

Planning Board Warrant Articles

PLEASE NOTE: The attached are the Planning Boards Proposed By-Law Changes and adds to be voted on at the Special Town meeting, Warrent Article Numbers have not been assigned and are out for review with Town Council.

ARTICLE #33A To see if the town will vote to amend the Town of Holland Zoning Bylaws by deleting Section 6.11 and adding Section 7C., MEDICAL/ADULT USE MARIJUANA, establishing standards for the siting of Medical Marijuana Treatment Centers and Marijuana Establishments in the Town of Holland; or take any other action relative thereto.

Commented [A1]: This requires a 2/3rds majority vote and compliance with c.40A s 5 before it can be put before Town Meeting.

7C. MEDICAL/ADULT USE MARIJUANA

7C.01 PURPOSE

The purpose of this bylaw is to provide for the placement of a registered Medical Marijuana Treatment Centers and Marijuana Establishments, in accordance with applicable state law, including, 935 CMR 500.000, Adult Use of Marijuana, 935 CMR 501.000, Medical Use of Marijuana, 935 CMR 502.000, Co-located Adult Use and Medical Use Marijuana, and G.L. c.94G, Regulation of the Use and Distribution of Marijuana not medically prescribed, and MGL c. 94G, in locations suitable for lawful Medical Marijuana Treatment Centers and Marijuana Establishments and to minimize adverse impacts of Medical Marijuana Treatment Centers and Marijuana Establishments on adjacent properties and the public by regulating the siting, design, placement, security, and removal of Medical Marijuana Treatment Centers and Marijuana Establishments. The regulated zoning of MTCs and ME will serve to preserve the character of the community and create a place for the public to responsibly have access to legal marijuana for adult recreational use and medical use while mitigating community impact.

7C.02 APPLICABILITY

This section applies to the operation of MTCs and MEs. Nothing in this section shall be construed to supersede state law governing the sale and distribution of marijuana, or any federal laws governing the interstate transportation or sale of the same. This section does not apply to the cultivation of industrial hemp as is regulated by the Massachusetts Department of Agricultural Resources pursuant to General Laws, Chapter 128, Sections 116-123.

Commented [A2]: In my opinion, this section is not relevant or necessary as it simply restates the law.

7C.03 DEFINITIONS

Where not expressly defined herein, the terms used in this bylaw shall be interpreted as defined in Chapter 94I, Chapter 94G and the regulations promulgated by the Cannabis Control Commission (the Commission) from time to time thereunder, including without limitation, 935 CMR 500.000,

Commented [A3]: This bylaw could be simplified by removing many of the terms which are defined in the same manner as they are in the State Regulations. Also, some of these terms are not used in the bylaw and therefore, unless the bylaw is amended to include the terms, they should be deleted.

935 CMR 501.000, 935 CMR 502.000, and otherwise by their plain language.

For the purposes of this section, the following terms shall have the following meanings hereby assigned to them.

a. **Cannabis Cultivation:** The use of land and/or buildings for planting, tending, improving, harvesting, processing and packaging, the preparation and maintenance of soil and other media and promoting the growth of cannabis by a cannabis cultivator, micro-business, research facility, craft marijuana cultivator cooperative, registered marijuana dispensary or other entity licensed by the Commission for cannabis cultivation. The cultivation and processing of marijuana in accordance with these regulations is considered to be a manufacturing use and shall not be deemed exempt from zoning as an agricultural use under the Town's Zoning Bylaw.

1. Allowed in AR zone with the following restrictions:
Minimum acreage requirement not less than 35 acres; road frontage 200 ft, front setback 200 ft, side and rear 200 ft setback.

2. Commercial District exempt from must seek Planning Board approval.

b. **Cannabis or Marijuana or Marihuana:** All parts of any plant of the genus Cannabis, not excepted in 935 CMR 500.002: Cannabis or Marijuana or Marihuana(a) through (c) and whether growing or not; the seeds thereof; and resin extracted from any part of the plant; clones of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin including tetrahydrocannabinol as defined in M.G.L. c. 94G, §1; provided that cannabis shall not include:

1. 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;
2. hemp; or
3. the weight of any other ingredient combined with cannabis or marijuana to prepare topical or oral administrations, food, drink or other products.

c. **Cannabis or Marijuana Products:** Cannabis or marijuana and its products unless otherwise indicated. These include products have been manufactured and contain cannabis or marijuana or an extract from cannabis or marijuana, including concentrated forms of marijuana and products composed of marijuana and other ingredients that are intended

Commented [A4]: The State Zoning Act, G.L. c.40A, s.3, which has a broad exemption from local zoning for agriculture has been amended to expressly exclude cultivation of marijuana.

Commented [A5]: In my opinion, these provisions should not be included in the definition section of the bylaw.

for use or consumption, including edible products, beverages, topical products, ointments, oils and tinctures.

- d. Ceases to Operate means a Medical Marijuana Treatment Center or Marijuana Establishment which closes and does not transact business for period greater than 180 days with no substantial action taken to reopen. A determination that an establishment has ceased to operate may be based on its actual or apparent termination of operations.
- e. Commission: The Massachusetts Cannabis Control Commission established by M.G.L. c. 10, §76, or its designee.
- f. Craft Marijuana Cooperative: A Marijuana Cultivator comprised of residents of the Commonwealth and organized as a limited liability company, limited liability partnership, or cooperative corporation under the laws of the Commonwealth. A cooperative is licensed to cultivate, obtain, manufacture, process, package and brand cannabis or marijuana products to transport marijuana to Marijuana Establishments, but not to consumers.
- g. Dark Skies Standards: A design standard to reduce light pollution from lighting fixtures to minimize glare, light, and trespass which is reflected into the night sky and generally reduces sky glow to the most minimum level practically achievable.
- h. Hemp: The plant of the genus Cannabis or any part of the plant, whether growing or not, with a delta-9-tetrahydrocannabinol concentration that does not exceed 0.3% on a dry weight basis of any part of the plant of the genus Cannabis, or per volume or weight of cannabis or marijuana product, or the combined percent of delta-9-tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant of the genus Cannabis regardless of moisture content.
- i. Hemp Cultivator: an agricultural establishment authorized by the Massachusetts Department of Agricultural Resources to cultivate hemp for commercial and industrial purposes.
- j. Host Community: A municipality in which a Medical Marijuana Treatment Center or Marijuana Establishment is located or in which an Applicant has proposed locating a Medical Marijuana Treatment Center or Marijuana Establishment.
- k. Host-Community Agreement: An agreement, pursuant to General Laws, Chapter 94G, Section 3(d), between a Medical Marijuana Treatment Center and/or Marijuana Establishment with a municipality.
- l. Licensee: A person or entity licensed by the Commission to operate a Medical Marijuana Treatment Center or Marijuana Establishment under 935 CMR 500.000 and 935 CMR 501.000.
- m. Manufacture: To compound, blend, extract, infuse or otherwise make or prepare a cannabis or marijuana product.

Commented [A6]: This will leave a determination dependent on the operator's intent and can be open to interpretation. Please confirm that is the intent here.

Commented [A7]: The scope of HCAs can vary and in my opinion, should not be described herein.

- n. Marijuana Cultivator: An entity licensed to cultivate, process and package marijuana, and to transfer marijuana to other Marijuana Establishments, but not to consumers. A Craft Marijuana Cooperative is a type of Marijuana Cultivator.
- o. Marijuana Establishment: A Marijuana Cultivator, Craft Marijuana Cooperative, Marijuana Product Manufacturer, Marijuana Retailer, Marijuana Independent Testing Laboratory, Marijuana Research Facility, Marijuana Transporter, or any other type of licensed marijuana-related business, except a medical marijuana treatment center. Marijuana establishments permitted in accordance with these regulations are considered to be a commercial and/or manufacturing use and are not considered being subject to any agricultural exemptions under zoning.
- p. Marijuana Independent Testing Laboratory: A laboratory that is licensed by the Commission and is:
1. accredited to the International Organization for Standardization 17025 (ISO/IEC 7025: 2017) by a third-party accrediting body that is a signatory to the International Laboratory
 2. independent financially from any Medical Marijuana Treatment Center (RMD), Marijuana Establishment or licensee for which it conducts a test; and
 3. qualified to test cannabis or marijuana in compliance with 935 CMR 500.160 and M.G.L. c. 94C, §34.
- q. Marijuana Microbusiness: A colocated Marijuana Establishment that can be either a Tier 1 Marijuana Cultivator or Product Manufacturer or both, in compliance with the operating procedures for each license. A Microbusiness that is a Marijuana Product Manufacturer may purchase no more than 2,000 pounds of marijuana per year from other Marijuana Establishments.
- r. Marijuana Process or Processing: To harvest, dry, cure, trim and separate parts of the cannabis or marijuana plant by manual or mechanical means, except it shall not include manufacture as defined in 935 CMR 500.002.
- s. Marijuana Product Manufacturer: An entity licensed to obtain, manufacture, process and package cannabis or marijuana products and to transfer these products to other Marijuana Establishments, but not to consumers.
- t. Marijuana Research Facility: An entity licensed to engage in research projects by the Commission.
- u. Marijuana Retailer: An entity licensed to purchase and transport cannabis or marijuana product from Marijuana Establishments and to sell or otherwise transfer this product to Marijuana Establishments and to consumers. Retailers are prohibited from delivering cannabis or marijuana products to consumers; and from offering cannabis or marijuana products for the

Commented [A8]: Do you want to include this language in the definition of medical marijuana treatment centers as well?

purposes of on-site social consumption on the premises of a Marijuana Establishment.

- v. Marijuana Transporter: An entity, not otherwise licensed by the Commission, that is licensed to purchase, obtain, and possess cannabis or marijuana product solely for the purpose of transporting, temporary storage, sale and distribution to Marijuana Establishments, but not to consumers. Marijuana Transporters may be an Existing Licensee Transporter or Third Party Transporter.
- w. Open Area Cultivation: A marijuana cultivation operation conducted wholly in the open air, and not located in any building, greenhouse or other enclosed area which would be subject to security provisions of 935 CMR 500.110 (6) and 935 CMR 500.120.
- x. Propagation: The reproduction of cannabis or marijuana plants by seeds, cuttings, or grafting.
- y. Provisional Medical Marijuana Treatment Center or Marijuana Establishment License: A certificate issued by the Commission confirming that a Medical Marijuana Treatment Center or Marijuana Establishment has completed the application process and satisfied the qualifications for initial licensure.
- z. Registered Marijuana Dispensary (RMD), or Medical Marijuana Treatment Center: means an entity formerly and validly registered under 105 CMR 725.000: Implementation of an Act for the Humanitarian Medical Use of Marijuana or currently and validly registered under 935 CMR 501.100, 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. Unless otherwise specified, RMD refers to the site(s) of dispensing, cultivation, and preparation of marijuana.

Commented [A9]: Some open cultivation facilities use hoop houses and other enclosed structures. Also, this term does not appear anywhere else in this bylaw and unless it is added, I would suggest that it be removed from the definition section.

7C.04 REQUIREMENTS/CONDITIONS

For the purposes of this section, only those uses in the schedule below shall be allowed in the Town of Holland.

- a. Special Permit Granting Authority: For the purposes of this section 7C, the Special Permit Granting Authority shall be the Planning Board of the Town of Holland.
- b. State Law: Medical Marijuana Treatment Center and Marijuana Establishments operations shall conform at all times to General Laws, Chapter 94G, and regulations promulgated by the Commission as 935 CMR 500.000 and 935 CMR 501.000.

Commented [A10]: In my opinion, this section is not relevant or necessary as the zoning enforcement officer is empowered by statute to enforce zoning bylaw violations.

Commented [A11]: In my opinion, this section is not relevant or necessary as it simply restates the law.

- c. Special Permits granted under this section shall be issued to no more than two (2) licensees per location. No special permit shall allow for the concurrent operation of three (3) or more Medical Marijuana Treatment Centers and/or Marijuana Establishments on the same parcel of land.

Commented [A12]:

This section might be more appropriately placed in the section below titled, "Issuance/Transfer/Discontinuance of Use."

Commented [A13]: This provision is confusing and needs clarification, in my opinion. Is this meant to address co-located establishments or a marijuana cooperative? If the latter, only a single special permit and license would be issued, in my opinion. The reference to multiple licenses here is therefore, is not clear.

d. Location and Physical Requirements:

1. No Medical Marijuana Treatment Center or Marijuana Establishment shall be located on a parcel which is within five hundred (500) feet (to be measured in a straight line from the nearest point of the property line in question to the nearest point of the property line where the Medical Marijuana Treatment Center or Marijuana Establishment structure is or will be located) of a parcel, occupied at the time the Applicant's license application was received by the Cannabis Control Commission, by any of the following:

- (a) A public or private school providing education in preschool, kindergarten or any of grades 1-12
- (b) A public or private library
- (c) Duly licensed daycare centers
- (d) Churches, synagogues or other places of worship
- (e) Public or private parks, playgrounds and recreation areas

Commented [A14]: The state regulations are silent on the issue of whether the statutory buffer zones could be expanded to include other types of land uses in addition to K-12 schools, such as those included here. There has not been any adjudication of this issue, and such a buffer could be subject to legal challenge.

Further, if the proposed buffers prove overly restrictive such that the uses are "effectively prohibited" this bylaw could be challenged on that ground. Therefore, I recommend that you verify that the application of these buffer requirements would not result in an effective prohibition.

Commented [A15]: Is the intent to prohibit outdoor cultivation? If not, I would suggest amending this language as it would prohibit the same.

2. All aspects of any Medical Marijuana Treatment Centers and Marijuana Establishments, except for the transportation of product or materials, 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 an enclosed, fixed location and shall not be permitted to be located in a trailer, storage freight container, motor vehicle or other similar type potentially movable platform or enclosure.

3. No Medical Marijuana Treatment Center or Marijuana Establishment shall be located inside a building containing residential units, including transient housing such as motels and dormitories.

4. No Medical Marijuana Treatment Center or Marijuana Establishment shall be permitted to utilize or provide a drive-through service.

5. Medical Marijuana Treatment Center or Marijuana Establishment are encouraged to utilize existing and vacant buildings where possible.

Commented [A16]: Please see comment above.

Commented [A17]: And vacant? See the design standard section below.

e. Time and Manner:

1. Any type of Medical Marijuana Treatment Center or Marijuana Establishment may only be involved in the uses permitted by its license definition and may not include other businesses or services.
2. No marijuana shall be smoked, eaten or otherwise consumed or ingested within Medical Marijuana Treatment Centers or Marijuana Establishments unless expressly permitted under this Bylaw, and permitted by state law or regulation. The prohibition on on-site consumption shall also include private social clubs and any other establishment which allows for social consumption of marijuana or marijuana products on the premises, regardless of whether the product is sold to consumers on site.
3. The hours of operation shall be set by the Special Permit Granting Authority, but in no event shall a Medical Marijuana Treatment Center or Marijuana Establishment be open to the public, and no sale or other distribution of marijuana shall occur upon the premises or via delivery from the premises, between the hours of 8:00 p.m. and 8:00 a.m.
4. No Medical Marijuana Treatment Center or Marijuana Establishment may commence operation prior to its receipt of all required permits and approvals including, but not limited, to its Final License from the Cannabis Control Commission.
5. The number of adult use marijuana retail establishments permitted to be located within the Town shall not exceed three (3) and are subject to Planning Board review.
6. Nuisance: No Medical Marijuana Treatment Center or Marijuana Establishment shall create nuisance conditions or any hazards, including but not limited to, excessive pedestrian or vehicular traffic, fire, explosion, fumes, gas, smoke, odors, obnoxious dust, vapors, offensive sound or vibration, flashes, glare, objectionable effluent or electrical interference, in parking areas, sidewalks, streets, and areas surrounding the premises and adjacent properties which may impair the normal use and peaceful enjoyment of any property, structure or dwelling in the area. Noise from Medical Marijuana Treatment Centers or Marijuana Establishments shall be properly mitigated.

f. Design Standards:

In addition to the general requirements in Section 7C.04, parts a through f, the following design standards shall also apply to all Medical Marijuana Treatment Centers and Marijuana Establishments in the Town of Holland:

Commented [A18]: Is this meant to allow deliveries to the premises outside of these specified hours? If not, I would suggest amending this language.

Commented [A19]: Do you mean site plan review?

Commented [A20]: The Town voted "yes" on the state ballot initiative to legalize recreational marijuana in Massachusetts. Therefore, G.L. c. 94G, §3(a)(2)(ii) requires a bylaw and a ballot question to limit the number of marijuana retailers to fewer than 20% of the number of licenses issued within the municipality for the retail sale of alcoholic beverages not to be drunk on the premises where sold under G.L. c. 138, §15.

Please confirm that this limitation does not trigger the requirement for a ballot question.

Commented [A21]: This is already stated in the provisions above.

1. **Town Character and Aesthetic:** To the extent reasonably possible, all structures utilized for any purpose by a licensed Medical Marijuana Treatment Center or Marijuana Establishment shall be compatible in scale, design and aesthetic with the existing neighboring properties in particular, and with the rural, agricultural character of the Town of Holland in general.

2. **Building Scale, Mass and Bulking:**

(a) **Enclosed Structures:** for the purpose this section, shall mean any structure, other than a Standard Greenhouse, actively devoted to the cultivation, Manufacture, transportation, storage or testing of marijuana Products.

i. **Maximum Building Footprint:** The total combined Footprint for all Enclosed Structures shall not exceed 25 percent (25%) total lot coverage in all districts, except for the commercial district, and shall be subject to Planning Board review.

ii. **Height:** No Enclosed Structure shall exceed a total of thirty (35) feet in height.

iii. **Spacing:** Enclosed Structures shall be no less than (20) feet apart and no Marijuana Establishment will be allowed to erect more than five (5) Enclosed Structures.

(b) **Greenhouses:** For the purpose of this section 7C, a Greenhouse shall mean any structure with walls and roof made of transparent or translucent material in which plants requiring regulated climatic conditions are grown and allowed in all areas where Marijuana Cultivation is allowed provided that:

i. The greenhouse installation conforms to all regulations regarding security, screening, ventilation, odor and any other provisions of

Commented [A22]: The section above requires all operations to be in "enclosed structures." This definition would also exclude greenhouses.

Commented [A23]: Under the law, municipalities "may adopt ordinances and by-laws that impose reasonable safeguards on the operation of marijuana establishments, provided they are not unreasonably impracticable." This term is defined as "the measures necessary to comply with the regulations, ordinances or by-laws adopted pursuant to this chapter subject licensees to unreasonable risk or require such a high investment of risk, money, time or any other resource or asset that a reasonably prudent businessperson would not operate a marijuana establishment." Given that this law is so new, no bylaw has been challenged under this standard and there is no judicial guidance on the interpretation of this provision.

Commented [A24]: See comments above re: "enclosed structure."

Commented [A25]: And Medical Marijuana Treatment Center?

Commented [A26]: It appear language is missing here. Please clarify.

935 CMR 500, 935 CMR 501, et seq., and of this bylaw.

- ii. The total footprint of all structures devoted to active cultivation, including greenhouse space, does not exceed 25 percent (25%) of lot coverage.
- iii. No greenhouse exceeds a total height of thirty five (35) feet.

(c) Retail Establishments: The total gross floor of Retail Marijuana Establishments or a Medical Marijuana Treatment Center engaged in dispensing operations shall not exceed 2,500 square feet.

(d) Setbacks: With the exception of retail establishments uses, all marijuana establishments shall have a minimum setback of 200 feet as measured from the nearest edge of any public right-of-way or abutting property boundary.

(e) Roofing: No Enclosed Structure, as defined herein, shall have a roof pitch of less than 5/12, unless the applicant can demonstrate to the satisfaction of the Special Permit Granting Authority that any deviation from this standard is in better keeping with 7C.04(g)(1) of this section.

3. Visual Impact: Marijuana plants, products, and paraphernalia shall not be visible from the outside of the building in which the Medical Marijuana Treatment Center or Marijuana Establishment is located and shall comply with the requirements of 935 CMR 500, et seq. No outside storage of marijuana, related supplies, or promotional material shall be permitted. Any artificial screening device erected to eliminate the view from a public way shall also be subject to a vegetative screen and the Special Permit Granting Authority shall consider the surrounding landscape and views to determine if an artificial screen would be out of character with the neighborhood.

4. Ventilation and odor: all Medical Marijuana Treatment Centers and 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, and
- (b) Employs odor control technology such that no odor from marijuana, marijuana products or a Medical Marijuana Treatment Center and/or Marijuana Establishment can be detected by a person with an

Commented [A27]: See comment above re: "unreasonably impracticable."

Commented [A28]: Do you mean retail marijuana establishments?

Commented [A29]: And medical marijuana treatment centers?

Commented [A30]: Please confirm the section reference with this draft bylaw is in final form.

Commented [A31]: Do you mean outdoor or open air?

unimpaired and otherwise normal sense of smell at the exterior of the Medical Marijuana Treatment Center or Marijuana Establishment or at any adjoining use or property.

5. Signage: All signage shall comply with all other applicable signage regulations in the Zoning Bylaw, 935 CMR 500, and 935 CMR 501.
6. Lighting: to the extent permissible by state law and regulations, all Medical Marijuana Treatment Centers and Marijuana Establishments shall make every reasonable effort to minimize the effects of security and other necessary light installations on the surrounding community and shall comply with dark skies standards whenever possible.

g. Reporting Requirements:

1. Prior to the commencement of the operation or services, any Medical Marijuana Treatment Center or Marijuana Establishment approved under this section shall provide the Police Department, Fire Department, Building Commissioner/Inspector and the Special Permit Granting Authority with the names, phone numbers and email addresses of all management staff and key-holders, including a minimum of two (2) operators or managers of the facility identified as contact persons to whom one can provide notice if there are operating problems associated with the establishment. All such contact information shall be updated as needed to keep it current and accurate.
2. The local Building Inspector, Board of Health, Police Department, Fire Department, Board of Selectmen and Special Permit Granting Authority shall be notified in writing by the Medical Marijuana Treatment Center or Marijuana Establishment facility owner/operator/ manager:
 - (a) A minimum of 30 days prior to any change in ownership or management of that establishment.
 - (b) A minimum of 12 hours following a violation or potential violation of any law or any criminal or potential criminal activities or attempts of violation of any law at the establishment.
3. Medical Marijuana Treatment Centers or Marijuana Establishments shall file an annual written report to, and appear before, the Special Permit Granting Authority no later than January 31st of each calendar year, providing a copy of all current applicable state licenses for the facility and/or its owners and demonstrate continued compliance with the conditions of the Special Permit.

Commented [A32]: This provisions appears to be very vague and a bit onerous. I would suggest reconsideration.

h. Issuance/Transfer/Discontinuance of Use:

1. Special Permits/Site Plan Approvals shall be issued to the Medical Marijuana Treatment Center or Marijuana Establishment owner only.
2. Special Permits/Site Plan Approvals shall be issued for a specific type of Medical Marijuana Treatment Center or Marijuana Establishment on a specific site/parcel only.
3. Special Permits/Site Plan Approvals shall be non-transferable to either another Medical Marijuana Treatment Center or Marijuana Establishment owner or another site/parcel.
4. Special Permits/Site Plan Approvals shall have a term limited to the duration of the Applicant's ownership/control of the premises as a Medical Marijuana Treatment Center or Marijuana Establishment, and shall lapse if:
 - (a) The Medical Marijuana Treatment Center or Marijuana Establishment cease to operate (not providing the operation or services for which it is permitted); and/or
 - (b) The Medical Marijuana Treatment Center or Marijuana Establishment's registration/license by the Cannabis Control Commission expires or is terminated.
5. The Medical Marijuana Treatment Center or Marijuana Establishment shall notify the Zoning Enforcement Officer and Special Permit Granting Authority in writing within 48 hours of such lapse, cessation, discontinuance or expiration or revocation.
6. In the event that any Medical Marijuana Treatment Center or Marijuana Establishment has reasonable grounds to temporarily cease to operate, the Special Permit Granting Authority may, at its discretion, extend the term limit provided that;
 - (a) The licensed Medical Marijuana Treatment Center or Marijuana Establishment submits to the Special Permit Granting Authority a written statement explaining the need for such an extension, the steps being taken to resume operations and the amount of time considered necessary to realize those steps; AND
 - (b) No such cessation of operations shall be for a period longer than 365 days in total.

Commented [A33]: Do you mean applicant or licensee?

Commented [A34]: Do you want to add "without the consent of the Planning Board upon application by the existing licensee and the proposed transferee"?

Commented [A35]: This is already defined above as "closes and does not transact business for period greater than 180 days with no substantial action taken to reopen."

7. A marijuana cultivator or manufacturer shall be required to remove all material, plants equipment and other paraphernalia prior to surrendering its state registration/license or ceasing its operation.
8. Prior to the issuance of a Building or Occupancy Permit for a Medical Marijuana Treatment Center or Marijuana Establishment, the Applicant shall be required to furnish evidence that a decommissioning bond or other form of financial security pursuant to the requirements of 935 CMR 500.105 §16 has been posted with the Commission in an amount which shall be sufficient to cover the costs of removing all materials, plants, equipment and other paraphernalia in the event the Applicant fails to do so.
 - (a) Should the applicant not furnish sufficient evidence, or such financial security is deemed insufficient in the opinion of either the Special Permit Granting Authority or Town Treasurer to cover potential costs to the Town for the removal of said material, the Applicant shall post with the Town Treasurer an addition bond or other form of financial security acceptable to said Treasurer in an amount set by the Special Permit Granting Authority, which shall cover any and all potential costs to the Town for the removal of said material.
 - (b) In the event that the Town finds a licensed Medical Marijuana Treatment Center or Marijuana Establishment ceases to operate, the Building Inspector shall give the owner 30 days' written notice in advance of taking any action. Should the Applicant remove all materials, plants, equipment and other paraphernalia to the satisfaction of the Building Inspector prior to the expiration of the 30 days written notice, any bond posted with and under the control of the Town Treasurer shall be returned to the Applicant.
 - (c) All licensed Medical Marijuana Treatment Centers and Marijuana Establishments in the Town of Holland shall be required to furnish to the Town an annually updated estimate of decommissioning costs which shall include any increases resulting from changes to operations, annual inflation or any and all other factors, as well as a full accounting of any bonds or other financial securities held with the Commission and/or the Town. The owner shall be responsible for the cost of any annual increases in posted bonds necessary to cover the cost of decommissioning.

Commented [A36]: As you know, the state regulations already require an escrow account to cover the disposal of plants. The Town can impose an additional surety, but it is a policy decision for the Town as to whether it wants to engage in the practice of removing business equipment from private property. In any event, no entry to remove private property on private land should be done without first obtaining an appropriate court order authorizing the Town to take such action.

9. The Special Permit Granting Authority may hire, at the applicant's expense, professional, third-party consultant(s) of their choosing to assist them in evaluating the Special Permit application, estimating any bond amounts as required by Section 7C.04(i)(8) of this bylaw, or any other requirements contained herein.

Commented [A37]: The SPA does not have jurisdiction over the HCA.

7C.05 APPLICATION REQUIREMENTS

A Medical Marijuana Treatment Center or Marijuana Establishment shall only be allowed by Special Permit from the Special Permit Granting Authority in accordance with MGL c.40A §9 and other provisions of this chapter. All Special Permits for Medical Marijuana Treatment Centers and Marijuana Establishments shall be subject to following requirements and conditions:

- a. Community Host Agreement: All applications for a Special Permit shall include an executed Community Host Agreement with the Town.
- b. Community Outreach meeting for Marijuana Establishments: All applications for a Special Permit shall include certification that a Community Outreach Hearing in accordance with 935 CMR 500 has occurred. Additionally, the applicant shall demonstrate that reasonable efforts have been made to ensure that any and all handouts, presentations and other audio/visual materials utilized in a public hearing have been designed so as to accommodate the needs of sight and/or hearing-impaired residents.
- c. Site Plan Approval: No Special Permit for any Medical Marijuana Treatment Centers and Marijuana Establishments shall be issued without site plan approval by the Special Permit Granting Authority. In addition to the standards set forth herein, the site plan must meet all dimensional, parking, and other requirements set forth by this zoning bylaw.
- d. License requirements:
 1. Copies of the complete application, to the extent legally allowed, shall be provided as an integral component of the application to the Planning Board and no Special Permit application shall be deemed complete by the Planning Board until this information is provided.
 2. No Special Permit shall be granted by the Planning Board to an applicant without the Medical Marijuana Treatment Center or Marijuana Establishment first having been issued a Provisional License from the Marijuana Control Commission pursuant to 935 CMR 500 or 935 CMR 501.

Commented [A38]: This appears to be addressed below with the requirement for proof of a provisional license.

3. No person shall operate a Medical Marijuana Treatment Center or Marijuana Establishment without having a final license from the Cannabis Control Commission.
- e. Security Plan: All applications for a Special Permit shall include a security plan describing all proposed security measures including lighting, fencing, gates and alarms, and any other such measures that will satisfy the requirements of 935 CMR 500.110.
 - f. Odor Control Plan: All applications for a Special Permit shall include 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 of odor control including maintenance of such controls.
 - g. Management Plan: All applications for Special Permit shall include a management plan with a comprehensive description of all activities to occur on site, including all provisions for the delivery of marijuana and related products to the Medical Marijuana Treatment Center or Marijuana Establishment or off-site direct delivery.
 - h. Energy Use Plan: All applications for a Special Permit shall include an energy use plan which shall demonstrate best practices for energy conservation, water usage, and waste disposal. The plan shall include an electrical system overview, proposed energy demand, ventilation system and air quality, proposed water system and utility demand.
 - i. Decommissioning Plan: All applications for Special Permit shall include a plan providing for the decommissioning of the Medical Marijuana Treatment Center or Marijuana Establishment. Such decommission plans shall include a cost estimate provided by a qualified, third-party expert and shall detail dismantling, disposal of equipment and all other reasonably anticipated costs associated the decommissioning of the Medical Marijuana Treatment Center or Marijuana Establishment, along with detailed accounting of any bonds posted with the Commission in accordance with 935 MCR 500 and Section 7C.04(i)(8) of this section. The Special Permit Granting Authority/Planning Board reserves the right to request a comparison estimate provided by an independent, qualified professional estimator of the board's choosing, the cost of which shall be borne by the Applicant.

j. Waivers: The Applicant shall be required to submit specific information regarding any waivers from 935 CMR 500.000 or 935 CMR 501.000 granted by the Commission. The Special Permit Granting Authority shall consider said waivers based on the following Commission criteria in 935 CMR 500 or 935 CMR 501.000.

Commented [A39]: Waivers from ZBL requirements?

1. Compliance would cause undue hardship to the investor;
2. If applicable, the requestor's non-compliance does not jeopardize the health or safety of any patient or the public;
3. If applicable, the requestor has instituted compensating features that are acceptable to the Planning Board; and
4. The requestor provides to the Planning Board written documentation, in a form and manner determined by the Planning Board, supporting its request for a waiver.

k. Other Requirements:

1. The name and address of each owner and operator of the Medical Marijuana Treatment Center or Marijuana Establishment facility/operation.
2. Proof of Liability Insurance Coverage or Maintenance of Escrow as required in 935 CMR 500 and 935 CMR 501.
3. Evidence that the Applicant has site control and right to use the site for a Medical Marijuana Treatment Center or Marijuana Establishment facility in the form of a deed or valid purchase and sales 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 Medical Marijuana Treatment Center or Marijuana Establishment organization's Chief Executive Officer and corporate attorney disclosing all of its designated representatives, including officers, directors, shareholders, partners, members, managers, or other similarly-situated individuals and entities and their addresses. If any of the above is an entity rather than persons, the Applicant must disclose the identity of all such responsible individual persons.
5. A detailed floor plan identifying the areas available and functional uses (including square footage).

6. All signage being proposed for the facility.
7. A pedestrian/vehicular traffic impact study to establish the Medical Marijuana Treatment Center or Marijuana Establishment's impacts at peak demand times, including a line queue plan to ensure that the movement of pedestrian and/or vehicular traffic along access areas including, but not limited to the public right of ways, will not be unreasonably obstructed.

7C.06 FINDINGS

In addition to the standard Findings for a Special Permit or Site Plan Approval the Special Permit Granting Authority must also find all the following:

- a. That the Medical Marijuana Treatment Center or Marijuana Establishment is consistent with and does not derogate from the purposes and intent of this Section and the Zoning Bylaw.
- b. That the Medical Marijuana Treatment Center or Marijuana Establishment is designed to minimize any adverse visual or economic impacts on abutters and other parties in interest;
- c. That the Medical Marijuana Treatment Center or Marijuana Establishment demonstrates that it meets or exceeds all the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and is in compliance with all applicable state laws and regulations; and
- d. That the Applicant has satisfied all of the conditions and requirements of this Section and other applicable Sections of this Bylaw;
- e. That the Medical Marijuana Treatment Center or Marijuana Establishment provides 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 is adequately secured on-site or via delivery.
- f. That the Medical Marijuana Treatment Center or Marijuana Establishment facility adequately addresses issues of traffic demand, circulation flow, parking and queuing, particularly at peak periods at the facility, and its impact on neighboring uses.

Commented [A40]: I recommend citing to specific bylaw section.

7C.07 SEVERABILITY

If any provision of this section is found to be invalid by a court of competent jurisdiction, the remainder of this section shall not be affected

but shall remain in full force. The invalidity of any provision of this section shall not affect the validity of the remainder of this zoning bylaw.

Article 33B To see if the town will vote to amend the Town of Holland Zoning Bylaws by amending the Schedule of Principle Uses in Section IV USE REGULATIONS, by deleting references to Medical Marijuana Treatment Center/Registered Marijuana Dispensary (RMD) and Off-Site Medical Marijuana dispensary (OMMD), and also, by adding the following new uses ;or take any other action relative thereto.

No	Land Use Marijuana Establishments	Standards and Conditions	Zoning Districts						
			AR	R	GA	B	RB	SC	C
48	Craft Marijuana Cooperative	See Sec. 7C	SP	N	N	N	N	N	SP
49	Marijuana Cultivator	See Sec. 7C	SP	N	N	N	N	N	SP
50	Marijuana Product Manufacturer	See Sec. 7C	SP	N	N	N	N	N	SP
51	Marijuana Retailer	See Sec. 7C	N	N	N	SP	N	N	SP
52	Marijuana Independent Testing Laboratory	See Sec. 7C	SP	N	N	N	N	N	SP
53	Marijuana Microbusiness	See Sec. 7C	SP	N	N	N	N	N	SP
54	Marijuana Research Facility	See Sec. 7C	SP	N	N	N	N	N	SP
55	Marijuana Transporter	See Sec. 7C	SP	N	N	N	N	N	SP
56	Registered Marijuana Dispensary/	See Sec. 7C	N	N	N	N	N	N	N
57	Medical Marijuana Treatment Center	See Sec. 7C	SP	N	N	N	N	N	SP

Commented [A41]: You did not define these as separate use but are treating them differently here. Did you want to provide a distinction between medical dispensaries and cultivation/processing facilities? If so, the proposed zoning bylaw above should be amended to reflect the same.

Sponsor- Planning Board

Select Board – Finance Board –

ARTICLE # To see if the Town will vote to amend the Town of Holland Zoning Bylaws Section 5 to change the Residential lot area and frontage requirements

	<u>Lot Area</u>	<u>Frontage</u>
		(linear feet)
Residential:	From 2acres to 1 acres	From 200 to 100

ARTICLE # To see if the Town will vote to amend the Town of Holland Zoning Bylaws Section 5 to change the Residential (non residential uses) lot area and frontage requirements

	<u>Lot Area</u>	<u>Frontage</u>
		(linear feet)
<i>Residential (non residential uses) :</i>	<i>From 2acres to 1 acres</i>	<i>From 200 to 100</i>

ARTICLE # To see if the Town will vote to amend the Town of Holland Zoning Bylaws Section 5 to change the Agricultural Residential lot area.

Lot Area

Agricultural Residential: From 3.5 acres to 1.5 acres

ARTICLE # To see if the Town will vote to amend the Town of Holland Zoning Bylaws Section 5 to change the Agricultural(non residential uses) lot area and frontage requirements

Residential lot area and frontage requirements

	<u>Lot Area</u>	<u>Frontage</u>
		(linear feet)

