

Section 10: Cannabis Establishments

10.1 Purpose

The purpose of this section is to regulate the time, place, and manner of cannabis establishments in Hardwick in accordance with the provisions of Massachusetts General Law Chapter 94G. The zoning will serve to preserve the character of the community and create a place for the public to responsibly have access to legal cannabis while mitigating community impact. It will minimize the adverse impacts of cannabis establishments on adjacent properties, residential neighborhoods, schools, and other places where children congregate. This bylaw regulates the siting, design, placement, security, safety, monitoring, modification, and discontinuance of marijuana establishments. The Ordinance should serve as a guide that will support the public's right to access legal cannabis, protect the public health, safety, and well-being and expand new growth for the tax base.

10.2 Scope

1. This Section 10 relates only to cannabis establishments authorized by General Laws, Chapter 94G, and not to medical cannabis treatment centers authorized by General Laws, Chapter 94I; the location and operation of which is governed locally by Section 10.4 of these bylaws, nor to cannabis-related business not required to be licensed by Chapter 94G, except as otherwise provided herein.
2. Nothing in this section shall be construed to supersede federal and state laws governing the sale and distribution of narcotic drugs.
3. If any provision of this section or the application of any such provision to any person or circumstance shall be held invalid, the remainder of this section, to the extent it can be given effect, or the application of those provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby, and to this end the provisions of this section are severable.

10.3 Definitions

For the purpose of this section the word cannabis is used in place of marijuana as found in MA General Laws, Chapter 94G, and 935 CMR 500, except where any potential conflict in terms appears the state regulations and purpose shall prevail.

Adult on-site cannabis social consumption operator: A Cannabis Retailer licensed to purchase cannabis and cannabis products from a cannabis establishment and to sell cannabis and cannabis products on its premises only to consumers or allow consumers to consume cannabis and cannabis products on its premises only. Note this term is not defined in 925 CMR 500.

Cannabis Cultivation: Use of land and/or buildings for planting, tending, improving, harvesting, processing and packaging, the preparation and maintenance of soil and other media 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. Such use is not agriculturally exempt from zoning. Note this term is not defined in 935 CMR 500.

Cannabis Cultivator: Means an entity licensed to cultivate, process, and package cannabis, to transfer cannabis to other cannabis establishments, but not to consumers. A Craft Cannabis Cooperative is a type of Cannabis Cultivator.

Cannabis Establishment: Means a Means a Cannabis Cultivator, Craft Marijuana Cooperative, Cannabis Product Manufacturer, Marijuana Retailer, Independent Testing Laboratory, Cannabis Research Facility, Cannabis Transporter, or any other type of licensed cannabis-related business, except a medical marijuana treatment center.

Cannabis Membership Club: An organization, club, lodge or other private grounds (non-profit and private) allowing on-site consumption of marijuana or marijuana products, but not operating as a licensed marijuana social consumption operator or where no sales occurs.

Cannabis Product: Products that have been manufactured and contain cannabis or an extract from cannabis, including concentrated forms of cannabis and products composed of cannabis and other ingredients that are intended for use or consumption, including edible products, beverages, topical products, ointments, oils and tinctures. Note this item is not defined in 935 CMR 500.

Cannabis Product Manufacturer: Means an entity licensed to obtain, manufacture, process and package cannabis or marijuana products and to transfer these products to other Cannabis Establishments, but not to consumers.

Cannabis Retailer: Means an entity licensed to purchase and transfer cannabis or marijuana product from Cannabis Establishments and to sell or otherwise transfer this product to Cannabis Establishments 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 onsite social consumption on the premises of a Marijuana Establishment.

Cannabis Transporter or Distribution Facility: Means 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.

Commission: Means the Massachusetts Cannabis Control Commission (CCC) established by M.G.L.c.10 Section 76, or its designee. The Commission has authority to implement the state marijuana laws, which include, but are not limited to the act, M.G.L.c.94G, and 935 CMR 500.000.

Community Host Agreement: An agreement, pursuant to General Laws, Chapter 94G, Section 3(d), between a cannabis establishment and a municipality setting forth additional conditions for the operation of a cannabis establishment, including stipulations of responsibility between the parties and a up to 3% host agreement revenue sharing. Note this term is not defined in 935 CMR 500.

Craft Cannabis Cooperative: A Cannabis 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 Cannabis Establishments, but not to consumers.

Hemp cultivation: For the purposes of this section, the cultivation of hemp shall require a Site Plan Approval from the Planning Board and comply with all applicable sections herein, except that the use may be exempt from the licensing requirements of 935 CMR 500. Note this term is not defined in 935 CMR 500.

Independent Testing Laboratory: Means a laboratory that is licensed by the Commission to test cannabis and cannabis products, including certification for potency and the presence of contaminants, and is:

Accredited to the International Organization for Standardization 17025 (ISO/IEC 17025:2017) 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;

Independent financially from any Medical Marijuana Treatment Center (RMD), Marijuana Establishment or licensee for which it conducts a test; and Qualified to test cannabis or marijuana in compliance with 935 CMR 500.000. A Marijuana Establishment may be eligible for a provisional or final license.

Medical Marijuana Treatment Center, also known as a Registered Marijuana Dispensary (RMD): Means a not-for-profit entity registered under 105 CMR 725.100: Registration of Registered Marijuana Dispensaries, that acquires, cultivates, possesses, processes (including development of related products such as edible cannabis or marijuana products, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing cannabis or marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers for medical use. Unless otherwise specified, RMD refers to the site(s) of dispensing, cultivation, and preparation of cannabis or marijuana for medical use.

Microbusiness: Means a co-located 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.

Process or Processing: Means to harvest, dry, cure, trim and separate parts of the cannabis or marijuana plant by manual or mechanical means, except that it shall not include manufacture as defined in 935 CMR 500.002.

Research Facility: Means an entity licensed to engage in research projects by the Commission.

10.4 Place

1. Schedule of Use Regulations

SP - Permitted with Planning Board Special Permit and Site Plan Review

R – Permitted with Site Plan Review

N- Not a permitted use in this District

Schedule of Use Regulations	District						
	AR-60	R-40	V	I-40	C-40	G-V	MCOB
Cannabis Cultivator	SP	SP	N	N	N	N	SP
Cannabis Product Manufacturer	SP	SP	N	N	SP	SP	SP
Cannabis Retailer	N	N	N	N	SP	SP	SP
Cannabis Testing Facility	SP	SP	N	N	SP	SP	SP
Cannabis Transportation/Distribution	SP	SP	N	N	SP	N	N
Other licensed Cannabis-related business	N	N	N	N	SP	SP	N
Hemp Cultivation	R	R	N	N	N	N	N

2. All Cannabis Establishments shall be contained within a building or structure. No Cannabis Establishments shall be located in a trailer, cargo container, motor vehicle, or other similar nonpermanent enclosure.
3. Cannabis Establishments shall not have a drive-thru service.
4. No Cannabis Establishment shall be located within 500 feet of a pre-existing public or private school providing education in kindergarten or any of grades 1 through 12; junior college; college; licensed day-care center; place of worship; library; park; or playground; establishment, in operation at the time of application for a special permit or site plan approval. Distance shall 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 marijuana establishment is or will be located. In any case where the measurement is determined to be in question, the Planning Board may require verification of distances by a Registered Land Surveyor.
5. No Cannabis Establishment shall be located within a building containing residential units. This prohibition includes transient housing such as motels and dormitories, and group housing. Additionally, it is not permitted inside a movable or mobile structure such as a van or truck.
6. No more than two (2) Cannabis Retailers shall be allowed within the Town. The number of licenses for Cannabis Retailers shall be capped at two (2). Special Permit applications will be considered in the order in which the Planning Board receives a completed Special Permit application and confirmation that a completed license application has been received by the Cannabis Control Commission.
7. No Cannabis Retailer shall be located within 200 feet of another Cannabis Retailer, except within the C-40 District. Distance shall be measured by a straight line from the nearest point of the property line in question to the nearest point of the property line where the marijuana establishment is or will be located.

10.5 Time and Manner

1. No marijuana shall be smoked, eaten, or otherwise consumed or ingested on premises, except as maybe allowed in a Cannabis Membership Club or an Adult On-site Social Consumption. All

Marijuana Establishments permitted under this section shall comply with all state and local laws, rules and regulations governing the smoking of tobacco.

2. Adult On-Site Social Consumption: All on-site social consumption of cannabis or cannabis products, as either a primary or accessory use, must first be approved by a local ballot initiative process pursuant to M.G.L. 94G Section 3(b).
3. Odor: No Cannabis Establishment shall allow the escape of noxious odors or gases. They shall incorporate odor control technology and provisions, and ensure that emission do not violate MGL Chapter 1111, Section 31C. All cannabis establishments shall be ventilated in such a manner that no:
 - i. Pesticides, insecticides, or other chemicals or products used in cultivation or processing are dispersed into the outside atmosphere.
 - ii. Odor from cannabis cannot be detected by a person with a normal sense of smell at the exterior of the cannabis establishment or at any adjoining use or property.
4. Signage: All signage shall comply with the requirements of 935 CMR 500, and Section 8 of this zoning ordinance.
5. Hours: Cannabis Retailers shall be open to the public no earlier than 8:00AM or later than 8:00pm.
6. Visual Impact: Cannabis plants, products, and paraphernalia shall not be visible from the outside of the building in which the cannabis establishment is located and shall comply with the requirements of 935 CMR 500. No outside storage of cannabis, related supplies, or promotional material is permitted. Any artificial screening device erected to eliminate the view of the public way shall also be subject to a vegetative screen and the Board shall consider the surrounding landscaped and viewshed to determine if an artificial screen would be out of character with the neighborhood.
7. Nuisance: Cannabis Establishment operations shall not create nuisance conditions in parking areas, sidewalks, streets, and areas surrounding the premises and adjacent properties. "Nuisance" includes, but is not limited to, disturbances of the peace, open public consumption of cannabis, excessive pedestrian or vehicular traffic, illegal drug activity under State or local law, harassment of passerby, excessive littering, excessive loitering, illegal parking, excessive loud noises, excessive citation for violations of State or local traffic laws and regulations, queuing of patrons (vehicular or pedestrian) in or other obstructions of the public or private way (sidewalks and streets).
8. Home Occupation: Cannabis Establishments are not permitted as a Home Occupation, as defined in Section 1.4 of the Hardwick Zoning Ordinance.
9. Security: Every application for a special permit for the operation of a Cannabis Establishment shall include a security plan describing all security measures. This should include site security, security for the transportation of cannabis and cannabis products. Safety plans should mitigate any potential harm to the employees and the public including insuring customers are at least 21 years of age. The security plan shall meet all security requirements of 935 CMR 500.110.
10. Community Host Agreement: No Special Permit shall be granted without first having an executed Community Host Agreement with the Town of Hardwick.

11. Community Outreach meeting: No Special Permit application shall be deemed complete by the Planning Board until a Community Outreach Hearing in accordance with 935 CMR 500 has occurred.
12. State Law: Cannabis establishment operations shall conform at all times to General Laws, Chapter 94G, and regulations issued thereunder.
13. License requirements:
 - i. The Applicant shall submit proof that the application to the CCC has been deemed complete pursuant to 935 CMR 500.102. 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.
 - ii. No Special Permit shall be granted by the Planning Board to an applicant without the Cannabis establishment first having been issued a Provisional License from the Cannabis Control Commission pursuant to 935 CMR 500.
 - iii. No person shall operate a cannabis establishment without having a license in good standing from the CCC.
14. Energy Use: All cannabis cultivators shall submit an energy use plan to the Planning Board to 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.
15. Line Queue Plan: The applicant shall submit a line queue plan to ensure that the movement of pedestrian and/or vehicular traffic along the public right of ways will not be unreasonably obstructed.
16. Traffic Impact Statement: Any cannabis establishment open to the general public shall submit a detailed Motor Vehicle Access Statement in accordance with Section 6.14.5.
17. Parking: Parking shall be in accordance with Section 6.14.6.
18. Permitting: The Planning Board shall be the Special Permit Granting Authority. The application requirements and procedures shall be conducted pursuant to Section 4.0, Special Permits of the Zoning Ordinance.
19. Waivers: The applicant shall be required to submit specific information regarding any waivers from 935 CMR 500.000 granted by the CCC. The Planning Board shall approve or disapprove said waivers based on the following CCC criteria in 935.CMR.500.
 - i. Compliance would cause undue hardship to the investor;
 - ii. If applicable, the requestor's non-compliance does not jeopardize the health or safety of any patient or the public;
 - iii. If applicable, the requestor has instituted compensating features that are acceptable to the planning board; and
 - iv. 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.
20. Hemp: The cultivation of industrial hemp, as same is regulated by the Massachusetts Department of Agricultural Resources pursuant to General Laws, Chapter 128, Sections 116-123, shall require a Site Plan Approval from the Planning Board and comply with all applicable

sections herein, except that the use may be exempt from the licensing requirements of 935 CMR 500. Use of land or buildings for hemp processing and/or product manufacture shall be subject to such zoning controls as apply to other (non-cannabis) processing and product manufacture operations.

10.6 Special Permit Requirements:

1. A Cannabis Establishment shall only be allowed by special permit from the Planning Board in accordance with MGL c.40A § 9 and Section 4.0 (Special Permits) of this chapter's subject to the following statements, regulations requirements, conditions, and limitations.
2. No Special permit for any cannabis establishment shall be issued without site plan approval having been obtained from the Planning Board, Section 5.0 Site Plan Approval. In addition to the standards set forth within, the site plan must meet all dimensional, parking, landscaping, and signage requirements within this chapter.
3. A special permit for a cannabis establishment shall be limited to one or more of the following uses that shall be prescribed by the special permit granting authority:
 - i. Cannabis Cultivator
 - ii. Cannabis Product Manufacturer
 - iii. Cannabis Retailer
 - iv. Cannabis testing facility
 - v. Cannabis transportation or distribution facility
 - vi. Any other type of cannabis-related business
4. In addition to the application requirements set forth above, a special permit application for a marijuana establishment shall include the following:
 - i. The name and address of each owner of the establishment
 - ii. Copies of all required licenses and permits issued to the applicant by the Commonwealth of Massachusetts Cannabis Control Commission and any of its other agencies for the establishment;
 - iii. Evidence of the applicant's right to use the site of the establishment for the establishment, such as a purchase of sale agreement, deed, owners authorization, or lease;
 - iv. Proposed security measures for the cannabis establishment, including lighting, fencing, gates, and alarms, etc., to ensure the safety of persons and to protect the premises from theft. A letter from the Town of Hardwick Police Chief, or designee, acknowledging review and approval of the cannabis establishment security plan is required. To the extent allowed by law, all such documents shall be confidential.
 - v. All application requirements for Major Site Plan Review as specified in Section 5.0 of this chapter unless certain non-applicable requirements are waived by the Planning Board.
5. Mandatory findings. The Special Permit authority shall not issue a special permit for a cannabis establishment unless it finds that:
 - i. The establishment is designed to minimize any adverse impacts on abutters and other parties in interest, as defined in MGL c.40A, § 11.

- ii. The establishment demonstrates that it will meet all the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and will comply with all applicable state laws and regulations; and
 - iii. The applicant has satisfied all of the conditions and requirements set forth herein.
6. A special permit granted under this section shall have a term limited to the duration of the applicant's ownership of the premises as a cannabis establishment. A special permit may be transferred only with the approval of the special permit granting authority in the form of an amendment to the special permit with all information required in Section 4.0.

10.7 Severability

If any provision of this Section 10 is found to be invalid by a court of competent jurisdiction, the remainder of Section 10 shall not be affected but shall remain in full force. The invalidity of any provision of this Section 10 shall not affect the validity of the remainder of this zoning ordinance.

10.8 Abandonment or discontinuance of use

1. A special permit granted hereunder shall lapse at the end of one (1) year from the date of issuance, not including such time required to pursue or await the determination of an appeal, referred to in G.L.c.40A, § 9, from grant thereof, if a substantial use thereof has not commenced, except for good cause or, in the case of permit for construction, if construction has not begun by such date except for good cause.
2. A cannabis establishment shall be required to remove all material, plants, equipment and other paraphernalia within thirty (30) days of ceasing operations.