 CMR 500. Additionally, REGISTERED MARIJUANA ESTABLISHMENTS shall:
1. Provide a Security and Emergency Response Plan with the Town's Fire and Police Departments. The plan shall include but be limited to information on the REGISTERED MARIJUANA ESTABLISHMENT's processes and provisions

related to alarms, fencing, gates, limited access areas, delivery procedures, police details, locations of security video and associated lighting, and operations plans for the notification of the Police and Fire Departments in the event of any emergency or known or suspected violation of criminal law that has taken place on or near the location of the REGISTERED MARIJUANA ESTABLISHMENT.

2. Secure every entrance to the REGISTERED MARIJUANA ESTABLISHMENT for the purpose of restricting access to areas containing MARIJUANA PRODUCTS to all persons other than employees and others permitted by the REGISTERED MARIJUANA ESTABLISHMENT to access the establishment, and to Cannabis Control Commission, or state and local law enforcement officers, agents and emergency personnel.
3. Secure inventory and equipment during and after operation hours to deter theft or unlawful tampering with MARIJUANA PRODUCTS in accordance with 935 CMR 500, the conditions of the Special Permit and the Security and Emergency Response plan approved pursuant to Section 5.5.6.1(1) of this Bylaw.

5.5.7 Access to Premises and Information

5.5.7.1 In addition to the inspection requirements set forth in 935 CMR 500, the granting of a Special Permit from the Planning Board shall serve as consent to unannounced, unscheduled, periodic inspections of its premises by the Building Commissioner, Planning, Health, Fire and Police Departments or their designee during normal business hours, for the purpose of determining compliance with applicable State and local laws, permits, licenses and agreements. Inspectors shall be granted access to all areas of the REGISTERED MARIJUANA ESTABLISHMENT. The REGISTERED MARIJUANA ESTABLISHMENT shall be subject to re-inspection fees upon identification of a circumstance that requires re-inspection. The fee structure for applicable inspections shall be provided in the Rules and Regulations for REGISTERED MARIJUANA ESTABLISHMENTS.

5.5.7.2 Within 24 hours of receipt of notice, a REGISTERED MARIJUANA ESTABLISHMENT shall file with the Planning Board, Department of Health and Building Commissioner, any summary cease and desist order, cease and desist, quarantine, suspension or revocation order, order limiting sales, deficiency statement, plan of correction, notice of hearing, notice of any administrative process or legal action, denial of license, denial of license renewal or final action issued by the State Cannabis Control Commission or Department of Public Health regarding the REGISTERED MARIJUANA ESTABLISHMENT, the REGISTERED MARIJUANA ESTABLISHMENT license, or the Department of Public Health Certificate of Registration.

5.5.8 Site and Dimensional Requirements

5.5.8.1 Dimensions – A REGISTERED MARIJUANA ESTABLISHMENT shall conform to the dimensional requirements of the underlying district in which it resides as set forth in the Section 4.4 of the Stow Zoning Bylaw, Table of Dimensional Requirements.

5.5.8.1.1 In addition to the limitations provided in Section 5.5 of the Zoning Bylaw, the retail component of a ~~REGISTERED MARIJUANA DISPENSARY~~ **MEDICAL MARIJUANA TREATMENT CENTER** shall be limited to 2500 square feet of

gross floor area where such establishment is located at the street level of a BUILDING or STRUCTURE.

- 5.5.8.2 Height – REGISTERED MARIJUANA ESTABLISHMENTS shall conform to the height regulations set forth in Section 4.2 of the Stow Zoning Bylaw.
- 5.5.8.3 Parking and Loading – The required number of parking and loading areas servicing the REGISTERED MARIJUANA ESTABLISHMENT shall conform to Parking Regulations in Section 7 of the Zoning Bylaw. The Planning Board, at its sole discretion, may require a copy of projected parking needs to determine whether there is sufficient parking and loading area on site for the expected traffic and demand. Based on a transportation analysis, or other relevant documents, not limited to market analyses, trade area studies and/or comparable site analyses submitted as part of the Special Permit application, the Planning Board may deviate from the required number of parking spaces to ensure an adequate number of parking spaces and to preclude an excess amount of traffic on site.
- 5.5.8.4 Signage – REGISTERED MARIJUANA ESTABLISHMENTS shall meet the requirements of Section 6.3 of the Zoning Bylaw regulating signs. Under no circumstance shall a REGISTERED MARIJUANA ESTABLISHMENT be held to a Zoning Bylaw standard for signage more restrictive than those applied to retail establishments selling alcoholic beverages within the Town of Stow.
 - 5.5.8.4.1 Illuminated Signage – Notwithstanding requirements of Section 3.8.1.5 – Lighting, and Section 6.3 – Signage, any external signage, which is illuminated beyond the period of thirty (30) minutes before sundown until closing, shall be prohibited.
- 5.5.8.5 Lighting – Lighting for the REGISTERED MARIJUANA ESTABLISHMENT, including all accessory structures, parking and security requirements, shall comply with Section 3.8.1.5 (exterior lighting) of the Zoning Bylaw. The Planning Board may deviate from the requirements of Section 3.8.1.5 where it determines that additional light is needed to facilitate exterior surveillance in accordance with the ~~Department of Public Health Regulations 105 CMR 725.110 A(10) and security requirements as set forth in 935 CMR 500.110.~~

Planning Board Action

- 5.5.9 In evaluating the proposed REGISTERED MARIJUANA ESTABLISHMENT Special Permit application, the Planning Board shall consider the general objectives of the Zoning Bylaw, as well as the degree to which the following criteria are met:
 - a) The REGISTERED MARIJUANA ESTABLISHMENT proposal complies with all requirements for a Special Permit, including the Stow Zoning Bylaw, the Site Plan Approval Rules and Regulations, Rules and Regulations for a REGISTERED MARIJUANA ESTABLISHMENT, all requirements pursuant to ~~the Department of Public Health Regulations 105 CMR 725.000,~~ Cannabis Control Commission regulations at 935 CMR 500.000 and 935 CMR 501, and M.G.L. c.94G.
 - b) Issuance of a Special Permit for the retail component of a REGISTERED MARIJUANA DISPENSARY MEDICAL MARIJUANA TREATMENT CENTER shall not exceed the limitation on the number of such establishments pursuant to Section 5.5.4.3 of the Zoning Bylaw.

- c) The site is designed to create safe, secure and efficient access and egress to customers and employees using multiple modes of transportation, including vehicle, bicycle and pedestrians.
- d) Traffic generated by clients, employees and delivery schedules from the REGISTERED MARIJUANA ESTABLISHMENT shall not create a substantial adverse impact on nearby residential uses.
- e) Loading and refuse disposal areas are designed to be safe, secure and shielded from abutting uses.
- f) The hours and methods of transportation are not substantially detrimental to surrounding USEs.
- g) The REGISTERED MARIJUANA ESTABLISHMENT has provided documentation to show compliance with 527 CMR 1 – the Comprehensive Fire Code and Chapter 38 of the National Fire Protection Association (NFPA) standards for *Marijuana Growing, Processing, or Extraction Facilities*.
- h) The building and site have been designed in a manner consistent and compatible with nearby structures of a similar size and use and in a manner that mitigates any negative aesthetic impact imposed by the required security conditions, measures and restrictions stated in the ~~Department of Public Health Regulations pursuant to 105 CMR 725.000 and Cannabis Control Commission Regulations pursuant to 935 CMR 500.000~~ **and 935 CMR 501**.

5.5.9.1 The Planning Board shall consider the recommendation of the Board of Health, the Conservation Commission, the Town’s consulting engineer, and other Boards, Departments and agents, in making said findings.

5.5.9.2 The Planning Board may require changes to the “REGISTERED MARIJUANA ESTABLISHMENT Site Plan” and impose additional conditions, safeguards and limitations, as it deems necessary, to secure the objectives of this Bylaw.

5.5.10 Severability - If any provision of this Section or the application of any such provision to any person or circumstance shall be held invalid, or the application of those provisions to persons or circumstances other than those to which it is held invalid, the remaining provisions of this Zoning Bylaw shall not be affected thereby, and to this end the provisions of this Zoning Bylaw are severable.

5.5.11 Enforcement – Special Permits pertaining to REGISTERED MARIJUANA ESTABLISHMENTS shall be enforced by the Zoning Enforcement Officer of the Town of Stow or its designee as may be consistent with M.G.L Ch.94G. Enforcement shall supersede any conflicting provision of the Zoning Bylaw that would otherwise be applicable to the enforcement of this section.

5.5.12 Discontinuance and Abandonment - Any REGISTERED MARIJUANA ESTABLISHMENT permitted under this section shall be required to remove all material, plants, equipment, and other paraphernalia in compliance with ~~105 CMR 725 and 935 CMR 500~~ **and 935 CMR 501** prior to the expiration of its ~~Department of Public Health or Cannabis Control Commission~~ Registration and or License, immediately following revocation or voiding of such.

5.5.13 Annual Reporting - A REGISTERED MARIJUANA ESTABLISHMENT permitted under this Zoning Bylaw shall, as a condition of its Special Permit, file an annual report to the Planning Board no later than January 31st, providing a copy of all current applicable

state licenses for the operation according to the type of license it has been issued, and/or its owners.

Planning Board Summary

The purpose of this article is to amend the Registered Marijuana Establishment Overlay District bylaw for clarity and to include current and proper references to updated State laws. Language around the types of establishments allowed in Town in Sections 3.8.4 through 3.8.9 is in conflict with allowed establishments as described elsewhere in the Zoning Bylaw and those allowed through the Special Town Election held in November 2018.