

**LEGAL NOTICE
PUBLIC HEARING
WAKEFIELD PLANNING BOARD**

**Town Clerk - Wakefield, MA
2/26/2024 12:19 PM**

In accordance with the provisions of Chapter 40A, §5, of the General Laws of Massachusetts, the Wakefield Planning Board will hold a public hearing on **Tuesday, March 12, 2024, commencing at 8:00 P.M.** remotely via Zoom to hear and act upon the proposed zoning bylaw and zoning map set forth below.

This hearing will be conducted by remote participation to the greatest extent possible. The public may not physically attend this hearing, but will be allowed to participate in the hearing, view and listen to the hearing in real time. Persons who wish to do so are invited to join utilizing the following link: <https://us06web.zoom.us/j/86967491485?pwd=gSkzTWDUnbcv1U1LBETGw8TG1aGqAy.1> If you do not have a camera or microphone on your computer you may use the following dial in number: 1-301-715-8592 Meeting ID 869 6749 1485 Passcode: 549067. Please only use dial in or computer and not both, as audio feedback will distort the meeting. This meeting will be audio and video recorded. In compliance with the Americans with Disability Act, Wakefield provides reasonable accommodations including language assistance free of charge upon request. If you are a person with a disability and require information or materials in an alternate format, or if you require any other accommodation, please contact the Town's Disability Coordinator and Town Engineer, William Renault at 781-246-6308 as far in advance of the event as possible. Every effort will be made to grant your request. Advance notification will enable the Town to make reasonable arrangements to remove an accessibility barrier for you.

The proposed text of the amendments to the existing Wakefield Zoning Bylaws and the proposed amendment to the Zoning Map are as follows:

§190-4 (Definitions) of the Town of Wakefield Zoning Bylaw is hereby amended by inserting after the definition of "Lot Width" the following new definitions:

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; provided that "marijuana" shall not include:

- A. 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;
- B. Hemp; or
- C. The weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink or other products.

MARIJUANA ACCESSORIES

Equipment, products, devices or materials of any kind that are intended or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, ingesting, inhaling or otherwise introducing marijuana into the human body.

MARIJUANA CULTIVATOR

An entity licensed to cultivate, process and package marijuana, and to transfer marijuana to other Marijuana Establishment(s), but not to consumers.

MARIJUANA ESTABLISHMENT

A marijuana cultivator, marijuana product manufacturer, Marijuana Retailer, marijuana testing laboratory, or any other type of licensed marijuana-related business, except a registered marijuana dispensary (RMD), subject to regulation under Chapter 94G of the Massachusetts General Laws.

MARIJUANA PRODUCT MANUFACTURER

An entity licensed to obtain, manufacture, process and package marijuana and Marijuana Products, and to transfer marijuana and Marijuana Products to other Marijuana Establishment(s), but not to consumers.

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 RETAILER

A Marijuana Establishment licensed to purchase and transport cannabis or marijuana product from Marijuana Establishment(s) and to sell or otherwise transfer this product to Marijuana Establishment(s) and to consumers. Retailers are prohibited from delivering cannabis or Marijuana Products to consumers, and from offering cannabis or Marijuana Products for the purposes of on-site social consumption on the premises of a Marijuana Establishment.

MARIJUANA TESTING LABORATORY

- A laboratory that is licensed by the Cannabis Control Commission and is:
- A. 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 Cooperation mutual recognition arrangement or that is otherwise approved by the Commission;
 - B. Independent financially from any medical marijuana treatment center or any licensee or Marijuana Establishment for which it conducts a test; and
 - C. Qualified to test marijuana in compliance with regulations promulgated by the Commission.

MARIJUANA TRANSPORTATION OR DISTRIBUTION FACILITY

An entity with a fixed location that is licensed to purchase, obtain, and possess cannabis or Marijuana Products solely for the purpose of transporting and temporarily storing the same on the premises for sale and distribution to Marijuana Establishment(s), but not consumers.

Section 190-23 (Table of Use Regulations) as appearing in Article IV (Use Regulations) of the Town of Wakefield Bylaws is hereby amended by inserting prior to the words "Registered marijuana dispensary" the following:

	SSR	SR	GR	MR	NB	LB	B	LI	I	Assisted Living Facility Overlay District	Marijuana Establishment Overlay District
Marijuana cultivator	N	N	N	N	N	N	N	N	N	N	SP
Marijuana product manufacturer	N	N	N	N	N	N	N	N	N	N	SP
Marijuana research facility	N	N	N	N	N	N	N	N	N	N	SP
Marijuana testing laboratory	N	N	N	N	N	N	N	N	N	N	SP
Marijuana transportation or distribution facility	N	N	N	N	N	N	N	N	N	N	SP
Marijuana retailer	N	N	N	N	N	N	N	N	N	N	SP

Chapter 190 (Zoning Bylaws) of the Town of Wakefield Bylaws is hereby amended by deleting the existing article XIX and inserting in place thereof the following new Article XIX:

ARTICLE XIX

190-111 Purpose.
Purpose. The purpose of this section is to permit state-licensed Marijuana Establishment(s) to operate in select locations in the Town of Wakefield, pursuant to local requirements that seek to protect the health, safety, and public welfare of residents and in accordance with Chapter 94G of the Massachusetts General Laws, 935 CMR 500.000 ("Adult Use of Marijuana"), and regulations promulgated by the Cannabis Control Commission.

190-112. Applicability.
The provisions of this section shall be applicable to all Marijuana Establishments in the Town of Wakefield, with the exception of registered marijuana dispensaries (RMDs). Regulations for RMDs can be found in Article XVIII of the Wakefield Zoning Ordinance (Sections 190-104 through 190-110).

190-113 General Requirements and Conditions.
General requirements and conditions.

- (1) Location and operation.
 - a. Marijuana Establishment(s) are permitted as allowed in the Table of Use Regulations (§190-23).
 - b. All aspects of a Marijuana Establishment relative to the cultivation, possession, processing, 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.
 - c. No outside storage of marijuana, Marijuana Products, or related supplies is permitted.
 - d. 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.
 - e. 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.
 - f. No marijuana or marijuana product shall be smoked, eaten or otherwise consumed or ingested on the premises. All Marijuana Establishment(s) permitted under this Section shall comply with all state and local laws, rules and regulations governing the smoking of tobacco.
 - g. All signs associated with Marijuana Establishment(s) shall comply with 935 CMR 500.000 and Article XIII (§§190-74 through 83), Signs, of the Wakefield Zoning Ordinance. Signs shall only identify the marijuana establishment by its registered name and shall not utilize graphics related to marijuana or paraphernalia on the exterior of the building in which the establishment is located.
- (2) Additional location requirements.
 - a. A Marijuana Establishment 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. Distances shall be measured in a straight line from the geometric center of the Marijuana Establishment entrance to the geometric center of the nearest school entrance, unless there is an Impassable Barrier within those 500 feet; in these cases, the buffer zone distance shall be measured along the center of the shortest publicly-accessible pedestrian travel path from the geometric center of the Marijuana Establishment entrance to the geometric center of the nearest school entrance. "Impassable Barrier" means, for the purposes of determining the 500 feet buffer zone, a highway, public or private way or path, inaccessible structure, body of water or wetland, or other geographical feature or obstruction that renders any part

- of the 500- straight-line distance between a Marijuana Establishment(s) entrance and a school entrance inaccessible by a pedestrian or automobile.
- b. Marijuana Establishment(s) shall not be located in a building that contains a preexisting daycare center.
- c. Marijuana product manufacturing shall not be done in any building containing assembly, educational, health care, ambulatory health care, residential board and care, residential, or detention and correctional facilities.
- (3) Security.
 - a. Marijuana Establishment(s) shall provide the Wakefield Police Department and Building Commissioner with the names, phone numbers, and e-mail addresses of all management staff and key holders to whom one can provide notice if there are operating problems associated with the establishment and update that list whenever there is any change in management staff or key holders.
 - b. Solid waste dumpsters or other waste containers shall be locked and enclosed by a screening enclosure so as not to be accessible to the public.
 - c. Landscaping elements must be nonobtrusive. The placement of landscaping elements for the Marijuana Establishment(s) must ensure landscaping elements, including trees, bushes, and other foliage, do not allow for a person or persons to conceal themselves at night.
 - d. The exterior grounds, including the parking lot and landscaped areas, shall be lighted in such a manner that all areas are clearly visible at all times during business hours.
 - e. Marijuana Establishment(s) shall secure every entrance to the Marijuana Establishment(s) so that access to areas containing the storage of Marijuana Products are restricted to employees and others permitted by the Marijuana Establishment(s) to access the area and to Cannabis Control Commission or state and local law enforcement officers, agents, and emergency personnel.

190-114 Special Permit.
Special permit. For special permits for Marijuana Establishment(s), the Zoning Board of Appeals is the special permit granting authority. The Zoning Board of Appeals may grant a special permit for a Marijuana Establishment as allowed herein if the Board finds that the proposal satisfies the purposes set forth in § 190-111 above, the general requirements and conditions for Marijuana Establishment(s) in Subsection §§190-112 & 113 above, the findings in §190-44 of the Zoning Ordinance, and the following statements, regulations, requirements, findings, conditions, and limitations. Applications for a special permit for a Marijuana Establishment(s) shall not be subject to site plan review (§§190-45 & 46).

- (1) Requirements.
 - a. It shall be unlawful for any person to operate a Marijuana Establishment(s) without
 - a. obtaining a special permit to operate pursuant to the requirements of this section.
 - b. A separate special permit is required for each different Marijuana Establishment(s) detailed in § 190-4, entitled "Definitions". In the case that one or more different types of Marijuana Establishment(s) are proposed, each establishment type shall require a special permit from the Zoning Board of Appeals.
 - c. The special permit requirements set forth in this chapter shall be in addition to, and not in lieu of, any other licensing and permitting requirements imposed by any other federal, state, or local law.
 - d. The issuance of a special permit pursuant this chapter does not create an exception, defense, or immunity to any person or entity in regard to any potential criminal liability the person or entity may have for the production, distribution, or possession of marijuana.
 - e. A special permit issued for a Marijuana Establishment(s) is not transferable or assignable to a different location or a different type of Marijuana Establishment(s).
 - (2) All applicants are encouraged to contact the Zoning Board of Appeals to schedule a preapplication meeting. In addition to all the application requirements related to special permits 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.
 - 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(s).
 - d. A list of all persons or entities contributing 10% or more of the initial capital to operate the Marijuana Establishment(s), including capital in the form of land or buildings.
 - e. Proof that the Marijuana Establishment(s) 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(s), 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(s) at the property.
 - i. Any other information requested by the Zoning Board of Appeals that will allow

fair and full consideration of the special permit request.

(3) Applications for a Marijuana Retailer seeking to co-locate with a registered marijuana dispensary shall include a narrative detailing the physical separation between medical and adult use (recreational) sales areas. Separation may be provided by a temporary or semipermanent physical barrier, such as a stanchion, that adequately separates sales areas of Marijuana Products for medical use from sales areas of Marijuana Products for adult use. A retailer shall provide for separate lines for sales of Marijuana Products for medical use from marijuana products for adult use within the sales area; provided, however, that the holder of a medical registration card may use either line and shall not be limited only to the medical use line. A retailer shall additionally provide an area that is separate from the sales floor to allow for confidential consultation.

(4) The Zoning Board of Appeals shall distribute a set of the application materials to the Police Chief, Health Director, and Building Commissioner for review. The Zoning Board of Appeals will provide notice of receipt of an application to the Town Engineer, Fire Chief, Conservation Commission, Town Solicitor, Town Council, and Town Administrator. All departments shall report their comments, conditions, remedial measures and recommendations, in writing, to the Zoning Board of Appeals within 30 days.

(5) Findings. In addition to the findings required by 190-44, the Zoning Board of Appeals shall not issue a special permit for a marijuana establishment unless it finds that:

- a. The Marijuana Establishment(s) does not derogate from the purposes and intent of this Section and this Bylaw.
- 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(s) will meet the requirements of this Section.

(6) Lapse. A special permit granted under this Section shall lapse if not exercised within two years of issuance.

(7) Inspections and reporting.

a. Marijuana Establishment(s) shall consent to unannounced, unscheduled, periodic inspections of its premises by the Building Commissioner or designee, including an agent from the Building, Health, Police, and Fire Departments on weekdays during normal business hours to determine the Marijuana Establishment(s) compliance with the requirements of applicable state and local laws, regulations, codes, license and permit conditions, and this section.

b. Routine inspections may be made on weekdays during regular Town business hours by authorized inspectional departments to determine compliance with applicable state and local laws, regulations, codes, and license and permit conditions. Inspections by the authorized inspectional departments may be made at other times to investigate complaints or suspected noncompliance issues.

c. Inspections may include all areas occupied, used, or controlled by the Marijuana Establishment(s). Inspections shall be conducted in conformity with applicable federal, state, and local law.

d. Each Marijuana Establishment(s) permitted shall as a condition of its special permit file an annual report to the Special permit granting authority, the Board of Health, the Building Commissioner, the Police Department, and the Town Clerk no later than January 31, providing a copy of all current applicable state licenses for the Marijuana Establishment(s) and/or demonstrating continued compliance with 935 CMR 500.000 as well as the conditions of the special permit.

(8) Abandonment or discontinuance of use.

a. A special permit granted under this section shall have a term limited to the duration of the applicant's operation of the premises as a Marijuana Establishment(s).

b. A Marijuana Establishment(s) shall be required to remove all material, plants, equipment, and other paraphernalia:

- (i.) If any required permit or license is revoked or suspended by the issuing authority;
- (ii.) Prior to surrendering its state licenses or permits; or
- (iii.) Within six months of ceasing operations; whichever comes first.

Chapter 190 (Zoning Bylaws) of the Town of Wakefield Bylaws is hereby amended by the following new Article XX:

ARTICLE XX

MARIJUANA ESTABLISHMENT OVERLAY DISTRICT

1. Purpose

It is the purpose of the Marijuana Establishment Overlay District (MEOD) to encourage the use of property within its boundaries for a Marijuana Establishment, as defined in Section 190-4. The MEOD is designed to strengthen the area's existing uses and infrastructure by permitting the development of a Marijuana Establishment, consistent. Among the objectives of the MEOD are:

- a. To facilitate development in the MEOD of a Marijuana Establishment together with uses accessory thereto;
- b. To stimulate the general economy of the Town by creating jobs and generating real estate and other tax revenue;
- c. To encourage the appropriate use of land.

2. Overlay District

2.1. Map

The MEOD is an overlay district which encompasses land shown on Wakefield Assessors' Map, Lots 36W-017-008, 36W-010-012 & 36W-009-015 which land is shown on the map entitled "Exhibit to Accompany an Amendment to the Wakefield Zoning Ordinance Marijuana Establishment Overlay District" dated January 31, 2024, incorporated herein by reference and hereby made a part of the Town's official zoning map. A copy of said map is on file with the Town Clerk's Office and the Planning Department.

2.2. Establishment

The MEOD is an overlay district superimposed on the underlying zoning district and the land affected thereby. The underlying zoning shall remain in full force and effect. To the extent that any provision in this Section is in contradiction or conflicts with any other provision of this ordinance, the provisions of this Section shall control.

2.3. Applicability

The Zoning Board of Appeals shall be the special permit granting authority for special permits granted pursuant to this Section. Notwithstanding anything to the contrary contained in this ordinance, in any instance where the ZBA has jurisdiction to issue a special permit for a Marijuana Establishment pursuant to this Section, it shall also be the sole special permit granting authority for all other special permits or any site plan required by this ordinance for such use and/or development.

2.4. Standard to be Applied

Special Permits under this Article shall be granted under the standards of Article XVIII (Registered Marijuana Dispensaries) and XIX (Marijuana Establishments).

2.5. Uses

2.6. Uses Allowed by Right

Uses allowed by right in the underlying zoning district shall be allowed by right in the MEOD.

2.7. Uses Authorized by Special Permit

In addition to the uses permitted as of right or by special permit in the underlying zoning district(s), the following uses shall be permitted subject to the issuance of a special permit issued by the Zoning Board of Appeals (ZBA):

- (a) Marijuana Establishment and Registered Marijuana Dispensary, as defined in §190-4 of the Zoning Bylaws; and
- (b) The accessory uses authorized by the definition of "accessory use" in Section 190-4 (Definitions) of the Zoning Bylaws and other uses customarily accessory to a Marijuana Establishment or Registered Marijuana Dispensary whether or not specifically mentioned in the Zoning Bylaws.

2.8. Prohibited Uses

Any use not specifically allowed by right or by special permit within the MEOD as provided in said Article XVIII (Registered Marijuana Dispensaries) or XIX (Marijuana Establishments) or in the underlying zoning district(s) is prohibited.

2.9. Dimensional Requirements

2.10. Dimensional Table

All buildings and structures permitted pursuant to the MEOD shall conform to the following dimensional requirements, which requirements shall be deemed to be a part of Article VII (Parking and Loading Requirements) under an MEOD designation:

2.11. Off-Street parking and Loading Requirements

2.12. Off-Street Parking Requirements

The parking requirement for a MARIJUANA ESTABLISHMENT within the MEOD shall require a minimum of one space for every 300 square feet of publicly accessible retail area and one space for every 3 employees in the largest shift, with no additional parking required for any use determined by the ZBA to be accessory to a

MARIJUANA ESTABLISHMENT, including but not necessarily limited to warehouse or inventory storage. If a proposed MARIJUANA ESTABLISHMENT within the MEOD does not conform with any parking provision in this ordinance, the special permit granting authority may authorize such nonconformance by the grant of a special permit under the standard set forth in Section 4.2.1. Without limiting the generality of the foregoing, the special permit granting authority may grant a special permit to authorize shared, valet and/or tandem parking, on and off-site, regardless of the distance of the off-site parcel from the principal use and to modify the design and layout standards of the Zoning Bylaws.

In connection with any special permit application hereunder, the special permit granting authority may allow by Special permit the use of a lot off-site to provide parking accessory to a MARIJUANA ESTABLISHMENT located within the MEOD, provided that such off-site lot is not located within a residential district, and a MARIJUANA ESTABLISHMENT use on such off-site lot is allowed as of right or by special permit. Such off-site lot(s) may be a shared lot, served by a valet and/or may have tandem parking if so authorized by the special permit granting authority.

2.13. Off-Street Loading Requirements

The loading requirements for a MARIJUANA ESTABLISHMENT within the MEOD shall require a minimum of one loading bay.

2.14. Signs

Article XIII of this ordinance shall govern signage in the MEOD.

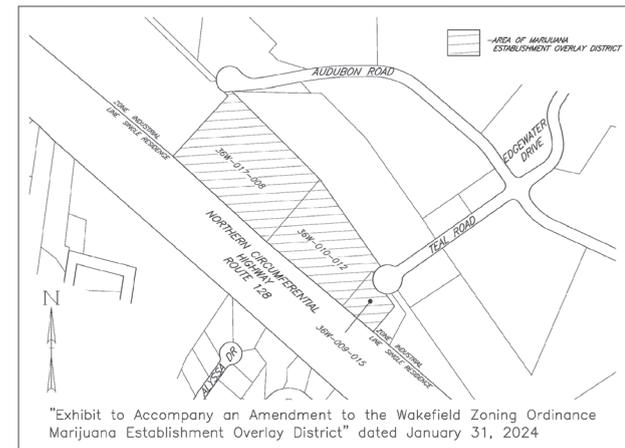
2.15. Submissions

2.16. Contents

Any application for a special permit under the MEOD shall include a plan or plans with the information required by Article XVIII (Registered Marijuana Dispensaries) or XIX (Marijuana Establishments), any other special permits required pursuant to this ordinance, for which the ZBA is designated as the special permit granting authority, shall include the information required in this ordinance. Review of an application for a special permit shall comply with the procedural requirements of Section of this ordinance as applicable to ZBA special permits, including the requirements of notice and a public hearing and deadline for the same and for the issuance of a decision thereon.

2.17. Relief by Special Permit

In any instance where a MARIJUANA ESTABLISHMENT, including any uses determined by the ZBA to be accessory uses to a MARIJUANA ESTABLISHMENT, does not comply with any provisions of this Section, the ZBA is authorized to issue zoning relief for such noncompliance by the issuance of a special permit. In granting a request for a special permit, the ZBA may condition its grant on the provision of certain open space, or traffic or pedestrian improvements or other amenities.



Or to see what the Town will do about it.

A copy of the current zoning map is available for inspection in the Building Inspector's Office; existing text a proposed amendment are available for inspection at the Town Clerk's Office, Wakefield Town Hall, One Lafayette Street, Wakefield, Massachusetts during regular business hours. Any person wishing to be heard on this matter should appear at the time and place designated.

Wakefield Planning Board
Theo Noell, Chairperson

2-26-2024 & 3-4-2024 WDI